



## ORDINARY COUNCIL MEETING

# AGENDA

**Wednesday 16 September 2020**

**at 4:00 pm**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**and by videoconference**

**Next Council Meeting: 25 November 2020**



# COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

Wednesday 16 September 2020

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## COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

NOTICE is hereby given that the next **ORDINARY COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC and by videoconference on Wednesday 16 September 2020 at 4:00 pm.

### AGENDA

#### **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**

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

#### **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.

Please note: All Council and Committee meetings will be audio recorded and live streamed, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

Audio recordings of meetings will be available to the public on Council's website as soon as practicable following the meeting and may be circulated by other means also. Audio recordings are also taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. Original audio recordings will be retained by Council for a period of four years.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Council Meeting.

In response to the COVID-19 pandemic and in accordance with the relevant Stage 3 Directions and Restrictions issued by the Chief Health Officer of Victoria that are in place in regional Victoria at the time of publication, Council advises only Councillors and Council staff are permitted to attend the



Ordinary Council meeting. Strict hygiene and social distancing measures will be in place for those who need to physically attend.

## **5 QUESTION TIME**

Colac Otway Shire encourages community input and integral to this is the opportunity provided to ask questions at Council Meetings. A maximum of 30 minutes is usually allowed for question time however, in response to the COVID-19 pandemic and in accordance with the relevant Directions issued by the Chief Health Officer of Victoria that are in place at the time of publication, only those people who are working are permitted to attend this Ordinary Council Meeting. Only Councillors and Council staff will be permitted to attend this Ordinary Council Meeting.

Questions and responses to questions that are submitted in writing by 5pm of the Monday preceding this Ordinary Council Meeting will be included in the minutes of this meeting.

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

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

## **7 PETITIONS / JOINT LETTERS**

Nil

## **8 DECLARATIONS OF INTEREST**

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

## **9 CONFIRMATION OF MINUTES**

- **Ordinary Council Meeting held on 26 August 2020.**

### ***RECOMMENDATION***

***That Council confirm the minutes of the Ordinary Council Meeting held on 26 August 2020.***

Item: 10.1

## Colac Otway Shire Grants Program 2020 - 2021 Round 2 - Allocation of Funds

<b>OFFICER</b>	Katrina Kehoe
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To seek Council's endorsement for the proposed allocation of funds for the 2020-2021 Grants Program Round 2.

### 1. EXECUTIVE SUMMARY

Round 1 of Council's 2020 – 2021 Colac Otway Shire Grants Program was under-subscribed due to Covid-19, leaving \$108,357 unallocated. Council resolved to award these funds via a second round, which includes a new Category 5 for Small Business Energy and Water Efficiency Upgrades. Since then, unspent funds of \$9,897 have been returned from four (4) cancelled events, three (3) that received Round 1 funding and one (1) event that was previously postponed from 2019-2020. This leaves total funds of \$118,254 available for allocation through the second round.

The 2020-2021 Grants Program Round 2 opened to applications on 3 July 2020 for four (4) weeks, closing on 31 July 2020. Council received fifty-one (51) applications requesting a total of \$204,770, which have been assessed against the Program Guidelines. This report recommends \$118,254 to be allocated to thirty-seven (37) community organisations, clubs, event organisers and businesses. Eight (8) applications are recommended to receive less than was applied for.

The following table summarises the total applications received per category and recommended allocation of grant funds:

<b>Category 1</b> Community Grants Program	<b>Category 2</b> Community Events & Support  <b>Category 2a</b> Major Community Organised Events	<b>Category 3</b> Small Grants	<b>Category 4</b> Building Façade Improvement Program	<b>Category 5</b> Small Business Energy & Water Efficiency Upgrades
<b>Requested</b> 23 Applications \$117,740	<b>Requested</b> 4 Applications \$17,305  <b>Category 2a</b> 1 application Total requested \$10,000	<b>Requested</b> 10 Applications \$14,907	<b>Requested</b> 6 Applications \$20,503	<b>Requested</b> 7 Applications \$24,315
<b>Recommended</b> 18 Applications \$75,024	<b>Recommended</b> 4 Applications \$14,100  <b>2a</b> 0 application \$0	<b>Recommended</b> 7 Applications \$8,969	<b>Recommended</b> 3 Applications \$5,846	<b>Recommended</b> 5 Applications \$14,315
Total Project Value Recommended \$159,839	Total Project Value Recommended \$31,683  <b>2a</b> \$0	Total Project Value Recommended \$20,800	Total Project Value Recommended \$12,693	Total Project Value Recommended \$29,965

Across the program, fourteen (14) applications were assessed as ineligible against the guidelines, submitted an incomplete application, or were not recommended as their assessment score was below the cut-off line of available funding.

<b>Comment</b>	<b>No.</b>	<b>Amount requested</b>
Ineligible	2	\$20,000
Not Recommended	12	\$56,925
Recommended to receive less than requested	8	\$ 9,591 less than requested

Applicants will be provided with feedback which may assist them to apply to the program in future funding rounds.

## 2. RECOMMENDATION

### RECOMMENDATION 1

*That Council endorses the following grants be allocated for Category 1, Community Grants:*

Item #	Applicant	Project Title	Grant Recommended
1	Cororooke Hall Committee	Hall solar electricity installation	\$7,388
2	BCYF	Landscape design an all abilities inclusive outdoor play space	\$4,680
3	City United Cricket Club	Replace cricket nets	\$1,740
4	Irrewillipe Sports and Entertainment Complex	Security upgrade	\$4,377
5	Lavers Hill Hall Committee of Management	Pimp Our Tank – paint the water tanks	\$4,079
6	Warrion Cricket Club Inc	Recondition our Mower	\$3,850
7	Anam Cara House Colac	Communal Courtyard Area	\$2,250
8	Larpen Hall and Tennis Reserve	Footpaths and a cemented apron at the Hall's entrance.	\$3,437
9	Colac Legacy Club Inc.	Urgent upgrade to facility	\$4,043
10	Wye to Wongarra Landcare	Weed Control	\$7,312
11	Apollo Bay Tennis Club	Apollo Bay Tennis Clubhouse Roof Repairs & Ancillary Works	\$3,771
12	Forrest Horse Riding Club	Clubroom paving outdoor area	\$3,000
13	Forrest Public Reserves Committee (Forrest Public Hall Committee Inc)	Forrest Hall Heating & Cooling Upgrade	\$4,825
14	Colac Imperials Football Netball Club	Website development	\$2,243
15	Gellibrand Community House Inc.	Community Sporting Equipment	\$1,254
16	Southern Otway Sustainable Inc	An Energy Efficiency webinar	\$2,850
17	Colac Adult Riding Club	Building an equipment storage shed	\$8,925
18	Birregurra Bowling Club	Replace leaking roof	\$5,000
<b>Total</b>			<b>\$75,024</b>

### RECOMMENDATION 2

*That Council endorses the following grants be allocated for Category 2, Community Events and Support:*

Item #	Applicant	Project Title	Grant Recommended
1	Apollo Bay Ladies Golf Club	Apollo Bay Ladies Golf - Covid Bounce Back (tournament & bring a friend day)	\$1,700
2	Colac City Band	Colac City Band Carols by Candlelight	\$5,000
3	Apollo Bay Chamber of Commerce	Launch the Lights in Apollo Bay – event to light up the pine	\$3,500
4	Apollo Bay Arts Inc	Apollo Bay Art Show Goes Global (online)	\$3,900
<b>Total</b>			<b>\$14,100</b>

### **RECOMMENDATION 3**

***That Council endorses the following grants be allocated for Category 3, Small Grants:***

Item #	Applicant	Project Title	Grant Recommended
1	Colac Swimming Club	Fit & Connected – fitness training equipment	\$1,579
2	Colac and District Cricket Association Inc	Helmets for juniors	\$960
3	Cororooke Tennis Club	Automated External Defibrillator (AED) for Cororooke community safety located outside at tennis courts	\$1,450
4	Rotary Club of Colac West	Laser printer & binding machine	\$900
5	Lions Club of Colac Inc	Secretary Laptop and Printer	\$1,257
6	Birregurra Pre-School	Sandpit revival and new cover	\$1,125
7	Colac Woodcrafters Guild Inc.	Air filters for machine room	\$1,698
<b>Total</b>			<b>\$8,969</b>

### **RECOMMENDATION 4**

***That Council endorses the following grants be allocated for Category 4, Building Façade Improvement Program:***

Item #	Applicant	Project Title	Grant Recommended
1	Think Water Colac	Façade refresh	\$3,000
2	Iluka Motel & Restaurant	Change the shop frontage	\$2,500
3	Hot as Nails & Beauty	Replace out of date signage	\$ 346
<b>Total</b>			<b>\$5,846</b>

### **RECOMMENDATION 5**

***That Council endorses the following grants be allocated for Category 5, Small Business Energy & Water Efficiency Upgrades Program:***

Item #	Applicant	Project Title	Grant Recommended
1	Rae St Relics	Solar Power Installation for Electricity & Hot Water	\$3,630
2	Fernhouse	Solar for Fernhouse accommodation	\$2,655
3	Steel Fabrication Concrete & Farm Services	Solar Power Installation for Electricity & Hot Water	\$1,751
4	Forrest Brewing Company	Hot water environmental efficiency upgrade	\$1,279
5	Cardinals Milk Supplies Business Trust	Water catchment for wash down area – water tanks	\$5,000
<b>Total</b>			<b>\$14,315</b>

## RECOMMENDATION 6

### That Council:

1. *Allocates any future returned funds due to cancelled events or projects that were awarded grants through Round 1 or Round 2 in 2020-2021 to be available for allocation through the Colac Otway Shire Grants program.*
2. *Approves the Chief Executive, under delegation, to award any future returned funds to Round 2 eligible applicants not recommended for funding due to their assessment score falling below the cut-off line for available funds.*

## 3. KEY INFORMATION

### About the Grants Program

Council's Grants Program is offered to assist community organisations and event organisers in providing opportunities that benefit the wider Colac Otway Shire community and help in achieving goals and outcomes consistent with Council's objectives. Small local businesses are able to apply to Categories 4 and 5. The program aims to provide an opportunity for a wide range of applicants to obtain a share of the grant funds for a varied range of projects and events.

Funding is available over five categories:

1. Community Grants Program
2. Community Events and Support
  - 2a Major 'Community Organised' Events
3. Small Grants
4. Building Façade Improvement Program
5. Small Business Energy and Water Efficiency Upgrades

All grant categories require the application to provide a matching dollar for dollar cash and/or in-kind contribution.

#### Category 1 - Community Grants Program

Grants up to \$10,000 available.

#### Category 2 - Community Events and Support

This category provides:

- Grants up to \$5,000 to provide support for established events.
- Grants up to \$2,000 to provide support for one-off or start-up events.
- Grants up to 50% of the cost of standard room hire at COPACC. The maximum grant available is \$5,000.
- (2a) Major 'Community Organised' Events, grants up to \$10,000. Specific eligibility criteria apply.

#### Category 3 - Small Grants

Grants up to \$2,000 are available.

#### Category 4 - Building Façade Improvement Program

Grants up to \$3,000 are available for businesses across the Shire.

#### Category 5 – Small Business Energy and Water Efficiency Upgrades Program

Grants up to \$5,000 are available for businesses across the Shire.

### **2020-2021 Grants Program Round 2**

Round 2 was initiated after Round 1 was undersubscribed due to the uncertainty of COVID-19 during the first lockdown. When considering the allocation of funds through Round 1, Council resolved to undertake a second round of funding. For Round 2, applications for the Colac Otway Shire Grants Program opened 3 July 2020 and closed on 31 July 2020.

Fifty-one (51) applications were received across the five categories for Round 2 requesting a total of \$204,770. This leaves Round 2 over-subscribed with a total of \$118,254 in funding available.

The recommendation is to award grants to applications totalling \$118,254 which will facilitate projects and events to the total value of \$254,980 across the Shire. Funding is recommended to be allocated to thirty-seven (37) different groups, clubs, event organisers and businesses across all five categories. Twenty-nine (29) new applicants are recommended to receive funding for Round 2, that did not apply in the Round 1.

Fourteen (14) applications were assessed as ineligible against the guidelines, submitted an incomplete application, or were not recommended for funding as their assessment score was below the cut-off line of available funding. Applicants will be provided with feedback and encouraged to apply to the program in future funding rounds.

Eight (8) applications are recommended to receive less than requested. These were adjusted to match the applicant's eligible contribution, based on eligible expenditure or to fund one project if more than one was included in the application.

The communities, event organisers and businesses across Colac Otway Shire are contributing \$136,726 to the recommended projects and events. The small towns projects which are recommended for funding equal \$75,552 of the total recommendation of \$118,254.

The 2020-2021 Round 2 applications recommended by the Technical Assessment Panel (TAP) will assist in improving economic and community development across the Shire for community groups, progress associations, sporting clubs, arts groups, environmental working groups and business owners.

It is anticipated that due to ongoing and changing Covid-19 restrictions on indoor and outdoor mass gatherings, some events or projects approved for funding in Round 1 and/or Round 2 may have to cancel their project. Any returned funds can be made available to be awarded to eligible applications from Round 2, that fell below the funding cut-off after scoring.

### **Applications Assessment Process**

The following outlines the assessment process for the Colac Otway Shire Grants Program:

- The Grants Officer completes a preliminary check for eligibility of the organisations that have submitted the application, also checking the funding category guidelines and assessment criteria, budgets and matching funding ratios, quotes and any other required documentation received.

- An internal referrals process involves a meeting of Council departments where comments were sought on compliance issues specific to a particular project or event eg: checking requirements for building or planning permits, health department considerations, events permits, environment/sustainability considerations, road safety and risk assessments required to be undertaken etc.
- The Technical Assessment Panel (TAP) which consists of officers from Economic Development and Tourism, Recreation and Open Space and Community Services, completed an evaluation of the applications against the Assessment Criteria and with consideration of the departmental referral responses and previous funding provided in Round 1. The TAP determined whether a project was eligible to receive funding, demonstrated the cash and/or in-kind voluntary contribution by the applicant, responded to the assessment criteria and that applications clearly demonstrated the capacity of the applicant to deliver the project.
- Clarification on applications was sought from the applicant where required.
- The Round 2 program was over-subscribed. Applications were ranked after scoring by the TAP and recommendations made for those applications above the funding cut-off line to receive grants.

### **CATEGORY 1 – COMMUNITY GRANTS PROGRAM**

#### **Applications recommended for funding**

Item #	Applicant	Project Title	Grant Recommended
1	Cororooke Hall Committee	Hall solar electricity installation	\$7,388
2	BCYF	Landscape design an all abilities inclusive outdoor play space	\$4,680
3	City United Cricket Club	Replace cricket nets	\$1,740
4	Irrewillipe Sports and Entertainment Complex	Security upgrade	\$4,377
5	Lavers Hill Hall Committee of Management	Pimp Our Tank – paint the water tanks	\$4,079
6	Warrion Cricket Club Inc	Recondition our Mower	\$3,850
7	Anam Cara House Colac	Communal Courtyard Area	\$2,250
8	Larpent Hall and Tennis Reserve	Footpaths and a cemented apron at the Hall's entrance.	\$3,437
9	Colac Legacy Club Inc.	Urgent upgrade to facility	\$4,043
10	Wye to Wongarra Landcare	Weed Control	\$7,312
11	Apollo Bay Tennis Club	Apollo Bay Tennis Clubhouse Roof Repairs & Ancillary Works	\$3,771
12	Forrest Horse Riding Club	Clubroom paving outdoor area	\$3,000
13	Forrest Public Reserves Committee	Forrest Hall Heating & Cooling Upgrade	\$4,825
14	Colac Imperials Football Netball Club	Website development	\$2,243
15	Gellibrand Community House Inc.	Community Sporting Equipment	\$1,254
16	Southern Otway Sustainable Inc	An Energy Efficiency webinar	\$2,850
17	Colac Adult Riding Club	Building an equipment storage shed	\$8,925
18	Birregurra Bowling Club	Replace leaking roof	\$5,000
<b>Total</b>			<b>\$75,024</b>

Under Category 1 as above, the TAP recommends awarding grants totalling \$75,024 which deliver projects to the value of \$159,839. The community is contributing cash and in-kind to the value of



\$84,815. One (1) application recommended amount was adjusted for eligible expenditure and to match the required dollar for dollar funding ratio. Two (2) applications included two separate elements/projects, and are recommended to receive funding for one element only.

## **CATEGORY 2 – COMMUNITY EVENTS & SUPPORT PROGRAM**

### **Applications recommended for funding**

Item #	Applicant	Project Title	Grant Recommended
1	Apollo Bay Ladies Golf Club	Apollo Bay Ladies Golf - Covid Bounce Back (tournament & bring a friend day)	\$1,700
2	Colac City Band	Colac City Band Carols by Candlelight	\$5,000
3	Apollo Bay Chamber of Commerce	Launch the Lights in Apollo Bay – event to light up the pine	\$3,500
4	Apollo Bay Arts Inc	Apollo Bay Art Show Goes Global (online)	\$3,900
<b>Total</b>			<b>\$14,100</b>

Under Category 2 as above, the TAP recommends awarding grants totalling \$14,100 which will deliver events to the value of \$31,683. The community is contributing cash and/or in-kind to the value of \$17,583.

Two (2) applications recommended amounts were adjusted for eligible expenditure and to match the required dollar for dollar funding ratio.

Under Category 2(a) the TAP recommends awarding zero (0) grants.

## **CATEGORY 3 – SMALL GRANTS**

### **Applications recommended for funding**

Item #	Applicant	Project Title	Grant Recommended
1	Colac Swimming Club	Fit & Connected – fitness training equipment	\$1,579
2	Colac and District Cricket Association Inc	Helmets for juniors	\$960
3	Cororooke Tennis Club	Automated External Defibrillator (AED) for Cororooke community safety located outside at tennis courts	\$1,450
4	Rotary Club of Colac West	Laser printer & binding machine	\$900
5	Lions Club of Colac Inc	Secretary Laptop and Printer	\$1,257
6	Birregurra Pre-School	Sandpit revival and new cover	\$1,125
7	Colac Woodcrafters Guild Inc.	Air filters for machine room	\$1,698
<b>Total</b>			<b>\$8,969</b>

Under Category 3 as above, the TAP recommends awarding grants totalling \$8,969 which will deliver projects to the value of \$20,800. The community is contributing cash and/or in-kind to the value of \$11,831.

Two (2) applications recommended amounts were adjusted for eligible expenditure and to match the required dollar for dollar funding ratio.

#### **CATEGORY 4 – BUILDING FAÇADE IMPROVEMENT PROGRAM**

##### **Applications recommended for funding**

Item #	Applicant	Project Title	Grant Recommended
1	Think Water Colac	Façade refresh	\$3,000
2	Iluka Motel & Restaurant	Change the shop frontage	\$2,500
3	Hot as Nails & Beauty	Replace out of date signage	\$ 346
<b>Total</b>			<b>\$5,846</b>

Under Category 4 as above, the TAP recommends awarding grants totalling \$5,846 which will deliver projects to the value of \$12,693. The businesses are contributing cash to the value of \$6,847.

One (1) application is recommended to receive less than requested due to adjustment for eligible expenditure and to match the required dollar for dollar funding ration.

#### **CATEGORY 5 – SMALL BUSINESS ENERGY & WATER EFFICIENCY UPGRADES PROGRAM**

##### **Applications recommended for funding**

Item #	Applicant	Project Title	Grant Recommended
1	Rae St Relics	Solar Power Installation for Electricity & Hot Water	\$3,630
2	Fernhouse	Solar for Fernhouse accommodation	\$2,655
3	Steel Fabrication Concrete & Farm Services	Solar Power Installation for Electricity & Hot Water	\$1,751
4	Forrest Brewing Company	Hot water environmental efficiency upgrade	\$1,279
5	Cardinals Milk Supplies Business Trust	Water catchment for wash down area – water tanks	\$5,000
<b>Total</b>			<b>\$14,315</b>

Under Category 5 as above, the TAP recommends awarding grants totalling \$14,315 which will deliver projects to the value of \$29,965. The businesses are contributing cash to the value of \$15,650.

#### **NOT RECOMMENDED**

Comment	No.	Amount Requested
Ineligible against the guidelines	2	\$20,000
Not Recommended	12	\$56,925

There are fourteen (14) applications not recommended for funding which were incomplete applications, assessed as ineligible against the guidelines or did not meet the funding cut off after scoring against the assessment criteria.

There were eight (8) applications recommended to receive less than they requested. This is due to adjustments for ineligible expenditure and to match the dollar for dollar contribution ratio and as the program is over-subscribed, some applications included more than one element/project (and one element/project is recommended to be funded).

Applicants will be provided with feedback which may assist them to apply to the program in future funding rounds.

## 4. COMMUNITY CONSULTATION & ENGAGEMENT

### Application Process

The Colac Otway Shire Grants Program was advertised across the shire in July 2020. Due to Covid-19 restrictions, officers were available by phone, video calls or email for groups to discuss the funding program.

Applications were submitted online using the Smartygrants program. The Guidelines and online application were made available via the website and were communicated through direct database mail. An officer was available to provide assistance with the online application by phone and email and found solutions to assist with computer access whilst adhering to COVID-19 restrictions. Council officers were available for individual applicants by phone and email as required providing further assistance in progressing applications.

Marketing of the Colac Otway Shire Grants Program 2020-2021 Round 2 was completed through media releases, use of Council's Facebook page on several occasions, direct email to groups/clubs/businesses that have applied or enquired in previous years and are eligible to apply, radio and an advertisement in the Council Column in the Colac Herald.

## 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 2 - Our Places

1. Assets and infrastructure meet community needs.
3. Towns and places are welcoming and attractive.

Theme 3 - Our Community

1. Increase social connection opportunities and community safety.
2. Connect people through events and activities.
3. Opportunities for the community to participate in lifelong learning.
4. Provision of resources to support physical activity by the community.
5. Foster an inclusive community.
6. Community planning informs provision of Council services and social infrastructure.

Alignment to Colac Otway Economic Development Strategy 2019:

Multi-Sector Opportunities and Actions – Implements various grants programs.

Alignment to Creative Colac Otway Arts & Culture Strategy 2018-2022:

Theme 2 Increase participation in arts and culture activity

Goal 1 2.1.7 Support community events and festivals that engage with target audience groups or under-represented groups

Goal 2 2.2.2 Subsidise and support community hire of COPACC

Theme 4 Creativity, Social Cohesion and Connections

Goal 2 4.2.1 Ensure that Grants Program supports events to make new contemporary work that responds to local issues and stories

## 6. CONSIDERATIONS

### ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

The grants program includes opportunities to apply for environmental and sustainability projects. This allows environmental, sustainability and Landcare groups to seek funding for their projects and events to improve the environment within the Shire.

Grant funding assists communities to build community capacity of local residents and volunteers. The grants program encourages culturally based projects to be delivered throughout the Shire.

The requirement of matching funding through cash and/or in-kind works creates economic benefits to the local communities and businesses. It is evident that local trades, businesses and groups benefit greatly from grant funding and stimulates the economy.

The Building Façade Improvement Program assists to grow the economy and encourage additional private sector investment as well as the amenity of Colac. The façade program is available to businesses across the Shire.

The Small Business Energy & Water Efficiency Upgrades Program is a one-off grant program for small businesses to undertake energy and water efficiency upgrades which will save them money and lessen the environmental impacts in the longer term. The program encourages the use of local suppliers which assists the local economy.

### LEGAL & RISK

Following the endorsement of applications by Council at its September 2020 Ordinary Council Meeting, successful applicants will enter into a Funding Agreement with Council outlining the requirements for the funding that has been granted.

### FINANCIAL & BUDGETARY

Following Round 1 allocations in June 2020, there was remaining funds of \$108,357 for the Colac Otway Shire Grants Program 2020 – 2021 Round 2. Since then, four (4) events have been cancelled and returned unspent funds of \$9,897, which now leaves available funds of \$118,254 for allocation through Round 2.

Council's Grants Program leverages a significant amount of the additional contributions from community and businesses through cash and/or in-kind contributions.

## 7. IMPLEMENTATION STRATEGY

### COMMUNICATION

Subject to Council endorsement at its September Ordinary Council Meeting, Council will complete a comprehensive communication plan to announce the allocation of grants across the Colac Otway Shire.

This would include media releases, use of Council's Facebook page, details on Council's website and direct correspondence to advise successful/unsuccessful applicants.

Promotional opportunities will be arranged with a selection of community groups, clubs, event organisers and business owners across the Shire. The promotional activities will include a photo

opportunity to promote the project or event that has been funded. These promotional articles will be added to Council's website, Facebook page and in some of the small town's publications eg: Forrest Post, Birregurra Mail, Otway Light, and community group and club newsletters. All opportunities for promotion in the local media will be explored.

Note that no promotional activities will be undertaken during the Council Caretaker Period in accordance with Council's policy.

## **TIMELINE**

Key timelines include:

**September 2020** – Council considers endorsing the Technical Assessment Panel's recommended allocation of grants at its September Ordinary Council Meeting.

**September 2020** – Announcement of successful applicants and notification to those applicants that were unsuccessful feedback provided. Funding agreements will be completed for successful applicants.

## **8. OFFICER DIRECT OR INDIRECT INTEREST**

As part of the TAP, in Category 1 Community Grants Program and Category 3 Small Grants 2020-2021 Round 2, two (2) officers declared an indirect interest.

Nicole Frampton, Recreation and Open Space Coordinator, declared an indirect interest under the *Local Government Act 1989* for the following applications:

- Colac District Cricket Associations (CDCA) application due to her family member playing and being a member of Warrion Cricket Club in the 2019/20 season. This club plays in the CDCA. The family member's participation in the CDCA junior competition means he may benefit from this equipment purchase. Ms Frampton did not participate in the assessment of the Colac District Cricket Association application.
- Warrion Cricket Club application due to her family member being a club member and playing cricket for Warrion Cricket Club in the 2019/20 season. Ms Frampton did not participate in the assessment of the Warrion Cricket Club application.
- Colac Imperials Football Netball Club application due to her family member being a club member and playing female football for the Colac Imperials Football Netball Club. Ms Frampton did not participate in the assessment of the Colac Imperials Football Netball Club application.

Peter Macdonald, Acting Manager Community Services, declared an indirect interest under the *Local Government Act 1989* for the Colac Golf Club application due to being a financial member of the Colac Golf Club. Mr Macdonald did not participate in the assessment of the Colac Golf Club application.

Ian Seuren, General Manager Development and Community Services, declared an indirect interest under the *Local Government Act 1989* for the Colac District Cricket Associations (CDCA) application due to a family member playing and being a member of Colac Cricket Club in the 2019/20 season. This club plays in the CDCA. The family member's participation in the CDCA junior competition means that person may benefit from this equipment purchase. Mr Seuren did not participate in the assessment of the Grants Program however was a reviewer of this report.

Item: 10.2

## Sport and Recreation Victoria Local Sports Infrastructure Fund

<b>OFFICER</b>	Nicole Frampton
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To seek Council endorsement to accept State Government Funding and to allocate the required matching Council contribution for successful applications under Sport and Recreation Victoria's 2020-21 Local Sports Infrastructure Fund.

### 1. EXECUTIVE SUMMARY

Sport and Recreation Victoria's (SRV) Local Sports Infrastructure Fund (LSIF) provides Council with an annual opportunity to source State Government funding to improve local sport and active recreation facilities and spaces that encourage people to be active and reap the benefits of physical activity.

The 2020-21 LSIF program application process closed on 14 February 2020, with Council submitting four applications to the program. Projects were expected to be announced in May-June 2020. However due to the COVID-19 pandemic, the project announcements were delayed and Colac Otway Shire received notification on the 15 July 2020 that two of the four applications submitted under the program had been successful in receiving funding. Those projects being:

- City Reserves Planning – State Government funding allocation of \$30,000, with an expected Council contribution of \$50,000 required.
- Cororooke Open Space – Path Network and Playspace – State Government funding allocation of \$250,000, with an expected Council contribution of \$250,000 required.

The two unsuccessful projects were the Elliminyt Recreation Reserve Oval and Velodrome Lighting Upgrade and the Birregurra Recreation Reserve Oval Lighting Upgrade projects.

Despite a number of attempts to receive information about the applications, notification from the Department was received outside of Council's budget process. The matching contributions for the

projects as submitted through the Council Business Case process were no longer included in Council's adopted 2020-21 Budget due to the uncertainty of COVID-19 and its impact on Council's finances.

Traditionally there are limited opportunities for funding of sport and active recreation projects outside of SRV funding programs. Officers seek Council's endorsement to accept the Victorian Government's Funding under the 2020-21 Local Sports Infrastructure Fund of \$30,000 towards the City Reserves Planning project and the \$250,000 towards the Cororooke Open Space – Path Network and Playspace project, and to allocate the required Council funding of \$300,000 from Council's 'Strategic Projects Reserve' to complete the projects.

Due to COVID situation, Officers attempted to negotiate with SRV about the Cororooke project regarding both the contribution from the Victorian Government as well as the contribution required from Council. SRV were firm on their position that the total amount available from the State would be \$250,000, which is the maximum grant available through the program. They also stated that to receive the full amount, Council's contribution would also need to remain at \$250,000 rather than a possibly reduced amount.

It is recommended that Council allocates the required Council funding of \$300,000 from Council's 'Strategic Projects Reserve'. The purpose of this reserve is to match any external grants that might present throughout the year. There are sufficient funds in the reserve to cover the required matching contribution.

## 2. RECOMMENDATION

### **RECOMMENDATION 1**

***That Council accepts Victorian Government Funding of \$30,000 through the 2020-21 Local Sports Infrastructure Fund towards the Colac City Reserves Planning project and allocates the required Council funding of \$50,000 from Council's 'Strategic Projects Reserve'.***

### **RECOMMENDATION 2**

***That Council accepts Victorian Government Funding of \$250,000 through the 2020-21 Local Sports Infrastructure Fund for the Cororooke Open Space – Path Network and Playspace project and allocates the matching Council funding of \$250,000 from Council's 'Strategic Projects Reserve'.***

## 3. KEY INFORMATION

Each year the State Government makes funds available for sport and recreation projects through a number of Sport and Recreation Victoria (SRV) grant programs, including the 2020-21 Local Sports Infrastructure Fund (LSIF).

The objectives of the LSIF are to ensure we have strong, active and healthy communities by providing high-quality, accessible, well designed and managed infrastructure to conduct sport and active recreation activities. This program aims to achieve the following outcomes:

- Develop new or maintain existing participation opportunities, where there is a risk to participation decline.

- Improve diversity and inclusion by increasing participation by under-represented groups, as outlined in *Active Victoria*.
- Develop local economic activity through the planning, building, maintenance, management and activation of redeveloped or new infrastructure.
- Improve physical and mental health and wellbeing in traditionally disadvantaged communities such as low socio-economic areas, growth areas, and communities experiencing long term disadvantage.
- Support gender equality in participation, coaching, administration, officiating and volunteering.

The LSIF provides grants for planning, building new infrastructure, and improving existing facilities that support sport and active recreation activities.

Over many years Council has accessed funding from SRV funding programs to develop sport and recreation projects.

Council submitted four applications under the 2020-21 LSIF for consideration, those being:

- Colac City Reserves Planning
- Elliminyt Recreation Reserve – Oval and Velodrome Lighting Upgrade
- Birregurra Recreation Reserve – Oval Lighting Upgrade
- Cororooke Open Space – Path Network and Playspace

Council received notification on the 15 July 2020 that two of the four applications submitted under the program had been successful in receiving funding. Those projects being:

- City Reserves Planning – State Government funding allocation of \$30,000, with an expected Council contribution of \$50,000 required.
- Cororooke Open Space – Path Network and Playspace – State Government funding allocation of \$250,000, with an expected Council contribution of \$250,000 required.

Council received notification on the 22 July 2020 that the remaining two applications were unsuccessful in receiving funding under this program. Officers have contacted the organisations of the unsuccessful applications to inform them that the projects were unsuccessful in receiving funding through the 2020-21 LSIF program.

#### Colac City Reserves Planning Project

This project will undertake planning for four of Council's five Colac City Reserves (Eastern Reserve, Western Reserve, Lake Oval and Central Reserve). A masterplan has recently been completed for Elliminyt Recreation Reserve.

The objectives of this project are to:

- Develop a principles-based planning framework overlay, which considers both active and passive sport and recreation opportunities, to guide the preparation of site-specific master plans for Central Reserve, Eastern Reserve, Western Reserve and Lake Oval (Colac Cricket Ground).
- Assess the layout and condition of the existing sporting and recreation facilities at the four Colac City Reserves, and propose possible uses and development in consideration of the needs of the broader community and stakeholder needs for the specific sites;



- Assess the land at each of the sites for consideration of possible future infrastructure developments (sporting, social, commercial) that meet the needs of the specific user groups and the local community;
- Assess the specific requirements for the identified sports at each reserve by working with local, regional and state sporting bodies;
- Apply innovation and efficiency to design and configuration concepts, and comply with legislation ensuring universal design principles are considered;
- Provide a detailed design concept for each of the four reserves, which integrates sporting facilities and establishes a framework and context for the future development of the specific recreation reserve;
- Develop detailed design concepts for each of the four reserves that can be staged, and make recommendations relating to various costing options and timing of these stages;
- Identify a list of priority projects/works specific to each of the four reserves;
- Develop a collated and prioritised list of works across all of Council's five City Reserves: Central Reserve, Eastern Reserve, Western Reserve, Lake Oval (Colac Cricket Ground) and Elliminyt Recreation Reserve.

It is important to note that the Colac recreation reserves lack quality and up to date master plans. The Central Reserve Master Plan was first developed in 2000 and reviewed in 2007, and is now largely complete. Master plans for the remaining three reserves were developed in 2007 and are now obsolete with the significant changes seen in sports facility guidelines and changing community expectations.

This project is needed to provide the necessary direction to Council, local sporting clubs and associations/leagues for guiding any future facility development at the reserves. The outcomes of this project will be used to assist Council by having a coordinated strategic and equitable approach to facility improvements and investment for Colac, which can also be used Shire-wide for sporting and recreation facilities.

Council receives many requests from sporting clubs to upgrade their facilities. In a constrained budget environment, there is a need for Council to prioritise these requests fairly across all recreation facilities located in the Colac Otway Shire.

By approaching the planning of specific reserves collectively, a coordinated approach to township planning, site assessments and community and stakeholder consultation can be achieved. The development of a principles-based framework will lead the development of individual site planning and will be used to evaluate and prioritise key development and improvement projects across all four sites. The framework will also be used to assist Council in developing a policy for prioritising sporting reserve developments, including passive recreation opportunities, upgrades and works across the broader Shire.

Site specific master plans which identify a list of priority projects/works specific to each of the reserves will provide direction to Council, local sporting clubs and associations/leagues for future facility development. A collated prioritised list of works across all of the five Colac City Reserves will be used to assist Council in having a coordinated and equitable approach to facility improvements and investment across Colac. These master plans and the collated prioritised list of works (including cost estimates for priority projects) across the five Colac City Reserves will be used as an important tool for Council to source State and Federal funding for the implementation of specific master plans.

This application sought a State Government contribution of \$30,000 (maximum grant which could be applied for) with a Council contribution of \$50,000 to complete the project. Council's contribution towards the project was included in the 2020-21 Council Budget deliberations, however due to the delay in finding out whether the project was successful in receiving funding, Council's contribution towards the project was removed from the adopted 2020-21 Council Budget. The reason for this was the uncertainty around COVID-19 and its impact on Council's finances.

#### Cororooke Open Space – Path Network and Playspace

This project proposes to implement Stages 1 and 3 of the Cororooke Open Space Master Plan. The project will fill a gap in open space by providing the Cororooke community with access to informal and passive recreation opportunities by developing the path network and playspace for community use.

This project does not propose to implement all of the outstanding items/components of the 2019 Cororooke Open Space Landscape Master Plan. This project will deliver on the following items as identified in the Master Plan and Cost Plan:

- Site establishment including site proving, service detection, site survey, site investigation reporting as identified, detailed geotech required for path and playspace construction documentation;
- Path and playspace construction drawings and documentation;
- Site works including bulk earthworks and reserve drainage;
- Installation of gabion basket retaining walls to manage level changes and create DDA access;
- Reserve fencing improvements for pedestrian and park user safety;
- Concrete path network including interpretive stencil treatment, and timber boardwalk over the dry creek beds in the playspace location;
- Playspace incorporating nature play components, junior play components, senior play components, soft fall surfacing (mulch and rubberized);
- Playground construction compliance audit;
- Landscape works including site preparation, plants and establishment maintenance; and
- Project Management costs associated with managing and overseeing the project.

The proposed works and revised costs are in accordance with the 2019 Cororooke Open Space Landscape Master Plan and are supported by the Cororooke and district community.

The Cororooke community's only open space for the township is undeveloped other than for tennis. It is a 1ha site with difficult and unusable topography. Slopes and low spots create boggy unsafe areas which for most of the year cannot accommodate informal recreation uses. It is basically an unusable paddock. This project will provide new participation opportunities for the community.

The majority of homes in Cororooke can access the tennis courts and reserve within 500m of their home. St Brendan's Primary School is just under 1.7km away. This project will provide opportunities for children and adults to experience a range of cognitive, imaginative and sensory experiences which currently do not exist in the Cororooke and Coragulac communities.

The closest playground is located at the Alvie Recreation Reserve which is 6km from Cororooke and not connected by off-road pedestrian/cycling routes. The Corangamite Lake Road and Wool Wool Road is busy with tourist traffic visiting the Red Rock lookout and is unsafe for cycling. By constructing the path network within the Cororooke Open Space and installing play and activity equipment for

different age groups, as per the master plan, the Cororooke community and local families will have access to quality open space within walking distance and a neighbourhood reserve.

Receiving State Government funding and the matching Council funding for this project will implement a majority of the master plan and will integrate formal and informal play and activity spaces with other environments within the wider Cororooke Open Space. The path network and playspace will provide the Cororooke community with an open space reserve that will encourage physical activity to address the declining levels of physical activity in children and families, especially isolated communities. The park will be a focal point for the community to meet, play and interact.

The Cororooke community, which is largely farming, is moving from an ageing community towards younger families. This project will support this growth as younger generations move into the region and will encourage healthy, active lifestyle choices. New residential developments provide play spaces as part of their development, existing communities in partnership with Council and the State Government will be able to provide similar infrastructure to attract new families to the region to keep up with existing trends that promote an inclusive family lifestyle.

This application sought a State Government contribution of \$250,000 (maximum grant which could be applied for), with a Council contribution of \$250,000 to complete the project. Council's contribution towards the project was included in the 2020-21 Council Budget deliberations, however due to the delay in finding out whether the project was successful in receiving funding, Council's contribution towards the project was removed from the adopted 2020-21 Council Budget. Again, this was due to the uncertainty at the time of the financial impact of COVID-19 on Council's finances.

Due to COVID situation and its impact on Council's financial position, Officers attempted to negotiate with SRV about the Cororooke project regarding both the contribution from the Victorian Government as well as the contribution required from Council. SRV were firm on their position that the total amount available from the State would be \$250,000, which is the maximum grant available through the program. They also stated that to receive the full amount, Council's contribution would also need to remain at \$250,000 rather than a possibly reduced amount. Officers had raised the option of Council providing a lesser contribution of \$125,000, which would still meet the program's required funding ratio of \$2:\$1. However, SRV did not entertain this option as they were of the view that the project outcomes would be compromised if the scoped project was not fully funded.

### Options

There are a number of options available to Council:

#### ***Option 1***

To accept the State Government's funding for the two successful projects and allocate the required matching Council contribution.

#### ***Option 2***

To determine to support only one of the successful projects by accepting one of the State Government's offer for funding.

#### ***Option 3***

Decline the State Government funding offer for both of the successful projects.

## **Proposal**

Traditionally there are limited opportunities for funding of sport and active recreation projects outside of SRV funding programs. Officers propose that Council accepts the Victorian Government's Funding under the 2020-21 Local Sports Infrastructure Fund of \$30,000 towards the City Reserves Planning project and the \$250,000 towards the Cororooke Open Space – Path Network and Playspace project and allocates the required Council funding of \$300,000 from Council's 'Strategic Projects Reserve'. The purpose of this reserve is to match external grants as they arise throughout the year. There are sufficient funds in the reserve to cover the required matching contribution.

## **4. COMMUNITY CONSULTATION & ENGAGEMENT**

User groups and affected clubs were contacted during the application process with many organisations and clubs providing letters of support for inclusion in the applications submitted.

### **Colac City Reserves Planning Project**

Council receives many requests from sporting clubs to upgrade their facilities. In a constrained budget environment, there is a need for Council to prioritise these requests fairly across all recreation facilities located in the Colac Otway Shire. Council officers also meet with the users of the Colac sporting reserves on a regular basis. Discussions have been held with the respective reserve user groups about the demands and challenges that are facing their club and their respective association/league.

Letters of support were received from the regular users and summer and winter tenants for Eastern Reserve, Western Reserve, Lake Oval (Colac Cricket Ground) and Central Reserve.

This project proposes that there will be significant community engagement and consultation with key user groups and stakeholders in the development of the site-specific master plans.

### **Cororooke Open Space – Path Network and Playspace**

Successful consultation creates a sense of ownership by the community and a better understanding by Council of the needs of the potential users. The Cororooke community have demonstrated their enthusiasm and ownership of the park over the past 6 years with a range of advocacy efforts and personal commitments.

The Red Rock & District Progress Association (RRDPA), in partnership with Colac Otway Shire, expressed interest in acquiring land from Fonterra at its Cororooke site for the purposes of public open space when Fonterra closed its Cororooke factory operations. In addition, the Cororooke Tennis Club had lobbied for a number of years to obtain funding to improve the provision of the tennis courts in Cororooke.

Following the transfer of the land from Fonterra to Council, Council officers worked closely with the community throughout 2015 to develop a concept landscape master plan for the site. Completing a landscape master plan for the new parcel of open space would determine the best use of the land in accordance with community requirements, expectations and aspirations. From these discussions and consultation with the Cororooke community, the key community facilities identified for the Cororooke Open Space site included:

- Tennis courts and clubrooms
- Public toilets
- Playground and small skate park

- BBQ, shelter and interpretive information
- Pathways
- Basketball backboard
- Indigenous/sensory garden
- Open space area

Council worked with the community through extensive consultation to develop an agreed master plan for the site, and the first project to be completed was the construction of the tennis courts. Since the construction of the tennis courts and subsequent installation of a tennis storage shed and public toilets, the community has lobbied Council to further develop the site so that it can be used for passive and informal active recreation activities by the broader community. The internal areas of the reserve are undeveloped (outside of the tennis and toilet facilities). Due to the changes in the proposed site layout during the construction of the tennis courts, the original master plan developed in 2015 needed to be reviewed and updated prior to any further development and construction within the reserve.

The community sought funding from Council in 2018, and the 2015 master plan was extensively reviewed by the community in 2019. In working with the community, the costs detailed in implementing the full master plan were broken up into logical stages of development. Funding the path and playspace components of the master plan provides a framework for the park and will allow the community to seek funding from other organisations to further develop the reserve as per the master plan as funding becomes available.

Significant community consultation occurred during the development of the Cororooke Open Space Master Plan. Many letters of support from local sporting and community organisations, local schools and businesses were received to be included as supporting evidence of community support for the application.

The community will continue to be consulted in finalising the construction documentation for the path network and playspace. A Project Steering Group will be established once funding is confirmed to finalise the play equipment elements to be included in the construction designs and specifications.

## 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 2 - Our Places

1. Assets and infrastructure meet community needs.
3. Towns and places are welcoming and attractive.

Theme 3 - Our Community

1. Increase social connection opportunities and community safety.
2. Connect people through events and activities.
4. Provision of resources to support physical activity by the community.
6. Community planning informs provision of Council services and social infrastructure.

### Colac City Reserves Planning Project

Council has many strategic documents and policies which provide high level strategic guidance for the provision of recreation and open space facilities within the Colac Otway Shire. An array of G21 Regional sporting strategic documents also exist which outline sport specific facility improvements required at our Reserves. This body of strategic documents has raised expectations in the community

and Council regularly receives requests for improved facilities in Colac. The challenge for Council is prioritising these improvements across its recreation reserves (throughout the Shire) in an equitable and strategic way.

Council has been involved in developing and also partnering many strategic planning documents which are relevant to each of the reserves. Many of the G21 strategic documents are very high level, and whilst relevant for the individual reserves, do not detail the exact works that need to take place to ensure compliant facilities for sporting use. Some of Council's strategic documents have expired or are nearing the end of their life, and may not necessarily represent current trends and sporting facility requirements. This project proposes to review these documents and other regional planning studies to establish a principles-based planning framework which will be used to guide prioritised development of Colac's City Reserves and other reserves in Colac Otway Shire.

This project will address the lack of current master plans for Central Reserve, Eastern Reserve, Western Reserve and Lake Oval. By approaching the planning of specific reserves collectively, a coordinated approach to township planning, site assessments and community and stakeholder consultation can be achieved. The development of a principles-based framework will lead the development of individual site planning and will be used to evaluate and prioritise key development and improvement projects across all four sites.

#### Cororooke Open Space – Path Network and Playspace

The Colac Otway Shire Public Open Space Strategy 2011 identified a clear lack of usable open space in the township of Cororooke and neighbouring Coragulac. Through consultation with the community when developing the Public Open Space Strategy, there was a clearly identified need for centrally located open space with appropriate community facilities eg: neighbourhood park with playground.

The development of the Red Rock Region Community Infrastructure Plan again highlighted the need for a centralised open space with adequate community facilities. The Plan recommended the following: "Consider creation of a Central Park hub area to include public toilets, picnic facilities, shelter, shade trees, pedestrian paths as well as paths linking the Gallery, General Store, Tennis Courts and Hall."

The development of the Cororooke Open Space Landscape Master Plan in 2015 and the 2019 revision is supported by Council's Public Open Space Strategy and the Red Rock Regional Community Infrastructure Plan. The 2019 Master Plan is consistent with the recommendations and principles in Council's Active Transport Strategy and the Physical Activity Strategy for providing end of trip facilities and improved environments that support physical activity, walkability, cyclability, universal design, Healthy by Design and urban design principles.

A key objective of Council's Health and Wellbeing Plan is to – "Improve places, spaces and settings to support healthy living and prevent chronic disease." The development of the Cororooke Open Space will help achieve this objective by providing community facilities that are accessible to the community, thus encouraging social interactions and physical activity.

There is a wide body of research documenting the contribution sport makes to social capital and community development that this project aligns to. Participation in sport and access to facilities plays an important role in addressing disadvantage, especially in isolated rural areas. It brings community together, increases volunteering and individual's health and well-being. There is evidence that supports the trends for providing passive recreation which allows incidental self-drive recreation opportunities.

Investment in quality passive open space that encourages social interaction and self-directed physical activity is acknowledged by the Heart Foundation, State Government and the World Health Organisation as a leading strategy in combatting mental and physical health problems and social isolation.

## 6. CONSIDERATIONS

### ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

Quality sporting and active recreation facilities provide opportunities for Councils to attract visitation to an area.

SRV requires projects to demonstrate Environmentally Sustainable Design principles where applicable. This will be addressed in further detail during the implementation of the projects.

#### Colac City Reserves Planning Project

Sport and recreation are significant contributors to the social fabric of the Colac Otway region. The Shire offers a significant range of sporting opportunities including, but not limited to, cricket, football, netball, basketball, tennis, lawn bowls, croquet, soccer, baseball and cycling.

Quality fit for purpose facilities can provide great opportunities for attracting visitation to our region whilst also providing economic benefits to our local businesses and sporting and community organisations.

#### Cororooke Open Space – Path Network and Playspace

Implementation of the Cororooke Open Space Landscape Master Plan will engage children and the community by providing fun, exciting and engaging play and active experiences. The playspace and active park features will give more children and adults the opportunity to participate in physical activity by providing modern equipment that is engaging and promotes cognitive, social and physical/active play. The value of play to the community is far reaching and promotes health and wellbeing in a range of key areas including improved motor skills, improved creativity, improved confidence, independence and self-esteem, and improved balance and coordination.

This project ensures that all members of the community will have access to a new play and activity space to provide a range of physical and social benefits. A playspace provides a significant opportunity for social interaction for a community.

Constructing a playspace with path connections to access within the Cororooke Open Space, will provide the community with access to a range of play and informal recreation and physical activity opportunities. The space will reinforce play as a valuable form of healthy physical activity by getting children actively involved in play through the utilisation of play equipment, adventure play and nature-based play as an essential part of everyday life that promotes and supports health and well-being. Playspaces provide participation opportunities across the entire community, without many of the barriers that are evident in formal recreation. Play and park facilities are readily available at all times and have no financial barriers for the users.

This project will provide the Cororooke and surrounding communities of Alvie, Warrion, Coragulac and Red Rock with a developed park, incorporating the tennis courts and public toilets which will provide informal and passive recreation opportunities and social benefits. Providing funding for this project



will construct the bones and framework for the reserve by establishing the path network and playspace at the Cororooke Open Space.

Healthy, liveable communities are places where people want to live. They have good local social infrastructure and services, economic and social activities, a diverse and sustainable natural environment and a sense of security where rights are protected and diversity is welcomed. The proposed development for Cororooke Open Space will provide all of these opportunities. The reserve will attract a variety of users (from organised planned activities to informal passing traffic) due to the improved quality of infrastructure provided. The addition of paths and a play space will ensure that the community has a facility that:

- Encourages and allows an increase in participation in a range of informal recreation and leisure opportunities;
- Increases community access to those recreation and leisure opportunities;
- Reflects better planning of recreation facilities through the consideration of access issues; and
- Encourages the involvement of community organisations in the planning and development of facilities.

The Cororooke community is wanting the Cororooke Open Space to be a community hub for their community. The installation of a playspace and path network will provide more options for the community to become physically active and complement the tennis courts. The development of the Cororooke Open Space by including paths and play activities will increase the range of informal recreation opportunities for not only the Cororooke community but also residents of the Colac Otway Shire.

Developing the Cororooke Open Space will allow the reserve to be a suitable venue to host future community events. The Cororooke community had a Christmas Hay Bale Trail with decorated bales installed at the open space reserve. This project considers community strengthening initiatives and will improve participation opportunities for families, teenagers and older adults who are forced to travel to other locations beyond the local area to participate in play activities and informal physical activity opportunities.

The interpretive and historical aspects, which will be implemented as part of the playspace will provide opportunities to both attract and educate visitors to the region.

This project will also create opportunities for local businesses to undertake works, creating stimulus opportunities during the COVID-19 pandemic.

## **LEGAL & RISK**

A risk management analysis was undertaken based on the project scope and readiness to submit projects when applying for funding.

## **FINANCIAL & BUDGETARY**

Accessing funding from SRV is a cost-effective way of improving much needed sport and active recreation facilities within the Shire.

Two projects have received notification that they are successful under the 2020-21 LSIF program. To deliver these projects, they require a funding allocation from Council. In the past, any projects submitted under this program have been subject to Council's annual budgetary process. If notification from the State Government had been received within the program guidelines (i.e. May-June 2020) then seeking funding through an already endorsed budget would not have been required.



Unfortunately, due to the COVID-19 pandemic, the State Government was unable to provide Council with this advice during Council's 2020/21 budget deliberations, and as such the matching contributions for these projects were removed from the draft budget. Officers were unsure of the ongoing impact of COVID-19 on Council's finances, and therefore took a conservative approach to framing the 2020/21 budget. However, now having a greater understanding of how COVID-19 is impacting Council's budget, officers believe Council has the capacity to provide the matching contributions required.

Council has a Strategic Projects Reserve which provides Council with an opportunity to match external grants as they arise throughout the year. There is in excess of \$600,000 in the reserve, however approximately \$280,000 has been reserved for other projects. Therefore, there are sufficient funds available in the Strategic Projects Reserve to provide the matching contribution to these two successful Victorian Government grants.

Should Council choose to not support the successful projects at this time, then the projects are unlikely to be completed in the short to medium term. Not accepting the funding for these projects could affect Council's ability to secure future funding for these two projects. The onus could fall back onto Council to potentially fully fund these projects in future budgets.

## 7. IMPLEMENTATION STRATEGY

If Council accepts the State Government funding for the two projects, the projects will be required to be delivered by Council.

### COMMUNICATION

SRV will be notified of Council's decision immediately. Furthermore, the community and key stakeholders will also be notified of Council's decision through the relevant communication channels.

### TIMELINE

If Council accepts the funding, Council will be required to have the two projects completed over an 18-month period commencing upon execution of the funding agreements.

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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

Item: 10.3

## Planning Scheme Amendment C106cola - Heritage Overlay Changes

<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. Colac Residential Precinct Contributory Property Review 05 Aug 2020 [<b>10.3.1</b> - 17 pages]</li><li>2. Murray Street Precinct [<b>10.3.2</b> - 2 pages]</li><li>3. Residential Precincts [<b>10.3.3</b> - 3 pages]</li></ol>
<b>PURPOSE</b>	To seek Council support to amend the Colac Otway Planning Scheme to update the Heritage Overlay planning provisions within Colac and at the Apollo Bay Harbour.

### 1. EXECUTIVE SUMMARY

Amendment C106cola seeks to remove unnecessary planning permit triggers from the Colac Otway Planning Scheme within several heritage precincts in Colac and at the Apollo Bay Harbour.

The existing Heritage Overlay (HO) applies to various sites across Colac Otway Shire. It seeks to conserve and enhance heritage places of natural or cultural significance within the Shire. The provisions of the overlay often require a planning permit for demolition or for most changes to a building or heritage place. This requirement is often viewed by applicants as onerous, time-consuming and costly.

The Amendment seeks to reduce this planning burden on the community by introducing Incorporated Plans into the planning scheme in the three heritage precincts within Colac and one precinct in Apollo Bay. The Incorporated Plans for the Colac precincts will allow, in certain circumstances, the demolition of a building or part of a building or alterations and additions to a building or works on a site without the need for a planning permit. For Apollo Bay, it would exempt works from requiring a permit that are consistent with any approved Development Plan prepared under the Special Use Zone for Apollo Bay Harbour.

The Amendment also seeks to update the Heritage Overlay mapping of the Murray Street Commercial Precinct to remove non-heritage sites and parts of sites from the Heritage Overlay, and to update the Statements of Significance in the three Colac precincts to improve guidance for decision making. The

Amendment also seeks to update the Design and Development Overlay Schedule 8 (Colac CBD) to reduce the restrictions on advertising signage within the Colac CBD and to provide exemption and permit consistency between both Overlays.

This Amendment will improve the efficiency of the Colac Otway Planning Scheme and assist in delivering on Council's program of cutting red tape and removing unnecessary regulatory burden on the community. To implement these changes, a formal resolution of Council is required to commence the amendment. Local affected landowners will be consulted as part of this process.

It is noted that this item was deferred at the 26 August 2020 Council meeting following concerns by some Councillors about the reclassification of some properties in the northernmost residential precinct as "contributory" buildings. This report has been amended to provide options for Council's consideration of this issue. The officer recommendation remains unchanged as officers believe this is the best way forward based on the information provided by Council's Heritage Advisor.

## 2. RECOMMENDATION

***That Council:***

- 1. Note that the proposed changes to the Heritage Overlay and the Design and Development Overlay are part of a broader strategy being implemented by officers to update the Planning Scheme and remove unnecessary planning permit burden in the development approval process for ratepayers.***
- 2. Pursuant to section 8A of the Planning and Environment Act 1987, request the Minister for Planning to authorise the preparation of Amendment C106cola to the Colac Otway Planning Scheme.***
- 3. Authorise officers to make any necessary minor formatting and administrative corrections to Amendment C106cola documents prior to sending to the Minister for authorisation.***
- 4. Authorise officers to exhibit the planning scheme amendment.***

## 3. KEY INFORMATION

### Background

The Colac Otway Planning Scheme guides land use and development within Colac Otway Shire. Council, as the Planning Authority, is responsible for the ongoing upkeep of the Planning Scheme to ensure that it continues to meet the objectives of the *Planning and Environment Act 1987*, community aspirations and Council policy and direction.

Council endorsed its four yearly Planning Scheme Review in March 2018, which highlighted the need for 'red tape reduction'. The Review noted that there were significant opportunities to review zone and overlay schedules in the Colac Otway Planning Scheme. This would rationalise permit triggers and application requirements, review overlay mapping to ensure it is accurately applied and streamline the performance of the Scheme.

Recent initiatives undertaken to streamline planning scheme requirements and make it easier for ratepayers to develop their land include:

- Changes to the flood overlays in Colac and Elliminyt to ensure the mapping is accurately applied (several properties have been removed from the overlay based on a recent flood study) and

planning permit requirements for dwellings and related structures removed if floor levels are established higher than identified flood levels. This amendment is adopted and has been forwarded to the Minister for approval.

- Removal of the Environmental Significance Overlay (ESO1) from the north-western corner of the Shire after it was found to be unnecessary in protecting groundwater, and removal of the majority of the ESO2 from waterways in Colac/Elliminyt based on updated Government biodiversity mapping. This amendment has been adopted by Council and is currently with the Minister for approval.
- Review initiated into the mapping and schedule of the Erosion Management Overlay (EMO1) which applies to the southern part of the Shire to address landslip risk. Consultants have commenced a review of the extent of the overlay as well as permit triggers, with significant potential to remove the requirement for expensive geotechnical assessments on farming buildings. This review is currently being finalised and will be presented to Council after the election.
- Review of all local zone and overlay schedules to update them and seek opportunities to exempt unnecessary permit requirements. Consultant Glossop is close to finalising this work, prior to consideration by Council.

Officers have now identified an opportunity for reducing red tape associated with the application of the Heritage Overlay in Colac.

#### Heritage Provisions

Council adopted a Heritage Study in 2003 which identified a number of individual places of heritage significance across the Shire, where those sites have particular local, regional or State heritage importance. The Study also identified a series of heritage precincts, where a wider area (often with a collection of contributory buildings) is significant. Examples of such precincts are the Birregurra Main Street, Apollo Bay Harbour, Cressy, Beech Forrest, Murray Street in Colac CBD and two Colac residential precincts. Within the precincts there are buildings that contribute to the heritage character, and some buildings that do not. They may also include buildings of individual significance, with their own heritage protection, but the key factor is that it is often a collection of buildings that are not significant individually, but together are significant by representing a particular era or period of building construction or other heritage value.

The intention of precinct based heritage controls is to manage new development on all properties to ensure that when 'contributory' buildings are redeveloped, the changes retain those aspects of the site which are important to the heritage character of the street, and that as 'non-contributory' buildings are developed or replaced, the new works are sympathetic to the heritage character. Greater change is permitted on sites with non-contributory buildings, including demolition of buildings.

In 2008, Council completed an amendment to the Planning Scheme (Amendment C27) that introduced a Heritage Overlay to these individual places, as well as several of the broader heritage precincts. It was quite a robust process, with many submissions and an independent panel which recommended changes to the amendment. Some properties were excluded from the Overlay following this rigorous process.

Under the Heritage Overlay, a planning permit is required for most buildings and works, including demolition of buildings, with a few very minor exemptions. Sometimes proposed works involve minor changes that cannot be seen from outside of the site. Other works are to buildings acknowledged as having no heritage significance. All these works currently trigger the need for a planning permit. This can be a frustration for landowners, particularly where a building does not contribute to the

significance of a precinct, or the works are of a minor or discrete nature. Owners of shops in Murray Street for example, have historically expressed concern at needing a permit under the overlay to display signage in shop windows.

There is a way that the impact of heritage provisions can be reduced for property owners, through the introduction of Incorporated Plans that document specific planning permit exemptions. Several other Councils with large areas affected by the Heritage Overlay such as Ballarat, within Melbourne and Geelong have undertaken planning scheme amendments to implement such plans with success. Such plans retain permit requirements for works visible from the streets, but often exempt works from a permit where at the rear of a property. This is the approach now being proposed for the three precincts in Colac where further strategic assessment of the precincts occurred during the Colac 2050 Growth Plan (in 2015). This 2015 assessment examined the Colac precincts in greater detail, provided more detailed guidance for making decisions, and recommended some improvements to the mapping.

Importantly, this approach does not usually extend to individual properties of heritage significance, as it is important for more fuller planning control to be retained on these properties.

#### Proposed Amendment

Amendment C106cola seeks to update the heritage provisions of the Colac Otway Planning Scheme by introducing Incorporated Plans that will exempt certain works from requiring a planning permit in the following four heritage precincts:

- HO305 (Murray Street Commercial Precinct)
- HO306 (Colac Estate Housing Precinct)
- HO307 (Colac Residential Precinct)
- Apollo Bay Harbour (Development Plan under preparation currently)

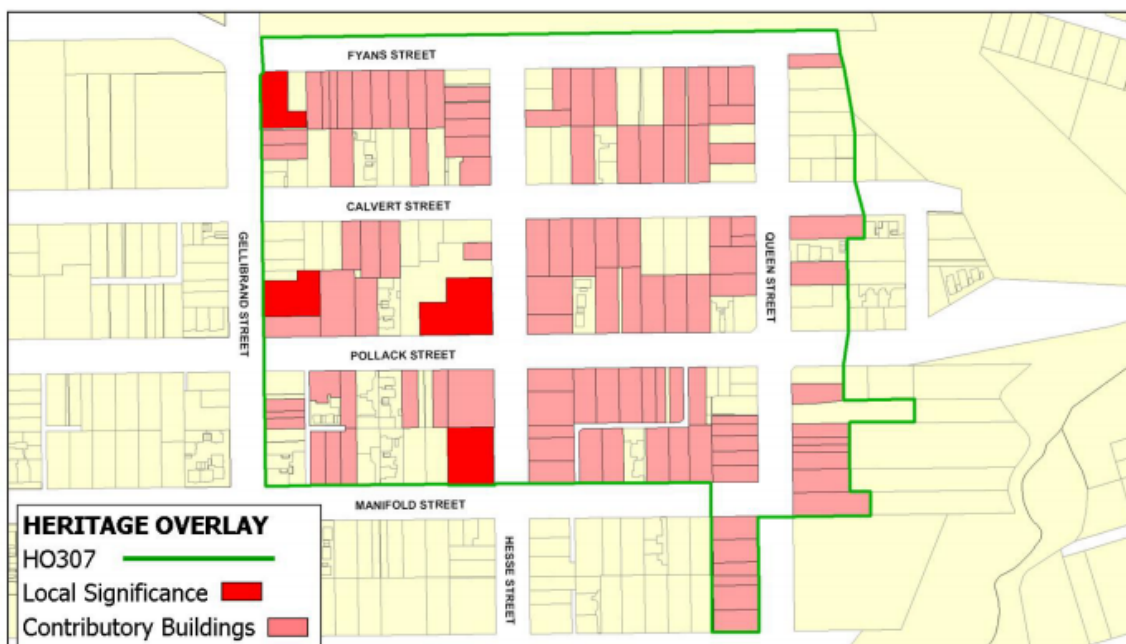
For the three precincts in Colac, the Incorporated Plans will exempt defined works from requiring a planning permit from Council, such as:

- the demolition of a building or part of a building that is defined as being 'Non-Contributory' in the adopted Colac Otway Heritage Study 2003 and 2020 review by Council's Heritage Advisor;
- the construction of many types of outbuildings and other minor works that do not impact upon the acknowledged heritage fabric of the precinct;
- front fences, not being a fence forward of the building line; and
- the removal of most vegetation (vegetation controls are currently confined to the Colac Residential Precinct).

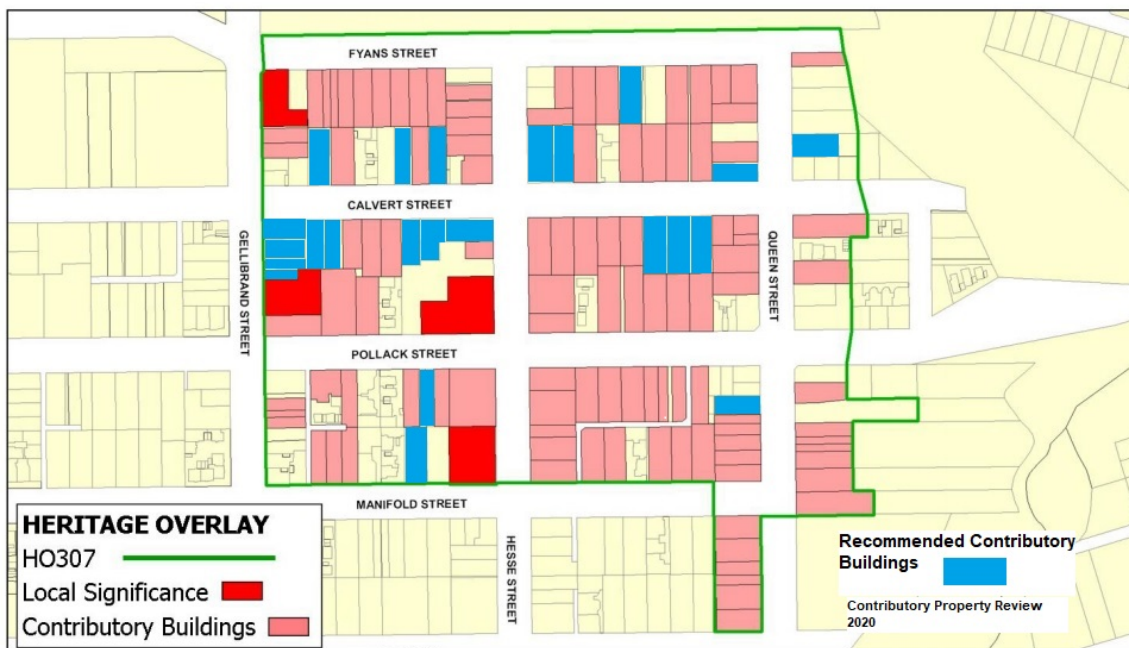
The Incorporated Plans will provide a detailed list of what works are permitted on a site without the requirement of a planning permit. Other works on sites not included in the Incorporated Plan will still require heritage assessment through the planning permit process. This will ensure that works which have potential to impact on the significance of a heritage place will still be appropriately considered through a planning process.

The amendment also involves an update to part of the Colac Otway Heritage Study 2003, which is a Reference Document of the Colac Otway Planning Scheme. This update seeks to revise the mapping of HO307 (Colac Residential Precinct) within the Heritage Study. The HO307 Precinct is bounded by Fyans, Gellibrand and Manifold Streets and also includes properties fronting both sides of Queen Street to the east. A minor change to HO306 (Colac Estate Housing Precinct) is also recommended.

The Precinct mapping of HO307 within the Colac Otway Heritage Study 2003 identifies properties within the Precinct as either of Local Significance, Contributory to the heritage environment or Non-Contributory (by default). The mapping in the study (see below) is accompanied by a Statement of Significance which articulates why the Precinct is significant. The Statement for HO307 notes that the *“Colac Residential Precinct is of architectural importance in demonstrating a continuum of residential styles incorporating modest Gothic, late Victorian Boom style, Federation and mid twentieth century brick dwellings that provide a map in built form of Colac’s residential development”*. It is noted that the buildings currently identified as Contributory within the Precinct are generally of an older period and do not reflect the intent of the Statement of Significance to incorporate a variety of building styles and periods reflecting the growth of Colac. A select few sites are also identified as of Local Significance and have individual heritage significance. A review of the Precinct undertaken as part of Colac 2050 recommended changes to the identification of contributory places within the study map to include a number of interwar and mid-twentieth century weatherboard and brick dwellings.



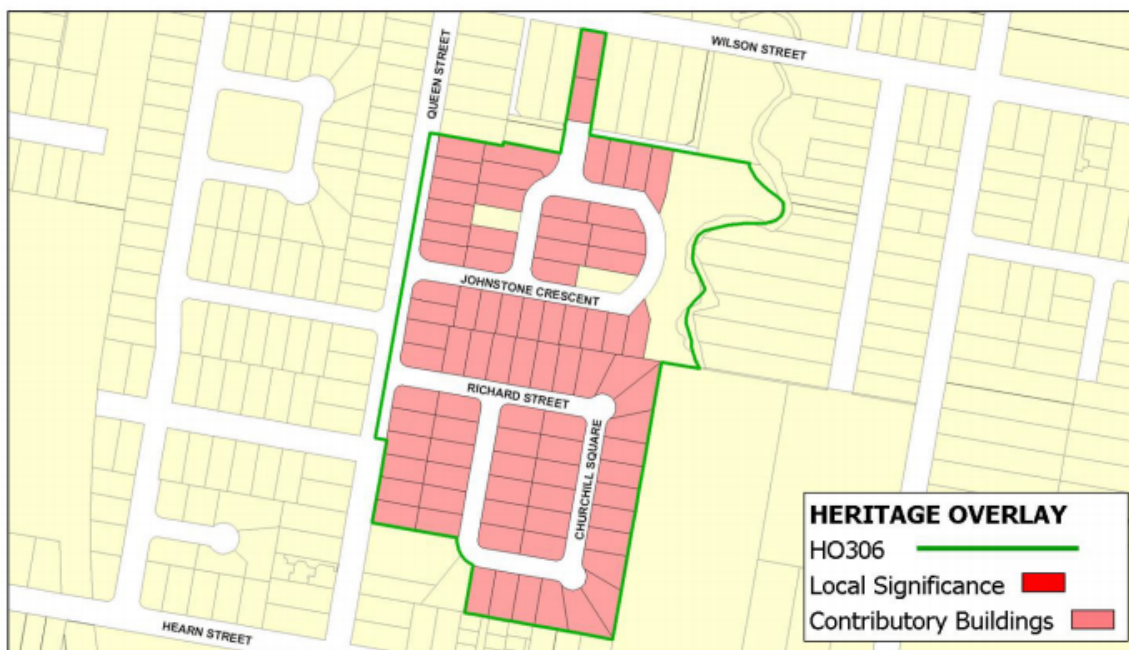
In response to this discrepancy, Council has commissioned a report to determine whether an additional 23 dwellings within the Precinct currently listed as non-contributory are in fact of heritage significance. These dwellings comprise mostly post-war dwellings and the findings of the report conclude that they should be included as contributory (shown in blue on the following page).



In recommending that further properties be potentially included as contributory buildings in HO307, it is important to note that there will be no change for the existing planning permit requirements on these properties. In other words, a planning permit is currently required to demolish or construct a dwelling or part of a dwelling on the land. If this proposed amendment is approved, a permit will still be required to demolish or construct a dwelling or part of a dwelling on the land (subject to the proposed Incorporated Plan, which will remove many planning permit triggers). The status-quo will therefore remain. The key benefit of the review of significance of these houses will be to improve direction for decision making by Council when a planning application is received.

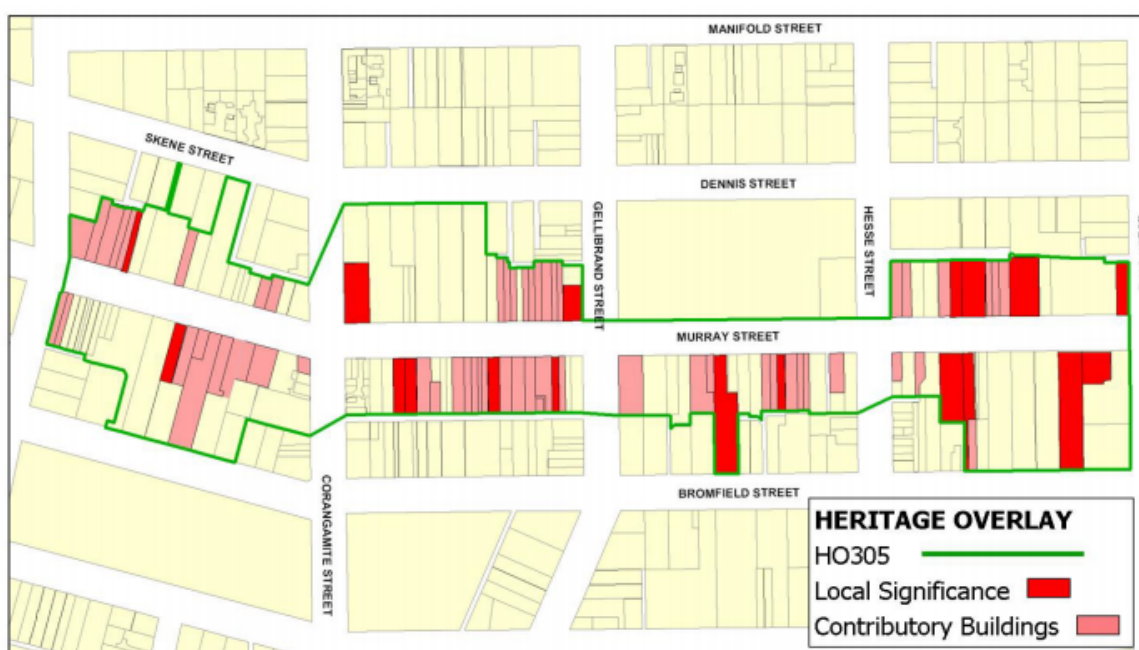
It is also proposed to update the Precinct mapping of HO306 (Colac Estate Housing Precinct) and Statement of significance mapping. A site survey noted that 98 Wilson Street (shown highlighted at the top of the plan map on the following page) is within the Heritage Precinct, but is the only such dwelling fronting Wilson Street. Whilst this site has similar character and built form to the dwellings within the balance of the heritage precinct, it is physically unrelated and separated from the Colac Estate Housing Precinct and therefore should be removed from the heritage controls.





Finally, it is also proposed to make certain current permit applications assessable under the streamlined VicSmart provisions. VicSmart is a 10-day mandated processing time, compared with 60 days for a conventional application, and the fees are significantly less. It is suitable for instances where it may not be appropriate to exempt a proposal, but where the assessment is likely to be straightforward.

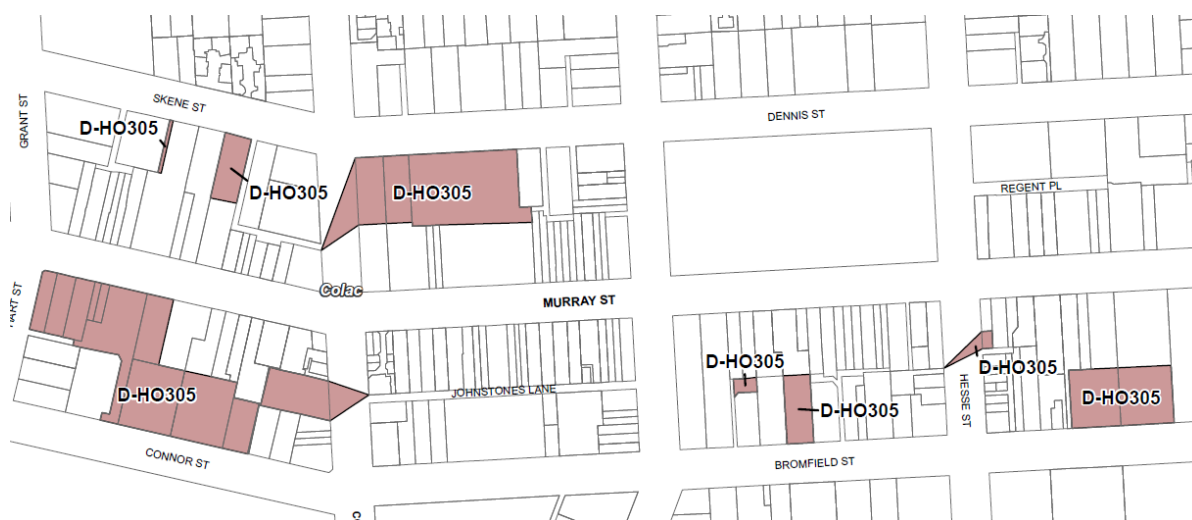
Within the Murray Street Commercial Precinct (HO305), which stretches from Grant Street to Queen Street (see map below), it is proposed that the inclusion of an Incorporated Plan will result in no planning permit being required to demolish a building or part of a building identified as not being a 'Contributory building' or a building of 'Local Significance'. Furthermore, a planning permit will not be required for works to demolish or alter parts of buildings not visible from Murray Street or Johnstones Lane (except for one significant building at 208A Murray Street).





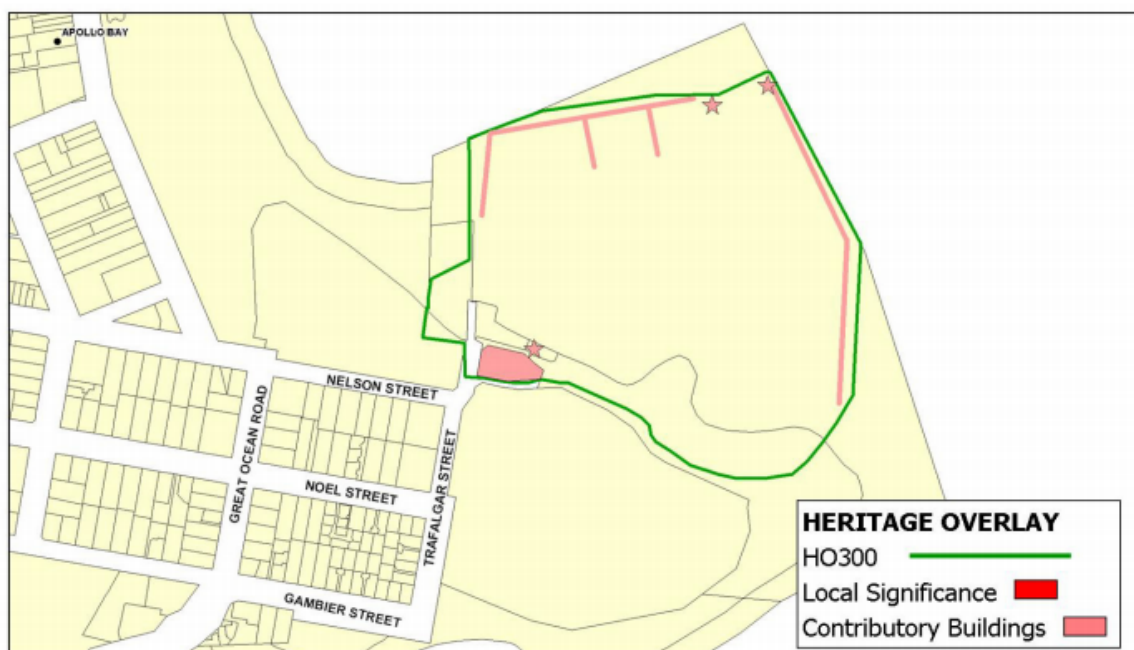
It is noted that if the changes to the heritage controls on Murray Street are implemented as proposed, a Business Identification Sign below 2.5m<sup>2</sup> in area will not require a planning permit. On considering these proposed changes and the current planning permit triggers on Murray Street, supportive changes are also recommended to the current Design and Development Overlay Schedule 8 (Colac CBD). This Overlay, forming part of the Planning Scheme, was introduced as part of the Colac CBD and Entrances Project 2012. It seeks in part to protect the heritage character of buildings in the CBD. The DDO8 mandates that the erection of all advertising signage within commercial areas along Murray Street and surrounds trigger an assessment through the planning permit process. It is noted that if the heritage changes to the planning scheme as recommended in this report are undertaken, the provisions of the current DDO8 will still require a planning permit for all signage. It is therefore recommended that to achieve the Cutting Red Tape objectives, the DDO8 be amended to match the proposed updated heritage provisions to avoid unnecessary planning permit requirements.

It is also noted that as part of this Amendment, it is also proposed to reduce the extent of the Murray Street Heritage Precinct in HO305 (as detailed below). This will involve adjusting the mapping of the current HO by deleting heritage controls from rear car parking areas and non-significant outbuildings generally fronting Dennis and Bromfield Streets and several sites on Murray Street at the fringe of the Overlay. A survey in these areas with Council's Heritage Advisor revealed that the current built form is not considered to be of heritage significance. Much of this land is currently used for carparking (e.g. the former Coles carpark), and its heritage status reflects the heritage buildings fronting Murray Street and not newer buildings, rear extensions, carparks or undeveloped land.



The Statements of Significance currently within the Planning Scheme for these three precincts that describe the key features that contribute to the heritage significance, and which give direction to decision making on permit applications, will be updated with the information derived through work undertaken in 2015 for Colac 2050.

The Apollo Bay Harbour precinct (HO300) is also included in a precinct-based Heritage Overlay, recognising its social, economic and historical significance as a working harbour/port. With a Development Plan currently being prepared for the Harbour precinct under the Special Use Zone, there is potential to incorporate this Plan into the planning scheme, and exempt any buildings or works from requiring a planning permit provided they are consistent with the Plan. This would both ensure that development at the Harbour appropriately considers heritage significance and yet streamlines the provisions to avoid unnecessary permit applications.



### Options for Council

Several Councillors at the August Council meeting expressed concern at the designation of additional properties as being “contributory” to the heritage significance of the residential precinct bounded by Queen, Manifold, Fyans and Gellibrand Streets.

As noted earlier, no new controls are being introduced by this amendment – rather, demolition permit requirements are proposed to be removed for some ‘non contributory’ buildings, and due to the change in classification of 23 buildings reviewed in 2020, these buildings would not benefit as much by the changes as those that are non contributory.

The following are options for how Council might consider the amendment **should it not seek to adopt the officer recommendation** concerning these additional ‘contributory’ buildings:

1. Defer the report to allow a fuller briefing with Council’s Heritage Adviser and to facilitate a better understanding by Councillors of the heritage significance of the identified buildings.
2. Resolve to undertake targeted engagement with the owners of the 23 properties, before reconsidering the proposed amendment at a future Council meeting.
3. Proceed to support exhibiting the amendment, but do so on the basis that the proposed changes for that precinct do not refer to the 23 identified properties as being ‘contributory’. Under this option the buildings would be ‘non contributory’ and demolition would be permitted.

Officers believe the proposed recommendation is the best way forward in order to facilitate cutting red tape and reducing the permit burden on landowners. Engagement with landowners would occur when the amendment was placed on exhibition. However, should the recommendation of this report not be accepted, officers would prefer that the matter be deferred to allow a full workshop with Councillors on the issue of heritage. This would ensure there can be a better understanding of why the 23 identified properties have been reclassified as “contributory” before any decision is taken on the amendment. The option of engaging with land owners before a decision on the amendment would

also be valuable as it would at least give the opportunity to communicate Council's intentions and seek community feedback before any decision to exclude the properties.

Whilst Councillors could resolve to seek State authorisation for an amendment that does not treat the 23 properties as 'contributory' it is unlikely this would be supported by the Planning Minister. The Minister would be expected to question allowing the removal of demolition related heritage controls from these properties without this being supported by any strategic assessment. Given there is already Heritage Overlay controls in place, removal of control over demolition of these houses needs to be strategically justified. In this case, Council is in possession of an assessment by a heritage expert that supports the demolition controls being retained (not removed).

Were the Minister to authorise the amendment subject to inclusion of the 23 buildings as 'contributory' despite Council's resolution, this issue can be tested through the public exhibition process. As with any other land owner, owners of the identified buildings could lodge submissions and any independent panel appointed to hear submissions would hear their views before making a recommendation back to Council.

#### 4. COMMUNITY CONSULTATION & ENGAGEMENT

If supported by Council and authorised by the Minister for Planning, the Amendment will be placed on public exhibition to gauge broader community support. Landowners and occupiers in the affected precincts will be informed of the proposed changes to the heritage controls and be invited to discuss the changes with officers via methods which respond appropriately to COVID-19 related restrictions on gatherings, possibly one on one face to face meetings and video conferencing/webinars.

#### 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 1 - Our Prosperity

1. Plan infrastructure, assets and land use with a long-term vision for economic growth.

Theme 2 - Our Places

2. Our places are managed for long-term sustainability.

3. Towns and places are welcoming and attractive.

#### 6. CONSIDERATIONS

Colac Otway Heritage Strategy 2013

The adopted Colac Otway Heritage Strategy 2013 assists Council in meeting its heritage obligations as set out in the *Planning and Environment Act 1987* and the State Planning Policy Framework by setting out priority actions for how identifying, protecting and celebrating our cultural heritage may be achieved at the local level. The Strategy made a number of recommendations, including undertaking an audit of the Heritage Overlay to ensure mapping and the corresponding schedule is accurate and implemented through planning scheme amendments that update overlays. Amendment C106cola seeks to implement this recommendation.

## **ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC**

The proposed amendment will have no adverse impact on the Shire in terms of the environment or social, cultural or economic life. On assessment, planning permits are generally issued for the proposed works to be exempted. The process of applying for and assessing an application involves an economic expense to both Council and the applicant and delays the commencement of works. The changes will remove unnecessary requirements for permits and therefore have positive social and economic benefits.

It is also noted that the amendment proposes to remove the requirement for a planning permit on a relatively limited number of sites and/or for a relatively limited range of works. This will ensure that any works on site that will potentially impact upon heritage values will be considered as part of a planning permit process, thus ensuring that the cultural assets of the Shire remain protected.

## **LEGAL & RISK**

The amendment will be processed in accordance with relevant provisions of the *Planning and Environment Act 1987*. There are no legal issues associated with this proposed amendment. There are no perceived risks associated with this amendment.

## **FINANCIAL & BUDGETARY**

The amendment will be processed within Council's Strategic Planning Department budget, with funds allocated to 'Cutting Red Tape'.

The removal of planning permit triggers as proposed will have a positive financial impact on the community.

## **7. IMPLEMENTATION STRATEGY**

With positive support of Council, officers will finalise preparation of the amendment and seek authorisation from the Planning Minister.

## **COMMUNICATION**

Council will communicate with affected landowners and occupiers to explain the changes during exhibition of the planning scheme amendment (i.e. a formal six-week notice period). As noted above, methods of engagement will be tailored to meet the COVID-19 restrictions that may be in place.

## **TIMELINE**

Formal exhibition of the amendment will need to wait until after the 2020 Local Government election period. The planning scheme amendment is expected to be completed in mid to late 2021.

## **8. OFFICER DIRECT OR INDIRECT INTEREST**

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

**Colac Residential Heritage Overlay Precinct****Recommended Additional Contributory Properties – Review****Prepared by Samantha Westbrooke, Heritage Architect, August 2020****Background**

The following properties, which are currently non-contributory in the Colac Residential Precinct were recommended to be contributory properties as part of a precinct review undertaken by Lucinda Peterson and Samantha Westbrooke in 2015.

This report provides further reasoning behind the recommendation to include the properties as contributory by outlining the relevant style the property fits into and the key characteristics of that style demonstrated in the particular property.

**Relationship to Statement of Significance**

The original Statement of Significance recognised that: *The Colac Residential Precinct is of architectural importance in demonstrating a continuum of residential styles incorporating modest Gothic; late Victorian Boom style; Federation and mid twentieth century brick dwellings that provide a map in built form of Colac's residential development.*

Although these styles were mentioned in the Statement of Significance, there was an inconsistency in the properties identified as contributory in the precinct. Only some Inter-War houses and post War (mid 20<sup>th</sup> century) houses were identified and others were left out. Primarily the mid 20<sup>th</sup> century houses (Post WW2 until the 1960s) in the precinct were not identified as contributory in line with the Statement of Significance.

The proposed new Statement of Significance does not change the styles/era of houses identified as significant but clarifies the styles/eras by grouping together all Victorian styles together (Gothic and late Victorian Boom style), changing Federation to Edwardian (as the Federation style leads into Inter-War) and separates inter-War and mid 20<sup>th</sup> century as the Inter War style bridged between Federation and mid 20<sup>th</sup> century but had not been mentioned as a style in itself.

The Style Guide provided with the 2015 update also clarifies the characteristics of these styles. The Style Guide further separates the Inter-War Style into Bungalows (which bridges over Federation/Edwardian and Inter-War) and Inter-War style and separates Post War (mid 20<sup>th</sup> century) into Post War Suburban and Post War Modern. The Style Guide from the 2015 report is provided at the end of this report.

It is worth noting that the contributory properties (existing and recommended) also all demonstrate common characteristics in their placement on the site with consistent front and side set backs, side driveways and garages to the rear. This is also an important consideration when looking at their contributory nature as, if replaced this consistent placement on the site that contributes to the layout of the precinct is often not achieved again if a place is demolished and replaced.

Below are the proposed additional contributory buildings in the precinct outlining the style they fit into according to the Style Guide and the characteristics of the property that demonstrate the particular style.





8 Gellibrand Street, Post War Suburban Style

- Weatherboard example of the style
- Porch entry
- Timber framed windows and their floor to ceiling height and corner window placement
- Tile roof with intersecting gables
- Simple narrow chimneys
- Low fence with wrought iron gate



10 Gellibrand Street, Post War suburban

- Cream brick
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows - fixed central pane, double hung either side
- Dominant plain chimneys
- Low brick fence with wrought iron gate



12A and 12 B Gellibrand Street, Post War Modern

- Low pitched roof
- Simple geometric form
- Wide eaves
- Cream brick



31 Calvert Street, Post War Suburban Style

- Weatherboard example of the style
- Double fronted with porch entry
- Timber framed windows - fixed central pane, double hung either side
- Series of hipped roof forms



32 Calvert Street, Post War suburban

- Cream brick
- Timber framed windows in three parts
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Dominant plain chimneys
- Low brick fence



34 Calvert Street, Inter War Bungalow

- Combination of Hip and projecting gable form
- Dominant roof form
- Front verandah
- Red brick
- Twin double hung timber framed windows
- Simple narrow red brick chimney



39 Calvert Street, Post War Modern

- Weatherboard version of style
- Low pitched roof
- Simple geometric form



42 Calvert Street, Post War suburban

- Cream brick with dark brick banding
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows with corner windows
- Dominant plain chimneys
- Low brick fence



43 Calvert Street, Post War suburban

- Cream brick
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows - fixed central pane, double hung either side
- Dominant plain chimneys
- Low brick fence with wrought iron gate





44 Calvert Street, Post War suburban

- Cream brick
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows - fixed central pane, double hung either side
- Dominant plain chimneys
- Low brick fence to match the house



15 Hesse Street, Post War Modern

- Low pitched roofs
- Simple geometric forms
- Bands of windows
- Cream brick
- Low brick fence



45 Calvert Street, Post War suburban with a couple of window changes and a verandah to make it look earlier (or the other way around) – these do not detract from the precinct though as both of these periods fit into the description.

- Weatherboard example of the style
- Low pitched roof
- Timber framed, double hung windows
- Projecting front gable and porch entry
- Low fence with wrought iron gate



47 Calvert Street, Post War suburban

- Weatherboard example of the style
- Double fronted with porch entry
- Windows have been altered but could be reinstated
- Front door original
- Dominant plain chimney
- Series of hipped roof forms
- Low front fence



56 Calvert Street, Post War suburban style

- Cream brick
- Double fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows - fixed central pane, double hung either side
- Dominant plain chimneys
- Low brick fence to match the house



58 Calvert Street, Inter War – Post War suburban (this house was not picked up on the map for the proposed additional contributory buildings but should also be included as a contributory property)

- Timber framed windows with three sashes, unusual division of windows and Inter –War feature
- Double fronted with porch entry (rendered in Inter War style)
- Hopped roof forms with wide eaves
- Low brick fence



60 Calvert Street, Edwardian (definitely an error that this property was not originally identified as contributory)

- Series of hip and gable roofs
- Dominant main roof
- Timber framed double hung windows
- Window hood with timber brackets
- Tall narrow chimney
- Gable end decoration
- Red brick with render banding
- Front door with side light windows
- Front verandah with a decorative timber posts and frieze



9 Queen Street, Inter-War style

The windows have been altered to aluminium but the placement is still sympathetic and most other features are intact such as

- Clinker brick walls with feature lighter brick to the top of windows
- The form with a series of hips
- Tiled hipped roofs
- Prominent wide chimney expressed to the front



10 Queen Street, Post War suburban

- Cream brick
- Triple fronted with porch entry
- Tiled roof, series of hipped roof forms
- Timber framed windows – more like a Post War Modern style
- Dominant plain chimney





23 Queen Street, Post War suburban

- Cream brick
- Double fronted with porch entry
- Tiled roof, series of hipped roof forms
- Wide eaves
- Timber framed windows - fixed central pane, double hung either side, corner window
- Dominant plain chimney
- Low brick fence with wrought iron gate



44 Fyans Street, Post War Modern – towards 1960s

- Low pitched roof – characteristic butterfly form
- Simple geometric forms
- Wide eaves and incorporation of a carport with the main roof
- Concrete block
- Breeze block fence with wrought iron gate



40 Pollack Street, Post War suburban, windows have been altered and building rendered but the bones of the building are there with the following characteristic features:

- Double fronted with porch entry
- Hipped roof forms
- Wide eaves
- Scale and placement of windows as well as their division into three sashes

**Colac Residential Heritage Overlay Precinct****Contributory Property Review 2020**

41 Manifold Street, Post War suburban

- Weatherboard example of the style
- Double fronted with porch entry
- fixed central pane, double hung either side, corner window
- Dominant plain chimney
- Series of hipped roof forms

The photographs below provide examples of properties that are already included as contributory in the Heritage Overlay Precinct. These examples demonstrate the inconsistency in what was originally picked up as contributory within the precinct. The houses below are not dissimilar to houses that are recommended as contributory above. This inconsistency provides confusion for owners who cannot understand why their property is contributory and someone else's is not.



18 Gellibrand Street, Post War suburban



20 Gellibrand Street, Post War suburban





45 Manifold Street, Inter War Bungalow



32 Queen St, altered Edwardian?



18 Hesse Street, Post War suburban



4 Gellibrand Street, Inter War – Post War suburban

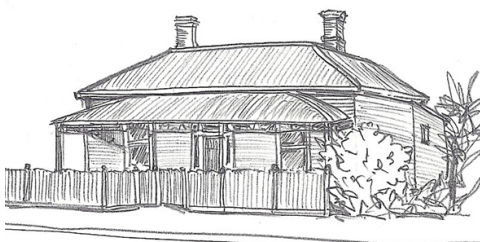




31 Pollack Street, inter-War – Post War suburban

## Residential Building Style Guide

### Building Styles: Victorian Style 1850-1900



**Mid Victorian weatherboard residence**



**Late Victorian brick residence**

#### Victorian Style Key Characteristics

- Symmetrical facades.
- Hipped or gabled roofs, often of 30 degrees pitch, usually slate or galvanised corrugated iron.
- Gutters usually ogee or half round with circular down pipes.
- Timber walls usually had square or beaded edged weatherboards.
- Brick houses were generally red or Hawthorn brick (dark brown) and commonly had one or two different colour bricks used for decoration such as banding or to the quoins to openings and corners.
- Verandah forms included skillion, ogee and concave.
- Simple iron lacework or timber valences to timber verandah posts or cast iron columns.
- Rectangular timber framed, double hung windows with later Victorian houses often having tripartite (three part) windows to the front elevation.
- Four panelled front doors, commonly with highlight and side-lights.
- Timber brackets and mouldings under the eaves and or brick decoration.
- Face brick or rendered brick chimneys often with cornices.
- Decorative timber joinery or render moulding to openings.

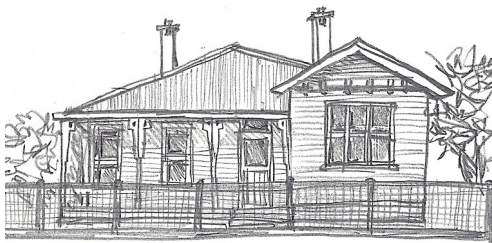
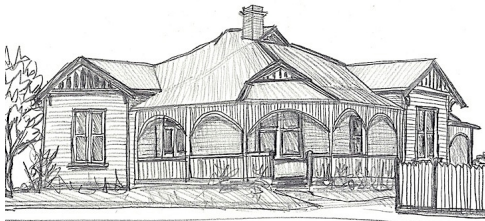
#### Paint colours

The walls of Victorian dwellings were generally face brick to show off the different colour brickwork decoration but Victorian dwellings were also often painted or rendered to simulate stone with recessed lines to mimic ashlar stone joints. Therefore, if the walls were painted they were often sandstone or ochre colours or the natural render colour. Joinery was painted in creams, light stone, rich brown, Indian red, Brunswick green. (Indian red and Brunswick green were never used in the same scheme). Gutters and downpipes were often painted in dark shades employed on the doors and windows. A wood-grain finish was often used for doors and windows.

#### Typical fence styles

The typical fence styles for the Victorian residence was cast iron palisade fence with a bluestone base or a timber picket fence with shaped or pointed tops to the pickets and often undulating. The elaborate picket or cast iron fences were generally only on the grander, more decorative and larger villas.



**Building Styles: Edwardian/Federation Style 1890 - 1915****Edwardian style residence****Federation style residence****Federation style residence****Edwardian/Federation Style Key Characteristics**

- Asymmetrical facades
- Roof often a combination of a hip and a projecting gable, usually 30 degrees pitch, and galvanised corrugated iron.
- Verandah forms included sloped or curved.
- Timber fretwork to verandah, turned or plain timber posts.
- Rectangular timber framed, double hung or casement windows, often paired or in threes.
- Four panelled front doors, commonly with highlights and sidelights.
- Decorative timber joinery around openings.
- Eaves brackets, decorative gable infill and timber brackets to window canopies.
- Chimneys – red brick, plain or with brick string courses and/or strapping.

**Federation differences**

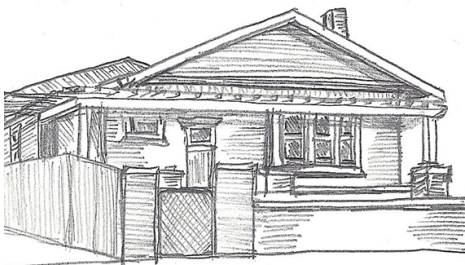
- Asymmetrical with the emphasis on the overall form and three-dimensional qualities rather than the front facade.
- Focus is often on the diagonal with a projecting gable or window bay.
- Complex rooflines of intersecting hips and gables with tall chimneys.
- As well as timber walls with corrugated iron roofs, masonry or render walls with terracotta Marseilles tiled roofs.
- Leadlighting.

**Paint Colours**

Walls of Edwardian/Federation dwellings, if painted were yellow cream, ochre wash, cement render and a greater use of browns. The predominant colour for joinery and details was red with cream, yellow ochre, dark brown and softer green trims. The exterior details were often picked out in a combination of a light and dark tone. The two predominant colour schemes for this style were shades of green or shades of cream to buff.

**Typical fence styles**

Timber picket fences (less likely to be undulating), capped timber picket fences and woven wire fences.

**Building Styles: Bungalow Style 1910 - 1930****Red brick Bungalow style residence****Weatherboard Bungalow style residence****Weatherboard Bungalow style residence****Bungalow Style Key Characteristics**

- One or more gables, either perpendicular or parallel to the street frontage, which dominate the overall form of the building, roof usually 25 degrees or steeper.
- Emphasis on the weight of the roof, by brackets, detailing to the large gable ends, including roughcast, timber shingles and strapwork, also exposed rafter ends.
- Roofs clad in galvanized corrugated iron or tiled with cement or ceramic tiles.
- Walls often masonry and roughcast render, square edged or bull-nose weatherboards.
- Deep porches with flat roofs giving a horizontal emphasis supported by masonry pillars or grouped sturdy timber posts.
- Chimneys expressed externally as large masonry elements, face brick or roughcast with terracotta chimney pots.
- Timber framed windows often small and rectangular in form, casement or double hung with fixed panes, grouped in wide bands.
- Front doors often glazed in top section and timber below.
- Leadlight common.

**Paint Colours**

Exterior colour schemes of California Bungalows usually consisted of no more than two colours. Common colours for woodwork were brown, cream and green. Rendered walls had a natural slurry unpainted finish or were painted an off-white, beige or pale cream. There was often dark staining of timber rather than painting. Elaborate timberwork was not used on the exterior of these dwellings. Shingles, posts and trim were painted in the darker shade of the chosen scheme and rafters, fascia boards, bargeboards and panels were all painted in a lighter colour.

**Typical Fence styles**

Low cyclone wire fences with timber or steel framing, low brick walls matching the style of the house, woven wire fences with timber posts and framing or timber picket fences with a top rail and simple posts.

**Building Styles: Inter-War Style 1918 - 1939****Brick Inter-War style residence****Inter-War Style Key Characteristics**

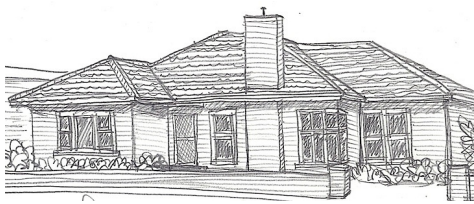
- Grouped windows, double hung timber or metal framed and often corner placement.
- Corbelled bricks, brick arches, curved brick walls.
- Dominant decorative chimneys.
- Walls often masonry and/or roughcast render. Predominantly hip roofs clad in cement or ceramic tiles.
- Decorative details in different colour bricks.
- Double hung timber framed windows
- Commonly low fences to match brickwork or rendered surface and style of house.
- Verandahs with parapet, scroll edge – arch opening (often triple) with intermediate columns.

**Paint Colours**

These buildings were often not painted as they were constructed of exposed brick. Different colour bricks were often used to provide a decorative affect. Painted decorative detail was minimal and trims and window frames were painted in creams or off white. Rendered walls were commonly painted off white.

**Rough-cast Inter-War style residence****Typical Fence styles**

Low cyclone wire fences with timber or steel framing, low brick walls matching the style of the house, low stone walls or low wrought iron fence panels mounted on a low brick wall with low brick piers.

**Building Styles: Post-War Suburban 1945 - 1965****Double fronted Post-War Suburban style****Triple fronted Post-War Suburban style****Post-War Suburban Style Key Characteristics**

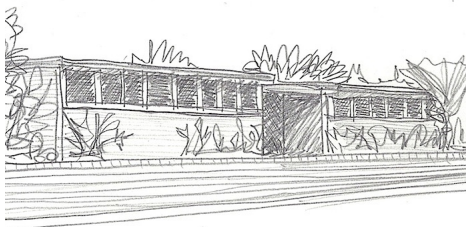
- Double or triple fronted with front porches with concrete or ceramic tile roofs.
- Large timber framed windows often with corner windows.
- Commonly cream brick. Emergence of brick-veneer replacing double brick.
- Roofs most often a series of hips clad in tiles.
- Dominant plain chimneys.
- Minimal use of decorative flourishes.
- Decoration was often expressed in mass-produced elements such as brick/stone feature walls or chimneys
- Wrought iron porch posts, railing and wire mesh doors.
- Low brick fences often matching the residence walls.
- Wrought iron panels to brick base and wrought iron gates
- Neat ordered gardens with garden beds with brick, concrete or stone edging.

**Paint Colours**

Timber weatherboards often painted in pale creams and ivory. Bold uses of colour often eclectically applied.

**Typical Fence styles**

Low cyclone wire fences with timber or steel framing, low brick walls matching the style of the house, or low wrought iron fence panels mounted on a low brick wall with low brick piers.

**Building Styles: Post-War Modern 1945 - 1970****Early Post-War Modern style residence****Late Post-War Modern style residence****Post-War Modern Style Key Characteristics**

- Simple geometric form, often square or rectangular
- Commonly bands or blocks of modular windows either timber or metal framed.
- Often architect designed.
- Entire walls of modular glass windows common
- Roofs often flat or skillion with metal deck cladding
- Columns, balustrades and other necessary but incidental elements made as thin as possible
- Walls - river-stone wall panels, panel walls, vertical timber cladding, and concrete block work
- Wide eaves and flat roofed car ports
- Native gardens.

**Paint Colours**

Timber or metal framing or detailing, white or grey.  
Browns common for any detailing.

**Typical Fence styles**

Often no fence, rock edging common. Other fence styles usually relate to the construction type of the house with a brick fence for a brick house, a concrete block fence for a concrete block house.



# Draft Colac Otway Planning Scheme Heritage Control

## HO305 - Murray Street Precinct Colac

### Incorporated Plan 2020

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This Incorporated Plan sets out the permit exemptions from the provisions of the Heritage Overlay in accordance with Clause 43.01-3 of the Colac Otway Planning Scheme. These exemptions apply to the following Heritage Overlay Map Reference;

- HO305 – Murray Street Precinct Colac

It does not apply to any other heritage place listed in the Heritage Overlay.

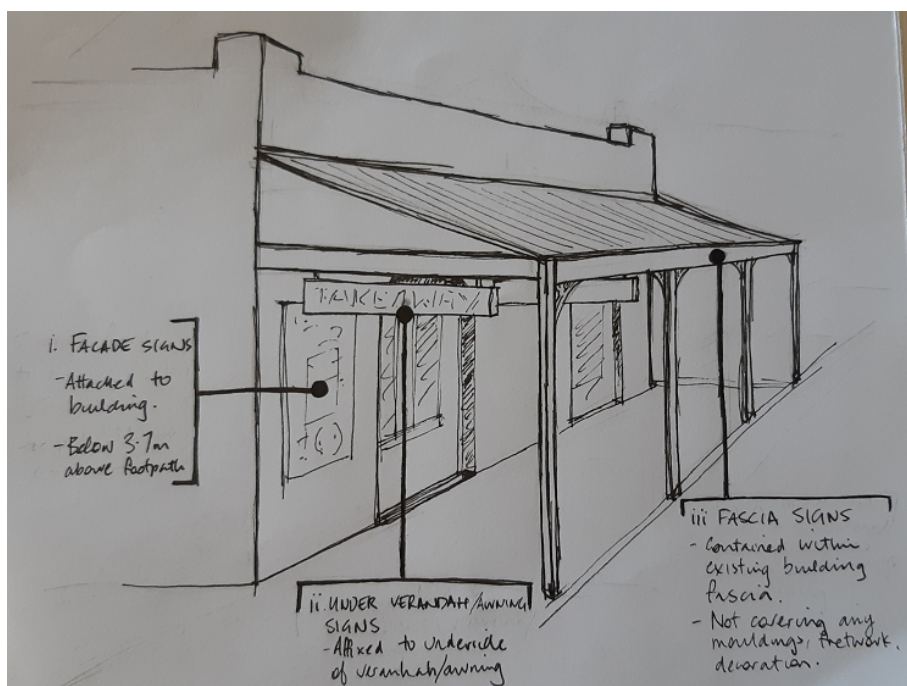
This Incorporated Plan does not provide planning permit exemptions from the need to seek a planning permit if required by any other provisions of the Colac Otway Planning Scheme, including properties affected by an individual application of the Heritage Overlay.

#### No Permit Required

In addition to the provisions of Clause 43.01-3, no planning permit is required for any of the following:

- Display of new signage, or replacement/renewal of existing lawful signage, as follows:
  - **Façade signs:** Non-illuminated business identification signage, affixed to a building façade at ground level (i.e. below a verandah/awning, or to a maximum 3.7m above pavement height if no verandah). The total signage for the premises at ground level and affixed to the building façade must not exceed 2.5 sqm, inclusive of any existing lawful signage, whether or not the existing signage is illuminated. For corner sites, the exemption applies to each façade facing a street.
  - **Under verandah/awning signs:** - Any signage (both illuminated and non-illuminated) either contained wholly within an existing lawful structure affixed to the underside of a verandah/awning, or replacing an existing lawful sign affixed to the underside of a verandah/awning. It does not include structures or signs affixed to any part of the verandah/awning fascia.
  - **Fascia signs** - Non-illuminated signage, not exceeding the dimensions of an existing verandah or awning fascia, excluding any area containing architectural decoration.

Diagram to be included – below is a sample Final diagram will be more Colac-specific.



If the property is **non-contributory** the following additional exemptions apply:

- Demolish a building, part of a building, associated outbuilding or fence, wholly contained within the property boundaries.
- Construct a building or carry out works, including outbuildings, to the sides and rear of a property where the proposed works are not visible from any public street, laneway or car park.
- Construct non-domestic disabled access.
- Externally alter a building by rendering or sandblasting.
- Carry out repairs and routine maintenance which does not change the appearance of the place.

# Draft Colac Otway Planning Scheme Heritage Control

HO306 – Colac Estate Housing Precinct Colac

HO307 – Residential Precinct Colac

Incorporated Plan 2020

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This Incorporated Plan sets out the permit exemptions from the provisions of the Heritage Overlay in accordance with Clause 43.01-3 of the Colac Otway Planning Scheme. These exemptions apply to the following Heritage Overlay Map References:

- HO306 – Colac Estate Housing Precinct Colac
- HO307 – Residential Precinct Colac

They do not apply to any other heritage place listed in the Heritage Overlay.

This Incorporated Plan also does not provide exemptions from the need to seek a planning permit if required by any other provisions of the Colac Otway Planning Scheme, including an individual Heritage Overlay.

## No Permit Required

In addition to the provisions of Clause 43.01-3, no planning permit is required for:

### Demolition

Demolish a building, if wholly contained within a site identified as non-contributory to the precinct.

### Fences

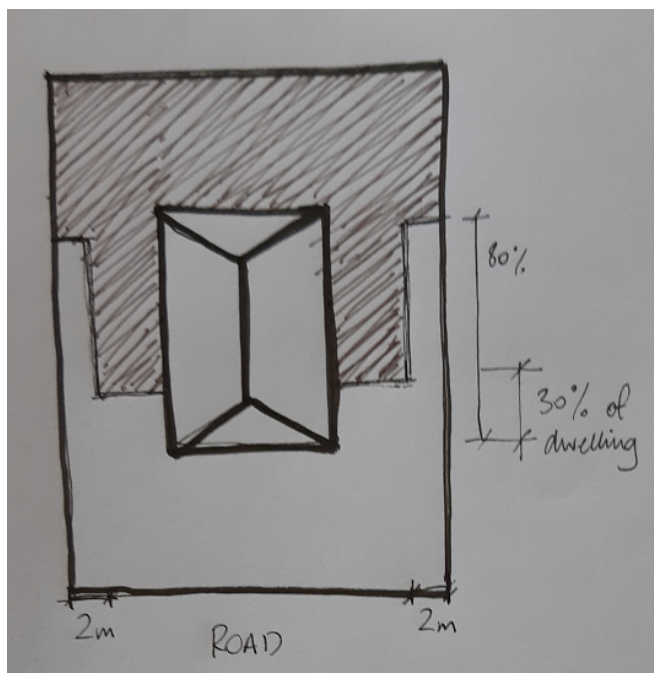
Construct a fence that is not a front fence. A front fence is defined as any fence that is located between the forward most part of the dwelling façade and a street frontage, and includes side boundaries.

Demolish a fence that is either wholly contained within a property identified as non-contributory, or located on a shared boundary between two non-contributory properties.

### Vegetation

The removal, lopping or pruning of trees (except for street trees on Fyans Street, Calvert Street, Manifold Street and Hesse Street).



**Buildings and works to non-contributory places**

A planning permit is not required for any of the following buildings or works within the shaded area:

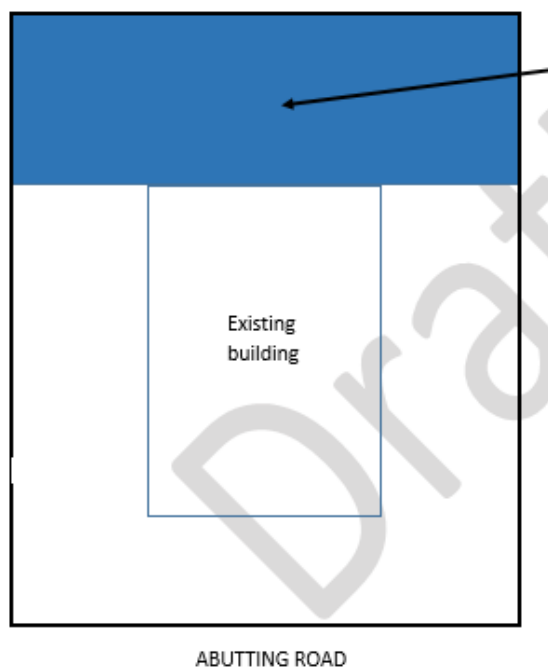
- Buildings, including the following:
  - Extensions or alterations to a dwelling, including a pergola, verandah or deck;
  - Outbuildings, including carports and garages;

Where the buildings have an eave height no greater than the eave height of the existing dwelling immediately adjacent to the proposed work.

- Domestic services normal to a dwelling.
- A rainwater tank.
- A domestic swimming pool or spa and associated mechanical and safety equipment.
- Carry out works, repairs and routine maintenance which are not undertaken to the same details, specifications and materials.
- Externally paint an unpainted surface.

A permit is required for all the listed buildings and works outside the shaded area.

### Buildings and works to places identified as contributory, and not on a corner



A planning permit is not required for any of the following buildings or works within the shaded area:

- Buildings, including the following:
  - Extensions or alterations to a dwelling, including a pergola, verandah or deck, but excluding demolition;
  - Outbuildings, including carports and garages;
 Where the buildings have an eave height no greater than the eave height of the existing dwelling immediately adjacent to the proposed work.

- Domestic services normal to a dwelling.
- A rainwater tank.
- A fence.
- A domestic swimming pool or spa and associated mechanical and safety equipment.
- Externally paint an unpainted surface.

A permit is required for all the listed buildings and works outside the shaded area.

## Item: 10.4

### Building Compliance Policy - Review of Submissions

<b>OFFICER</b>	Doug McNeill
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Final Council Policy - Administration &amp; Enforcement ~ September 2020 [<b>10.4.1</b> - 7 pages]</li><li>2. Existing Council Policy - Essential Safety Measures - OCM 20200916 [<b>10.4.2</b> - 6 pages]</li><li>3. Existing Council Policy - Municipal Building Control Intervention Filter - OCM 20200916 [<b>10.4.3</b> - 7 pages]</li><li>4. Existing Council Policy - Swimming Pool and Spa Safety Barriers - OCM 20200916 [<b>10.4.4</b> - 5 pages]</li></ol>
<b>PURPOSE</b>	To present the Council Policy 'Administration and Enforcement of Building Legislation' to Council for adoption following a 6 week public exhibition period.

## 1. EXECUTIVE SUMMARY

A draft Council Policy 'Administration and Enforcement of Building Legislation' was placed on public exhibition for 6 weeks in July/August 2020. It replaces three existing policies relating to Council's Building Department function that are due for review. The policy aims to update and consolidate the policies, provide direction on the allocation of Council resources to compliance with building legislation, and give guidance to the approach taken in compliance activities.

Up until the time of writing this report, no submissions had been received to the draft policy. Only minor changes have been made relating to the potential for future application of administrative fees for issuing Building Notices or Orders, and how these would be administered if applied. Council has recently resolved not to apply such fees in 2020/21, but there is potential for Council to reconsider this position in future years. Rather than delete all reference to them, it was considered preferable to retain the policy content on this issue so that further changes would not be required to the policy if fees were applied through a budget process.

## 2. RECOMMENDATION

***That Council:***

- 1. Adopt the attached Council Policy – ‘Administration and Enforcement of Building Legislation’.***
- 2. Note that no submissions were received following a 6 week exhibition period, and that only minor changes have been made to the draft document considered by Council at the 22 July 2020 meeting.***
- 3. Revoke the three existing policies that the Administration and Enforcement of Building Legislation Policy replaces:***
  - 3.1 Municipal Building Control Intervention Filter Criteria;***
  - 3.2 Essential Safety Measures; and***
  - 3.3 Municipal Pool and Spa Enforcement;******which are now redundant and have no force or effect.***

## 3. KEY INFORMATION

### **Rationale for revised Policy**

The draft Council policy ‘Administration and Enforcement of Building Legislation’ was placed on public exhibition on 23 July 2020 after consideration at the July 2020 Ordinary Council meeting.

The policy aims to replace three existing policies which guide the resourcing and activity of the Building Department (see attached). These are:

- Municipal Building Control Intervention Filter Criteria
- Essential Safety Measures
- Municipal Pool and Spa Enforcement

These policies have been in place for a number of years and were due for review. The three areas are addressed below:

### Intervention when Building Permits managed by Private Building Surveyors

Council through the operation of Section 212 of the *Building Act* retains the ability to enforce the Act and the Regulations even if a Private Building Surveyor (PBS) has been appointed to process a building permit application.

The VBA has various powers under the Act to intervene in circumstances where a PBS is appointed. These powers include the ability to issue directions to the PBS, enforce orders made by the PBS, prosecute persons for non-compliance with orders issued by the PBS in addition to being able to utilise all the powers that a Council MBS has in certain circumstances. The VBA is empowered to conduct disciplinary proceedings in respect of any registered building practitioner who may have not carried out their responsibilities correctly.

Council receives many complaints about building permits issued by PBSs, usually in relation to the siting of the building and compliance with building requirements (i.e. height, privacy, etc). Following the introduction of the private permit issuing system in July 1994, local government recognised the need for adopting a uniform approach across the State when dealing with complaints of that nature.

Together with the MAV, Councils developed a system to classify and manage those complaints referred to as the **Building Control Intervention Filter Criteria** ('the Filter Criteria').

The Filter Criteria utilises a risk assessment matrix and identifies standardised responses to complaints from the public where a PBS has been appointed, and recognises that Council has obligations to the public with regard to dangerous situations which it can remedy or cause to be remedied. Where a danger exists and Council officers are aware of that danger, a lack of action on the part of Council could result in a claim against Council if innocent persons were to suffer loss or injury. This is regardless of whether a PBS is, or has been, appointed. In those circumstances the Filter Criteria recommends Council staff taking action to remove the danger.

The Filter Criteria also recognise that not all complaints received at Council relate to public safety and many relate to matters stemming from administrative neglect or error by PBSs. In those circumstances the Filter Criteria recommends that the matter be referred to the PBS for remedial action failing which the matter be referred to the VBA. In some circumstances it may be that the complaint is of a trivial or minor nature in which case the Filter Criteria may recommend merely referring it back to the PBS for action.

The Filter Criteria streamlines the complaint handling processes and provides a level of uniformity across all Councils. The referral of appropriate cases to the VBA also allows that authority to carry out their functions under the Act.

Council has had a policy applying the Filter Criteria for a number of years, that is a combination of policy guidance and operational procedures. The procedural elements of the old policy have been extracted and placed in an Operational Procedure, whilst the policy statement of approach is retained in the new combined policy.

#### Essential Safety Measures (ESMs)

The current ESM policy has existed since 2012 and is used to give direction on how Council will manage its risk associated with Essential Safety Measure (ESM) compliance in the Shire. Given the significant extent of ESM requirements that apply to premises other than dwellings across the Shire, and the significant level of non-compliance that is known, Council will never be in a position to proactively enforce compliance with these requirements completely. This would require more staff resources than would be financially viable for our Shire.

Equally, it is not a viable option for Council to limit its resourcing of the Building Department to such an extent that there are inadequate resources to undertake some compliance audits of ESM requirements. As noted earlier in the report, both Council and the MBS have legal responsibilities to enforce the *Building Act* and ensure public safety is maintained, and Council's Risk Register has identified that without adequate resourcing this issue is an Extreme risk to the organisation due to the potentially catastrophic consequences of loss of human life should lack of ESM compliance contribute to a fire/building damage. It was for this reason in 2018/19 that additional resources were allocated to the Building Department to enable some auditing of commercial premises to occur.

The policy is an important mechanism for Council to manage its risk and liability by acknowledging that it cannot afford the full level of resourcing required to ensure absolute compliance, but that it instead will allocate resources to allow a prioritised program of property audits to occur each year, based on the degree of risk. By taking a risk-based approach, Council can accept a position of partial funding for this task, knowing that properties of the highest risk are being targeted as a first priority.

Building staff have prioritised the (approximately) 1,100 buildings in the Shire that are subject to ESM requirements, and have been auditing higher risk premises over the past 18 months (including accommodation above hotels, take-away food premises, timber mills and the like). These audits have revealed that land owners have very low knowledge of their responsibilities, and low levels of compliance that place their premises at significant risk of an accident. Officers have worked with these owners through formal compliance processes to ensure that fire service facilities are compliant. It is proposed that this audit program continue to be implemented over a number of years to gradually work through the list of premises and raise the level of compliance.

The old policy states Council will take this approach, and as with other policies being reviewed contains a mix of policy guidance and operational procedure. The new policy carries through the current approach but separates the procedural elements into an Operational Procedure.

### Swimming Pool and Spa Barriers

Council's old policy on swimming pool and spa barriers has been in place for a number of years, and sought to manage Council's risk associated with ensuring that owners of swimming pools have compliant barriers around their pool or spa, to minimise the risk of drowning. The policy indicates Council will take a proactive approach to this issue, with a mixture of education, public awareness raising and property audits. The policy states Council will audit all premises with pools/spas (approximately 300) every four years and undertake enforcement processes to ensure compliance is achieved where necessary.

Two shire wide swimming pool audits have been undertaken in the past ten years, involving a site visit by a Council building surveyor/inspector. These audits have resulted in a fairly high level of barrier compliance, and Council has a register of known pools which is updated as new swimming pools are identified.

State Government changes to the *Building Regulations* in 2019 have put in place a suite of new requirements on property owners that aim to increase the onus on pool and spa owners to keep their barriers compliant. This includes a requirement that pools and outdoor spas are registered with Council by 1 November 2020, and that within a specified period (depending on how old the pool or spa is), the owner must engage a building practitioner to inspect their pool and prepare a Certificate of Compliance (or Non-Compliance if it is not brought into compliance through that process) for lodgement with Council. These changes alter the role of Council. In the first instance, it is important that Council ensures that all known pools are registered, and then subsequently follows-up with owners on this register if they have not submitted a Certificate of Compliance by the required date. Council will need to address any identified non-compliance with barrier requirements arising from this process via the issue of Barrier Improvement Notices (specifically relating to pool or spa barrier issues) or Building Notices and Orders, depending on the circumstances of the situation. There is the additional option of issuing Infringement Notices where a land owner fails to submit a Certificate of Compliance or Certificate of Non-compliance, or where the directions given through a Barrier Improvement Notice are not complied with.

It remains important that Council has a policy relating to swimming pool and spa barriers, but the recent legislative changes has resulted in a review of the approach. It is recommended Council continue its approach by proactively checking with owners who have either not registered a pool, not supplied a Compliance Certificate, or taken action to comply with requirements. It is also recommended that Council continue to take an educative approach that aims to achieve compliance through communication and media methods. As with the other policies, the operational aspects of this policy have been taken out and placed in an Operational Procedure.

## **Building Department Approach to Compliance**

The Building Department has put considerable effort over the past 12 months into better communicating with landowners during a building compliance process. Building Notices and Orders must be issued in a standard format detailed in the Regulations, but staff have attempted to convey the requirements of land owners through attached letters that seek to offer options on how a matter can be resolved, and staff contact owners either via an on-site meeting or by phone to explain the identified breaches, and ways to resolve them. The intent is increased understanding of the building process and owner obligations and to achieve co-operative compliance as a first priority. Whilst enforcement of unresolved Building Orders will sometimes need to be pursued through prosecution in court, this is not the preferred option, and will be a last resort where significant effort by Council staff has not resulted in the required outcome, and the breach is of a serious enough nature that court action is warranted versus more minor matters that may not justify it.

The new policy contains fresh material that documents this approach and specifies that the Chief Executive will be responsible for determining whether a prosecution will be pursued, taking into account specified considerations. This will formalise the process that is currently in place. Whilst the MBS has sole responsibility for determining to issue Building Notices and Orders, it is the organisation that determines whether to enforce these through the Magistrates Court.

The new policy also seeks to provide direction on the circumstances under which building compliance administration fees are reduced or waived (where these are applied), noting that Council resolved at its 22 July 2020 Ordinary Council meeting not to apply these charges in 2020/21 following a review of building compliance fees. It has not been unusual in the past for a landowner to seek a reduction in the applicable fee due to the cost of bringing their buildings into compliance and their challenging social and/or financial circumstances. The policy will provide documented guidance for these decisions should Council determine in the future to reintroduce fees associated with Building Orders (noting that the previous fee review was recommending not to apply a fee to Building Notices, only to Orders). Rather than delete all reference to fees, it was considered preferable to retain the policy content on this issue so that further changes would not be required to the policy if fees were applied to Building Orders in the future. The wording of the policy has been altered to reflect that fees are not currently applied.

## **4. COMMUNITY CONSULTATION & ENGAGEMENT**

The draft policy was placed on public exhibition for 6 weeks between 23 July 2020 and 3 September 2020 to enable community feedback prior to final consideration by Council. Council promoted the opportunity to provide feedback on the draft policy through a range of mediums including Council's website, Facebook page, and utilisation of local media outlets and community newsletters.

No submissions were received.

## **5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES**

Alignment to Council Plan 2017-2021:

Theme 5- Leadership and Management

Goal 3, Organisational Development and Legislative Compliance, Action 9 – 'Manage our risk exposure...'

## 6. CONSIDERATIONS

### **ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC**

The administration of functions by Council's Building Department is critical to the health and safety of the community. This policy gives guidance to Council on how this will be achieved. The type of approach taken to compliance activities by building officers is also an important factor in how Council's actions are viewed by the community.

### **LEGAL & RISK**

Council has legal responsibilities under the Building Act and associated regulations which it must manage with limited resources. The risk of Council not auditing and enforcing Essential Safety Measure requirements under the Building Act is rated as Extreme due to the significant public safety consequences of non-compliance with the requirements. The risk has been reduced to High on the basis of current resources allocated to undertaking a program of audits and compliance. Should this level of service be reduced, Council's risk exposure would be increased.

### **FINANCIAL & BUDGETARY**

The new policy would not require an increase in Council resources for the Building Department. Changes in policy approach beyond that recommended could have the effect of increasing or reducing the cost of providing this function.

## 7. IMPLEMENTATION STRATEGY

### **COMMUNICATION**

Adoption of the policy will be promoted by media release and a copy placed on the Council website.

### **TIMELINE**

The resolution will be actioned following the Council meeting.

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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





## ADMINISTRATION & ENFORCEMENT OF BUILDING LEGISLATION

### PURPOSE

#### Direction on Compliance Priorities

The Shire has significant functions under the *Building Act 1993 (Act)* - Section 212 makes Council responsible for the administration and enforcement of Parts 3, 4, 5, 7 and 8 of the *Building Act 1993* and the *Building Regulations 2018* within its municipal district. These functions ensure the health and safety of people in the Shire.

One significant responsibility of Council relates to Essential Safety Measures (ESMs), which are the safety features required in a building to protect occupants in the event of a fire. ESMs may include fire detection and alarm systems, fire doors, emergency lighting and fire hydrants, and are associated with commercial and accommodation buildings (eg apartments, motels, bars/hotels, restaurants, shops, offices, aged care, child care, schools, industry and public buildings).

Although building owners have an obligation to ensure that ESMs and other safety measures are maintained and operate satisfactorily Councils have a responsibility under the legislation for enforcement of building safety.

Another significant responsibility is the enforcement of standards applied to swimming pools and spas to limit the incidence of drownings. Under the Regulations, all swimming pools and spas containing water greater than 30cm must have a compliant safety barrier to restrict access by young children. Legislation places various obligations on swimming pool/spa owners including the need for a building permit to install a swimming pool/spa or construct or alter a pool safety barrier, the need to register a swimming pool/spa with Council, and the need for regular inspection and certification of pool safety barriers.

Councils do not have the resources required to perform all of their broad responsibilities for permits and consents under the legislation, respond to general complaints and investigate known safety risks and illegal structures, and proactively ensure that ESM and swimming pool barrier requirements are being met by land owners. However the use of policies and procedures by Councils is recognised by the courts as a means of Councils determining how limited resources are to be allocated. This policy aims to both reduce Council's exposure to risk and provide guidance to officers on how the legal provisions will be administered.

#### Council intervention enforcing permits issued by Private Building Surveyors

Property owners have a choice between using Council (through the MBS) or a Private Building Surveyor (PBS) to obtain a building permit. The building surveyor (private or municipal) who issues the permit is generally responsible for ensuring that building work complies with the Act and Regulations.

PBSs have essentially the same enforcement powers afforded to an MBS, save the issuing of Emergency Orders. The responsibility for supervising PBSs rests with the Victorian Building Authority (VBA). Despite the responsibilities of a PBS to achieve compliance with and to enforce the *Building Act* and *Building Regulations*, Council retains an overarching responsibility to enforce these provisions.

Uncontrolled when printed

CM reference		Date of adoption	
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Council frequently receives complaints from the public regarding building work for which a PBS has been appointed, including situations where there is a risk of danger to persons or property or matters relating to the siting/design of buildings and/or structures. The handling of these complaints can represent a significant expenditure of Council resources.

This policy aims to clarify the circumstances when Council's MBS will carry out his/her responsibilities under the Act in response to complaints from the public where a PBS is responsible for a building permit or other functions in respect of building work being carried out.

### Approach to Compliance Activities

The MBS has a responsibility to respond to illegal building work and unsafe buildings under the *Building Act* and *Regulations*. This includes the issue of Building Notices and Orders, and Minor Works Orders specifying works to be completed within specified time frames, and the issue of Emergency Orders specifying immediate actions to be taken where there is a more imminent/higher risk threat to public safety. In respect of ESM and swimming pool/spa barrier non-compliance, infringements can be issued for an offence. These actions are taken under the authority of the *Building Act*, which sits separately to other delegated powers from the CEO or Council. Council further reserves the option to prosecute land owners in the Magistrates Court where Building Orders have not been complied with.

Whilst formal tools such as Building Orders, Infringement Notices and prosecution may be necessary in various circumstances, it is recognised that the works required to rectify illegal building work or unsafe buildings can have significant economic and social impacts for land owners. Council has a strong preference for resolving building non-compliance co-operatively, with punitive measures being a last resort. Council also has a preference for achieving building compliance where possible in the first instance through effective public education. This policy gives direction on how officers will undertake building enforcement activities to achieve these goals.

### OBJECTIVE

The objectives of this policy are to:

- Support the MBS and building staff to meet their responsibilities for maintaining public safety under the *Building Act* and *Building Regulations*, and provide direction on setting priorities/allocating resources.
- Formalise expectations as to how and when the MBS is to use his/her powers
- Recognise education as a critical means to reduce building non-compliance in the first instance.
- Emphasise the importance of communication and a facilitative approach to achievement of compliance outcomes.
- Recognise the inability of Council to resource building enforcement to achieve full compliance with the *Building Act* and *Regulations*, particularly in the area of Essential Safety Measures, but that some resourcing will be provided to enable proactive auditing of premises through a risk based approach as the best way of managing risk to human life and safety.
- To provide direction on when Council's MBS will intervene in a building matter, in response to complaints, that is being handled by a PBS.

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## SCOPE

This policy applies to all Colac Otway members of staff (including contract staff) that perform tasks in respect of the administration and enforcement of Parts 3, 4, 5, 7, and 8 of the *Building Act 1993* and the *Building Regulations 2018*, in the municipal district, excluding indictable offence(s) against the Act.

## DEFINITIONS

*The definitions used in the Building Act 1993, Building Regulations 2018, National Construction Code (BCA Volumes 1 and 2) and referenced Australian Standards, apply to this policy.*

## REFERENCES

Building Act 1993 ("Act")  
 Building Regulations 2018 ("Regulations")  
 Local Government Act 1989 ("Local Government Act")  
 Municipal Building Surveyor (MBS)  
 Private Building Surveyor (PBS)  
 Victorian Building Authority (VBA)

## STATEMENT OF POLICY

### **Approach to Compliance (General)**

The MBS and other delegated building staff will respond to illegal building work and unsafe buildings as required under the *Building Act* and *Regulations* to address public safety risk. This policy does not seek to direct building staff on their actions in this regard, noting that these functions are performed under the independent authority of the Act.

In exercising its compliance powers however, Council is committed to the following principles:

- Provide a fair, consistent and predictable approach to all building compliance and enforcement activities
- Take proactive steps to educate the community on building standards/permit requirements, and processes to achieve legal building work in the first instance (eg media releases, Facebook posts, information sessions).
- Prioritise actions based on the degree of risk to public health, safety and amenity, via the use of a risk matrix. Efforts will be directed to addressing higher risk non-compliance as a priority.
- Work co-operatively with land owners to advise of identified non-compliance and provide reasonable time frames for a response.
- Deliver information and advice in plain language as appropriate, avoiding unnecessary technical terms, and communicating clearly the various options available to rectify an identified issue.
- Be facilitative and constructive in discussions with land owners to help them achieve an outcome that is acceptable to their needs and satisfactorily addresses building requirements.
- Provide clear contact information and encourage land owners to seek further advice/information from Council.

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- Contact land owners in person/by telephone where possible to explain the implications of formal notices and orders or infringements where these are deemed necessary to ensure there is a clear understanding of what is required.
- In cases where disputes cannot be resolved, provide details of any appeal process to a Government statutory body.
- Ensure that the level of enforcement undertaken is proportionate to the nature and seriousness of the offence.
- Achieve an appropriate balance in terms of proactive and reactive compliance work to ensure that Council's legislative responsibilities, strategic objectives and priorities are achieved.

Prosecution in the Magistrates Court will be considered where there has been blatant/intentional non-compliance that is not rectified in a timely manner following the normal Notice and Order process. It will also be considered where any significant public safety risk caused by on-going non-compliance from these processes has not been appropriately mitigated.

The decision on whether to initiate prosecution proceedings will be made by the CEO upon receipt of advice from the MBS (or delegate), and relevant management responsible for the Building function. Factors that will be taken into account include:

- Degree of unresolved public safety risk and non-compliance with building requirements (ie is it a serious offence and/or high safety risk?)
- Whether the non-compliant building work was deliberate (ie undertaken with knowledge of building permit requirements/standards)
- Any prior record of non-compliant building work
- The capacity of a land owner to respond to the requirements of Building Notices/Orders (ie financially or socially), and whether some effort has been made to respond
- Whether there has been regular communication with the property owner by building staff to explain the requirements and processes
- Whether adequate/reasonable time has been given to comply

Operational Procedures will further explain the compliance approach.

Council ~~may resolve to will~~ levy an administrative charge to be invoiced to a land owner at the time of issuing a Building Order as a means of recovering part of the cost incurred of the compliance process. ~~Should this occur, the This~~ amount ~~would~~ be determined ~~by either a stand alone Council resolution or via the annually during the setting of Council annual review of~~ Fees and Charges in the budget process. No fee ~~would~~ be charged for the issue of a Building Notice.

~~Any The~~ administrative fee ~~associated with Building Orders,~~ ~~should it be introduced,~~ may be waived and/or reduced upon request by a land owner at the discretion of the Manager/General Manager responsible for the Building Department function. Requests may be considered favourably if an owner can demonstrate that:

- Any illegal works were undertaken without knowledge of building permit requirements/standards, and there has been action taken in a timely and co-operative manner to achieve compliance; or
- There has been legitimate social or financial circumstances which have prevented them from responding in a timely manner.
- Significant costs are being incurred by the owner to respond to the Order which presents financial hardship and limits the capacity of the owner to complete the required works.
- The Building Order was issued in error and has since been withdrawn.

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- There is sound reason why the fee is not reasonable or proportionate to the very minor nature of the works involved.

#### **Municipal Building Control Intervention – Private Building Surveyor issued permits**

Where a complaint is received by Council or a situation arises that relates to building work being overseen by a PBS, Council's MBS will determine the risk being presented to the public before intervening. A risk matrix will be used to clarify the degree of public safety risk and to apportion the compliance responsibility between the PBS and Council. The risk determination will direct the MBS to a predetermined course of action, whether this be:

- Referring the matter onto the PBS for their action; or
- Intervening and taking responsibility for compliance where a PBS has not appropriately responded to a request for action; or
- For high or extreme risk matters, intervening immediately to instigate compliance action to remedy the risk; and
- Referring the PBS to the VBA if the conduct of the PBS in responding to the matter has been called into question.

An Operating Procedure will detail this risk assessment.

#### **Essential Safety Measures (ESM)**

In recognition of the importance of maintained Essential Safety Measures (ESMs) to preserving human life, Council will dedicate resources to the specific task of proactively monitoring compliance of buildings with the ESM requirements of Regulation Part 12, Division 1 of the *Building Regulations*. Whilst Council does not have the resources required to ensure all buildings are compliant in the short term, funding will be allocated annually to enable the MBS and building staff to undertake a risk based program of audits of properties to which ESM requirements apply.

The audit program will be undertaken over a period of years, according to the degree of risk relating to land use that prioritises audits in the highest risk category. For example, accommodation (including motels, backpackers, apartments and bed and breakfasts), hotels, night clubs, take away food premises and the like will be considered a higher risk to human safety than shops or offices. These buildings will be audited as a high priority. This will assist in ensuring that all relevant buildings in the municipality will be compliant with the *Regulations* over the medium to long term.

A live database of properties in the municipality that are subject to ESM requirements will be kept and updated as changes in land use occur over time, and with the results of audits and enforcement activity as it is conducted. This data base will be used to assess risk to human life using a risk matrix, and will be reviewed annually to establish the intended audit program to be undertaken each year.

The MBS will respond to the results of building audits using the same compliance tools and processes as those used for broader compliance activities under the Act and Regulations. The MBS will also respond to identified ESM non-compliance that becomes evident via other means (eg site inspections associated with building permit applications or other compliance inspections).

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Infringement Notices can be issued under the Act for non-compliance with ESM requirements, however these will only be issued where the MBS is of the opinion that a property owner, following a reasonable period of encouragement and direction from Council, is not taking active steps to address identified non-compliance. In particular, Infringement Notices will generally only be used for the higher risk premises, and not for minor/lower risk non-compliance.

A key emphasis of the ESM audit program will be placed on education of land owners as a first priority, with a series of proactive measures being implemented to make building owners aware of their responsibilities (eg direct mail outs to owners of buildings identified in the data base, web site information, media articles and information sessions).

The results of the ESM audit and compliance program will be reported to the Risk Management Committee every six months. This reporting will detail the audits undertaken, outcomes achieved, and any issues that have arisen in the course of the program.

An Operating Procedure documents the way in which this audit program will be conducted to achieve compliance with this policy objective.

#### **Swimming Pool/Spa Barrier Compliance**

Recognising the importance of compliant pool safety barriers to preserving human life, Council will dedicate a proportion of its resources to the ongoing and effective administration and enforcement of legislation pertaining to swimming pools / spa pools.

Whilst it is the responsibility of pool/spa owners to register their pools and spas with Council, and to lodge inspection Certificates of Compliance every four years, Council will allocate some of its Building resources to enable officers to proactively review the Pool Register over time to follow up owners who have not lodged the required Certificates, to ensure that pool and spa safety barriers are compliant.

Where compliance activity arises from failure to comply with swimming pool/spa barrier requirements, officers will apply procedures in the Building Regulations, which include the issue of a Barrier Improvement Notice or Building Order, whichever is deemed more appropriate based on the circumstances. No compliance related fees (should these be introduced by Council) would be charged to a swimming pool owner in association with a Building Order issued by Council, unless the compliance action is unrelated to the lodgement of a Certificate of Non-compliance where a fee has been paid to Council through that process.

Infringement Notices can be issued under the Act where Certificates of Compliance or Non-Compliance are not lodged with Council by the due date, or if an owner fails to comply with a Barrier Improvement Notice issued by Council, however these will only be issued where the MBS is of the opinion that a property owner, following a reasonable period of encouragement and direction from Council, is not taking active steps to address identified non-compliance.

Operating Procedures will detail how these activities will be undertaken.

#### **SUPPORTING PROCEDURES / GUIDELINES**

- Building Compliance – Compliance Response – Non Council Issued Permit
- Building Compliance – Swimming Pool & Spa Barrier Compliance
- Building Compliance - Essential Safety Measures Audit & Compliance

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## DOCUMENT CONTROL

Policy owner		Manager Planning Building & Health	Division	Development & Community Services
Adopted by council			Policy Number	
File Number			Review date	

Final Draft for Adoption

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CM reference		Date of adoption	
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## COUNCIL POLICY

<b>Council Policy Title:</b>	<b>Essential Safety Measures</b> The Administration and Enforcement of Part 12 Division 1 of the Building Regulations 2006
<b>Council Policy ref. no:</b>	19.3
<b>Responsible Department:</b>	Planning and Environment
<b>Date of adoption/review:</b>	23 October 2013

### ADMINISTRATION AND ENFORCEMENT

#### 1. Purpose

The purpose of this policy is to guide Council's activities in meeting its responsibilities under the *Building Act* 1993 ("the Act") and in particular regulation *Part 12, Division 1* of the *Building Regulations* 2006 which relate to Essential Safety Measures (ESM) requirements.

The use of policies by Councils has long been recognised by the courts as a means of Councils determining how (due to the many responsibilities held) limited resources are to be allocated. By having an appropriate policy in place Council will both reduce its exposure to risk and provide guidance to Council officers on how the regulations are to be administered.

#### 2. Background

Council is required by Section 212 of the *Building Act* 1993 ("the Act") to administer and enforce specified parts of that Act and the whole of the *Building Regulations* 2006 ("the Regulations") within its municipal boundaries. As with many other responsibilities, Council has the ability to determine how it will carry out these functions having regard to competing obligations and limited resources.

Regulation Part 12, Division 1 of the Building Regulations deals with essential safety measures. An essential safety measure is defined under the *Building Regulations* 2006 (the Regulations) as an item listed in Tables I1.1 to I1.11 of Volume One of the Building Control Act (BCA), except the item in Table I1.4 relating to artificial lighting.

All buildings other than a house or outbuilding are affected. These include the following Classes as defined in the Building Code of Australia:

- Class 1b: Some boarding houses, guest houses or hostels
- Class 2: Buildings containing sole-occupancy unit (e.g. apartments, blocks of flats)
- Class 3: Backpacker accommodation, residential parts of hotels or motels, residential parts of schools, accommodation for the aged, disabled or children
- Class 5: Offices for professional or commercial purposes
- Class 6: Shops or other buildings for sale of goods by retail cafés, restaurants, milk bars, dining rooms, and bars
- Class 7: Buildings used for car parks, storage or display of goods.
- Class 8: Laboratories or buildings for production or assembly of goods
- Class 9: Public buildings such as health care buildings or assembly buildings, nightclubs, bars etc.

When the construction of a building is complete, the building owner is responsible for its upkeep and maintenance, particularly its safety features.

The maintenance of essential safety measures ensures that the safety measures mainly dealing with fire situations within the building, remain at the required operational level throughout the life of the building. The type of maintenance depends on the complexity of the service, equipment or feature and the experience of the person carrying out the inspection or test.

As an example, essential safety measures defined under the Building Regulations include:

Air conditioning systems	Fire hydrants
Emergency lifts and lighting	Fire windows
Ext doors and exit signs	Mechanical ventilation
Emergency power supply	Fire isolated stairs, passages ramps
Fire control centres	Fire rated materials
Fire curtains and doors	Path of travel to exits
Emergency warning systems	Smoke alarms
Fire detectors and alarm systems	Smoke control systems
Fire extinguishers	Sprinkler systems

The Regulations contain a full listing of essential services.

If a building was built or altered since 1 July 1994, the Regulations require a land owner to keep a current copy of the building's occupancy permit together with an annual essential safety measures report in the building. All essential safety measures reports, records of maintenance checks, services and repair work to the building must also be kept on the premises so it is easily accessible for a Municipal Building Surveyor or Chief Officer of the relevant fire brigade to randomly check for compliance. These documents are important as collectively they ensure that owners are fulfilling these obligations.

Although councils have a responsibility under building legislation for the enforcement of building safety in their municipality, owners have an obligation to ensure that essential safety measures and other safety measures are maintained and operate satisfactorily. Each year building owners are required to prepare an annual essential services report on the building's essential safety measures. An owner may choose to engage specialist maintenance contractors to assist in the preparation of this report or if written delegation is provided, an agent may complete the report. The reports must be available at the building for inspection by the Municipal Building Surveyor or the Chief Officer on request after 24 hours notice.

If the building was built before 1 July 1994, owners are responsible for ensuring that any safety equipment, safety fittings or safety measures are maintained and fulfilling their purpose. Owners are also required to prepare and display an annual essential safety measures report. This includes exits and paths of travel to exits. It is also advised that records of maintenance checks, service and repair work be kept so they can be made available for inspection by a Municipal Building Surveyor or Chief Officer.

Council's Municipal Building Surveyor or Chief Officer of the CFA is responsible for the enforcement of these Regulations, and it is often the case that without proactive enforcement from Councils or the CFA, land owners fail to meet the requirements. There is therefore a significant risk to human life or safety if proactive enforcement is not carried out.

Non-compliance may result in an infringement notice issued by Council or the Fire Brigade up to \$1000 and furthermore, non compliance may result in prosecution in which a fine may be imposed of \$10,000 for an individual or \$50,000 for companies for each breach of the Regulations. More importantly, non-compliance could place not only building occupants at risk but also those of passers-by and the occupants of adjoining buildings.

#### **Council's Approach to Enforcement of Essential Safety Measure (ESM) Requirements**

Colac Otway Shire does not have the staff resources which would enable it to proactively enforce ESM requirements for all land owners which are required to meet them under the Building Regulations. It does acknowledge the need however for a proactive approach to administration and enforcement in respect of these regulations, in addition to on-going response to known non-compliance when this becomes evident, and education of building owners. This policy will therefore undertake the following approach to enforcement of the requirements as a means of best managing risk to human life and safety within its resource capacity, with the aim of ensuring that eventually all buildings in the municipality are compliant with the regulation.

**Reactive Approach**

Council officers, upon becoming aware of any building within the municipal district that does not have an annual report on essential safety measures, will utilise the procedure set out below to bring about compliance.

1. Upon becoming aware of a potential non complaint ESM report the designated Council officer will write to the property owner advising that there is concern that the building at the property may not comply with the Building Regulations and that an inspection will take place at a set date. A copy of the relevant information sheets will be sent with that letter. This will take place within 7 days of being notified of the potential non compliance.
2. Upon inspection, in the event there is no essential safety measures report, a Building Order for Minor Work (on the basis that the Municipal Building Surveyor is of the opinion that the report is minor work) will be issued pursuant to section 113 of the *Building Act*. The building order will be in a standard form and will generally allow the owner 30 days in which to provide a current compliant report.
3. In the event as determined by the Municipal Building Surveyor, the individual circumstances warrant the provision of emergency safety measures, an Emergency Order under section 102 of the Building Act will be issued.
4. Any order issued will be accompanied with information on how to comply with the order and advising as to when the next inspection will take place.
5. The time for compliance under the order may be extended provided proper grounds for doing so are provided.
6. At the end of the time for compliance, the building will again be inspected. If no genuine action has been taken by the owner or occupier to comply with the order, the matter will be referred to Council's solicitor for prosecution (for breaches of *Part 12* of the regulations and *section 118* of the *Building Act*) and enforcement through *section 253* of the *Building Act*, being an order of the Court requiring compliance. A letter will be sent to the owner advising of the referral to Council's solicitor and providing a final opportunity to comply. Officers may elect to send up to two warning letters prior to referral to Council's solicitor with the aim of seeking co-operative compliance with an order.
7. If at the time of that inspection the owner has attempted to comply with the building order but there are minor matters still outstanding, the owner will be advised of a time at which a further inspection will be carried out and if there is still non compliance at that time enforcement action may be taken.
8. If a further inspection is required as a result of the equipment or report not being fully compliant following that further inspection, the relevant Council officer may determine to refer the matter at that time to Council's solicitor for enforcement action.

**Proactive Approach**

In addition to responding to non-compliance as it becomes known, Council will take a proactive approach to administration and enforcement of ESM requirements within its resource capacity, and taking a risk management approach. This is aimed at ensuring that eventually all buildings in the municipality are compliant with the regulations. Officers will follow the following procedure:

1. Council officers will create a database of all buildings in the municipality. The database will be created by analysing existing records and/or by the use of aerial photography. It is acknowledged that aerial photography may not identify all relevant buildings and existing records will also not include all relevant buildings. The database, even if not complete, is essential for:
  - a. Determining the number of buildings in the municipality, which is required to enable the level of risk to be assessed.
  - b. Determining the level of resources required.
  - c. Identifying all buildings erected before and after 1 July 1994 so as to enable if necessary an enforcement program with respect to Part 12 of the Regulations.
  - d. Identifying the addresses for "direct mailing" campaigns.
  - e. Determining the effectiveness of relevant policies.
2. The database is to be reviewed annually to determine an appropriate program of inspections including the numbers of buildings to be inspected over the course of the year (the inspection target) and the resources to be allocated to that work. The review will also determine the objective criteria on which the properties to be inspected are determined.
3. The list will be prioritised according to the degree of risk based on the nature of the land use. For example, accommodation (including motels, backpackers, apartments and bed and breakfasts), hotels, night clubs and the like will be considered a higher risk to human safety than shops or offices. These buildings will be audited for compliance with ESM requirements as a high priority.
4. Upon inspecting a property and identifying a non complaint system or report, the procedure set out in the "Reactive Approach" above will be utilised to bring about compliance.
5. The database of buildings will be updated on an ongoing basis, based on records of final inspections for buildings subject to ESM requirements.

**Education**

Council also recognises the importance of educating building owners on their legal responsibilities to comply with the regulations and the underlying reasons for the regulations itself. Council will seek to ensure the maximum possible cover is being achieved and will undertake the following steps:

1. Council's policies with respect to Part 12 of the regulations will be printed and made available in pamphlet form to the public.



2. A direct mail out campaign will take place following the establishment of a database. The mail out campaign will include the information on the policy and the options available to building owners and occupiers and the consequences of non compliance.
3. A series of articles on essential safety measures will be prepared for the local newspaper.
4. Enforcement action will be published to create greater public awareness of the consequences for non compliance.
5. Customer Service Centres, libraries and other appropriate outlets would be asked to distribute (via the counter) pamphlets and other public awareness material.
6. Information to be sent out with rate notices.
7. Advertisements in local newspapers.
8. Information and appropriate links on Council's website.

### **Reporting**

A Report will be prepared by Council officers on an annual basis detailing all actions taken under this policy, identifying:

- a) The audit program undertaken over the course of the previous year, including the criteria used for prioritisation of risk
- b) The number of buildings inspected
- c) The number of buildings that at 1<sup>st</sup> inspection required no further action
- d) The number of building orders issued
- e) The number of building orders complied with in the specified period
- f) The number of building orders referred for legal proceedings
- g) The number of emergency orders issued
- h) The number of emergency orders referred for legal proceedings
- i) The number of matters outstanding
- j) Details of education methods employed under the policy

This report will be forwarded to the Shire's Risk Management Committee for consideration.

### **3. Conclusion**

This policy will provide Council with a clear and transparent framework for directing resources to enforcement of ESM requirements in the highest priority developments based on a risk assessment process. It will ensure that Council is taking a responsible and risk based approach to this legislative responsibility within its financial capacity.

### **ADOPTED/AMENDMENT OF POLICY**

<b>Reviewed Date</b>	<b>Reason for Amendment</b>
23 October 2013	Adopted by Council



## COUNCIL POLICY

<b>Council Policy Title:</b>	<b>Municipal Building Control Intervention Filter Criteria Guideline Policy</b> For Council's Administration and Enforcement of Parts 3,4,5,7 & 8 of the Building Act 1993 and Building Regulations 1994 in circumstances where a private building surveyor has been appointed to carry out function
<b>Council Policy ref. no:</b>	19.1
<b>Responsible Department:</b>	Sustainable Planning and Development
<b>Date of adoption/review:</b>	23 October 2013

### ADMINISTRATION AND ENFORCEMENT

#### 1. PURPOSE

To inform Council of its responsibilities under the *Building Act 1993* ("the Act") in circumstances where a private building surveyor has been appointed by or on behalf of the owner of a property to issue a building permit or carry out other functions in respect of building work being carried out or proposed to be carried out at the property.

#### 2. BACKGROUND

**Council** is required by section 212 of the Act to administer and enforce specified parts of that Act and the whole of the *Building Regulations 1994* ("the Regulations") within its municipal district. As with many other responsibilities, Council has the ability to determine how it will carry out these functions having regard to competing obligations and limited resources.

Since the introduction of the Building Act in June 1994 property owners have had a choice between using Council services (through the municipal building surveyor) to obtain a building permit and using a private building surveyor. The building surveyor (private or municipal) who issues the building permit is generally responsible for ensuring that the building work complies with the requirements of the Act and the Regulations.

Council through the operation of section 212 of the Act retains the ability to enforce the Act and the Regulations even if a private building surveyor has been appointed. Section 212 provides as follows:

**“212. Council to administer building provisions in its municipal district**

- (1) *Except where otherwise expressly provided in this Act or the building regulations, a council is responsible for the administration and enforcement of Parts 3, 4, 5, 7 and 8 and the building regulations in its municipal district.*
- (2) *Nothing in this section limits a council's powers to act outside its municipal district.”*

There is no express provision in the Act removing Council's responsibilities where a private building surveyor has been appointed.

**The Building Commission** is a state statutory authority which has various powers under the Act to intervene in circumstances where a private building surveyor is appointed. These powers include the ability to issue directions to the private building surveyor, enforce orders made by the private building surveyor, prosecute persons for non compliance with orders issued by the private building surveyor in addition to being able to utilise all the powers that a municipal building surveyor has in certain circumstances.

**The Building Practitioners Board** is the registration body for persons working in the building industry. All building surveyors (both private and municipal) must be registered with that Board. The Building Practitioners Board is empowered to conduct disciplinary proceedings in respect of any registered building practitioner who may have not carried out their responsibilities correctly.

The legislative framework clearly shows that responsibility for supervising private building surveyors rests with the Building Commission and the Building Practitioners Board. This responsibility includes those bodies taking appropriate action to resolve matters (which may include rectifying any action/inaction taken by a private building surveyor that is/was contrary to the Regulations or the Act or conducting a disciplinary Inquiry) where a private building surveyor has not carried out their work in a competent manner and to a professional standard.

Council frequently receives complaints from members of the public regarding building work that is being or has been carried out, for which a private building surveyor has been appointed. The complaints may include situations in which there is a real risk of danger to persons or property or may be regarding administrative matters or matters relating to the siting of buildings and /or structures.

The handling of these complaints can represent a significant expenditure of Council resources.

Since the introduction of the private permit issuing system in July 1994 the ongoing problems associated with handling such complaints has generally been carried out by Council's municipal building surveyor and its building department on an ad hoc basis. The **Victorian Municipal Building Surveyors Group Inc.** ('the VMBSG') at its 2002 conference overwhelmingly recognised the need for adopting a uniform approach across the State when dealing with complaints of that nature. As a result of that conference, the VMBSG, working in consultation with the Municipal Association of Victoria ('the MAV') undertook to develop a system to classify and manage those complaints.

The **Building Control Intervention Filter Criteria** ('the Filter Criteria'), utilising a risk assessment matrix, identifies standardised responses to complaints from the public where a private building surveyor has been appointed. The Filter Criteria have been developed through consultation with municipal building surveyors throughout metropolitan and regional Victoria.

The Filter Criteria recognises that Council has obligations to the public with regard to dangerous situations which it can remedy or cause to be remedied. Where a danger exists and Council officers are aware of that danger, a lack of action on the part of Council could result in a claim against Council if innocent persons were to suffer loss or injury. This is regardless of whether a private building surveyor is or has been appointed. In those circumstances the Filter Criteria recommends Council staff taking action to remove the danger.

The Filter Criteria also recognises that not all complaints received at council relate to dangers and many relate to matters stemming from administrative neglect or error by private building surveyors. In those circumstances the Filter Criteria recommends that the matter be referred to the private building surveyor for remedial action failing which the matter be referred to the Building Commission or Building Practitioners Board (or both) as appropriate.

In some circumstances it may be that the complaint is of a trivial or minor nature in which case the Filter Criteria may recommend merely referring it back to the private building surveyor for action.

It is anticipated that the Filter Criteria will streamline the complaint handling processes and provide a level of uniformity across all councils. The referral of appropriate cases to the Building Practitioners Board and the Building Commission will also allow those bodies to more readily carry out their functions under the Act.

### 3. BUILDING CONTROL INTERVENTION FILTER CRITERIA

#### **STEP 1 – Determine the possible consequences of the matter being complained of:**

Table E1 Qualitative measures of consequence or impact

Level	Descriptor	Example detail description
1	Insignificant	No injuries, low financial loss, no detriment to health, no damage to property, siting.
2	Minor	Injury (self-treatable e.g. minor cuts or abrasions), medium financial loss, minimal detriment to health, minor damage to property.
3	Moderate	Injury (medical treatment required by other), high financial loss, moderate detriment to health, moderate damage to property.
4	Major	Serious non-permanent injury, major financial loss, major detriment to health, major damage to property.
5	Catastrophic	Permanent injury or death, huge financial loss, irreparable damage to property.

#### **STEP 2 – Determine the likelihood of the event in Step 1 occurring**

Table E2 Qualitative measures of likelihood

Level	Descriptor	Description
A	Almost certain	Is expected to occur in most circumstances
B	Likely	Will probably occur in most circumstances
C	Possible	Might occur some time
D	Unlikely	Could occur at some time
E	Rare	May occur only in exceptional circumstances

#### **STEP 3 – Locate the issue on the risk matrix by comparing the likelihood to the consequence**

Table E3 Qualitative risk analysis matrix – level of risk

Likelihood	Consequences				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
A (almost certain)	M	H	E	E	E
B (likely)	M	H	H	E	E
C (Possible)	L	M	H	H	E
D (unlikely)	L	L	M	H	E
E (rare)	L	L	M	H	H

**STEP 4 – Identify action to be taken**

Table E4 Legend for Risk Analysis Matrix and Treatment

<b>E</b>	<b>Extreme risk: immediate action required</b>	Refer to PBS without delay	Council/MBS takes immediate action to suitably reduce risk	If there is evidence of conduct by any building practitioner such that a finding under section 179(1) of the Building Act 1993 could be made by the Building Practitioners Board the matter, with supporting evidence, will be referred to that Board for Inquiry.
<b>H</b>	<b>High risk, attention needed in reasonable time</b>	Refer to PBS without delay	Council/MBS takes action if PBS is not taking action to suitably reduce the risk within reasonable time	
<b>M</b>	<b>Moderate risk, treatment by PBS</b>	Refer to PBS without delay	No other action by Council/MBS	
<b>L</b>	<b>Low risk, manage by referral</b>	Refer complainant to PBS without delay	No other action by Council/MBS	<p>If there is a suspicion that any practitioner has engaged in conduct that may amount to illegal conduct or conduct as set out in section 179(1) of the Act the matter will be referred to the Building Commission for investigation.</p> <p>AND</p> <p>if it is necessary to do so for the proper administration of the Act refer the matter of RBS to the Building Commission for the exercise of its directive powers under s198 of the Building Act 1993.</p>

Note: PBS – Private Building Surveyor

**STEP 5 – Take the action as required by the matrix**



## 4. RELEVANT LEGISLATION REGARDING REFERRALS

### **BUILDING ACT 1993**

#### **179. Inquiry into conduct**

- (1) On an inquiry into the conduct of a registered building practitioner, the Building Practitioners Board may make any one or more of the decisions mentioned in sub-section (2) if it finds that the registered building practitioner--
- (a) is guilty of unprofessional conduct; or
  - (b) has failed to comply with this Act or the regulations; or
  - (c) has failed to comply with a determination of the Building Appeals Board or a direction of the Commission; or
  - (d) has been guilty of conduct in relation to his or her practice as a building practitioner which--
    - (i) is constituted by a pattern of conduct or by gross negligence or gross incompetence in a particular matter; and
    - (ii) shows that he or she is not a fit and proper person to practise as a building practitioner; or
  - (da) has shown in the information provided to the Board under section 172A that he or she is not a fit and proper person to practise as a building practitioner; or
  - (e) has employed or engaged to do, on his or her behalf, work of a kind that can only be done by a person registered under this Part in a particular category or class, a person who is not so registered; or
  - (f) has obtained his or her registration under this Part or any required insurance by fraud or misrepresentation; or
  - (fa) has failed to comply with a reasonable direction of an insurer in respect of the completion or rectification of defective building work or any payment to be made to the insurer in respect of the completion or rectification of defective building work in accordance with required insurance or in accordance with a guarantee under the **House Contracts Guarantee Act 1987** or has failed to comply with a direction under section 44 of the **House Contracts Guarantee Act 1987**; or
  - (fb) has failed to carry out a recommendation contained in an inspector's report under section 48 of the Domestic Building Contracts Act 1995;
  - (fc) has failed to comply with the Domestic Building Contracts Act 1995; or
  - (g) has had his or her authority to practise as a building practitioner in a place outside Victoria cancelled or suspended otherwise than for failure to renew that authority; or
  - (h) has failed to comply with an undertaking given to the Board under this Division.

## **BUILDING REGULATIONS 2006**

### **1502 Professional standards**

A registered building practitioner must-

- (a) perform his or her work as a building practitioner in a competent manner and to a professional standard; and
- (b) immediately inform the client in writing if a conflict of interest arises or appears likely to arise between his or her interest as a building practitioner and that of his or her client; and
- (c) receive remuneration for his or her services as a building practitioner solely by the professional fee or other benefits specified in the contract of engagement or by the salary and other benefits payable by the building practitioner's employer.

NOTE: A building practitioner who contravenes the requirements of regulation 1502 may be the subject of an inquiry under section 179 of the Act.

## **5. IMPLEMENTATION AND REVIEW**

This policy will be implemented by the Manager Building and Planning and is subject to periodic review.

### **ADOPTED/AMENDMENT OF POLICY**

<b>Policy Review Date</b>	<b>Reason for Amendment</b>
24 May 2006	Adopted by Council
28 October 2009	Review
23 October 2013	Review



## COUNCIL POLICY

<b>Council Policy Title</b>	<b>Municipal Pool and Spa Enforcement</b> The Administration and Enforcement of Part 7 Division 1 of the Building Regulations 2006
<b>Council Policy ref. no:</b>	19.2
<b>Responsible Department:</b>	Sustainable Planning and Development
<b>Date of adoption/review:</b>	23 October 2013

### ADMINISTRATION AND ENFORCEMENT

#### 1. Purpose

The purpose of this policy is to guide Council's activities in meeting its responsibilities with administration and enforcement of provisions under the Building Act 1993 ("the Act"), and in particular regulation Part 7 Division 1 of the Building Regulations 2006 which requires the erection of barriers around swimming pools and spas.

The use of policies by Councils has long been recognised by the courts as a means of Councils determining how (due to the many responsibilities held) limited resources are to be allocated. By having an appropriate policy in place Council will both reduce its exposure to risk and provide guidance to Council officers on how the regulation is to be administered.

#### 2. Background

Council is required by section 212 of the Building Act 1993 ("the Act") to administer and enforce specified parts of that Act and the whole of the Building Regulations 2006 ("the Regulations") within its municipal boundaries. As with many other responsibilities, Council has the ability to determine how it will carry out these functions having regard to competing obligations and limited resources.

Regulation Part 7 Division 1 of the Building Regulations deals with the erection of swimming pool/spa barriers in respect of pools/spas constructed prior to 1991. Pools/spas constructed after that date were required, as part of the building permit, to include as part of the construction, barriers in accordance with the relevant Australian Standard. Prior to 1991 there was no such requirement.

The underlying obligations contained in regulation Part 7 Division 1 (to provide suitable pool/spa barriers) have been in force for a number of years. The State Government and some Councils have advertised the requirements of regulation Part 7 Division 1 on many occasions. Despite this advertising, Council audits reveal that only a relatively small number of swimming pools/spas fully comply with barrier requirements, and that compliance does not occur until Council actively enforces the regulation.

The administration and enforcement of the Regulation has generally been on an ad hoc basis in most Councils and the degree of administration and enforcement has varied greatly between municipal districts. Most Councils have adopted in recent years a policy that deals with how the administration and enforcement is to take place.

A reactive policy is one where Council only enforces the regulatory requirements when it becomes aware of a specific (or potential) non-compliance. The Court has determined in numerous cases (including the well known case of *Pyrenees Shire Council v Day*) that in circumstances where a Council becomes aware of a danger to persons or property and Council has the statutory ability to cause the danger to be abated, the community expects Councils to take such action. A failure to take action in those circumstances could result in a finding of negligence against the Council.

A proactive policy is one where Council actively seeks out non-compliance and takes appropriate enforcement action. The degree of 'proactiveness' may vary. To be proactive it is necessary to:

- (a) Identify the location of swimming pools/spas in the municipality
- (b) Have a programme of inspections of those swimming pools/spas
- (c) Publicise that Council has a proactive policy and will be conducting inspections
- (d) Determine whether those inspections are to be selective or be systematic
- (e) Have a subsequent follow up programme
- (f) Have suitable staff to conduct those inspections

An education policy is one where Council makes available to the community sufficient information for persons to understand the legal requirements and the reasons for those requirements. An education policy may be passive or active. A passive education policy is one where material is made available as handouts etc at Council offices whereas an active education policy will use the media and other resources to educate as many members of the community as possible. An education policy however must be used in combination with either a reactive or proactive enforcement policy.

All Councils should, as part of their risk management process, have in place a policy that identifies the processes to be followed upon becoming aware of a non-compliant (or potentially non-compliant) swimming pool/spa barrier.

The adoption of this policy will provide specific guidance to the Council's Building Department concerning how it will implement administration and enforcement of these requirements, and give assurance to the community that the responsibility given by that Act is being administered in a responsible manner.

### **Council's Approach to Enforcement of Swimming Pool/Spa Barrier Requirements**

Colac Otway Shire does not have the staff resources which would enable it to proactively enforce swimming pool/spa barrier requirements for all land owners on annual basis. It does acknowledge the need however for a proactive approach to administration and enforcement in respect of these regulations, in addition to on-going response to known non-compliance when this becomes evident, and education of building owners. This policy will therefore adopt the following approach to enforcement of the requirements as a means of best managing risk to human life and safety within its resource capacity, with the aim of ensuring that eventually all swimming pool/spa barriers in the municipality are compliant with the regulation.

**Reactive Approach**

Council officers, upon becoming aware of any swimming pool/spa within the municipal district that does not have a barrier compliant with the Regulations, will utilise the procedure set out below to bring about compliance.

1. Upon becoming aware of a potential non complaint barrier the designated Council officer will write to the property owner and occupier advising that there is concern that the building at the property may not comply with the Building Regulations and that an inspection will take place at a set date. A copy of the relevant information sheets will be sent with that letter. This will take place within 7 days of being notified of the potential non compliance.
2. The designated Council Officer will inspect the subject property within 7 days of the letter.
3. Upon inspection, in the event there is no barrier or the barrier in place does not comply with regulation Part 7 Division 1, a Building Order for Minor Work [on the basis that the Municipal Building Surveyor is of the opinion that the barrier is minor work] will be issued pursuant to section 113 of the Building Act. The building order will (generally) allow the owner 30 days in which to erect a compliant barrier.
4. In the event as determined by the Municipal Building Surveyor, the individual circumstances warrant the erection of a barrier in a period of time less than 30 days, an Emergency Order under section 102 of the Building Act will be issued.
5. Any order issued will be accompanied by a copy of regulation Part 7 Division 1 and associated educational handouts providing information on how to comply with the order and advising as to when the next inspection will take place.
6. The time for compliance under the order may be extended provided proper grounds for doing so are provided.
7. At the end of the time for compliance, the swimming pool/spa will again be inspected. If no genuine action has been taken by the homeowner to comply with the order, the matter will be referred to Council's solicitor for prosecution (for breaches of regulation Part 7 Division 1 and section 118 of the Building Act) and enforcement through section 253 of the Building Act, being an order of the court requiring compliance. A letter will be sent to the owner advising of the referral to Council's solicitor and providing a final opportunity to comply. Officers may elect to send up to two warning letters prior to referral to Council's solicitor with the aim of seeking co-operative compliance with an order.
8. If at the time of that inspection the owner has attempted to comply with the building order but there are minor matters still outstanding, the owner will be advised of a time at which a further inspection will be carried out and if there is still non compliance at that time enforcement action may be taken.
9. If a further inspection is required as a result of the barrier not being fully compliant, following that further inspection, the relevant Council officer may determine to refer the matter at that time to Council's solicitor for enforcement action.

**Proactive Approach**

In addition to responding to non-compliance as it becomes known, Council will take a proactive approach to administration and enforcement of swimming pool/spa barrier requirements within its resource capacity, and taking a risk management approach. This is aimed at ensuring that eventually all swimming pool/spa barriers in the municipality are compliant with the regulations. Officers will follow the following procedure:

1. Council officers will maintain a database of all swimming pools and spas in the municipality. The database will be updated by 30 June **every four years** by analysing existing records and/or by the use of aerial photography (acknowledging that aerial photography may not identify all pools and spas and existing records will also not include all existing pools and spas). It will also be updated as officers become aware of a swimming pool or outdoor spa through the course of their day to day work. The database, even if not complete, is essential for:
  - a. Determining the number of pools and spas in the municipality, which is required so as to enable the level of risk to be assessed
  - b. Determining the level of resources required
  - c. Identifying swimming pools and spas constructed both before and after 1991 so as to enable if necessary an enforcement program with respect to regulation Part 7 Division 1.
  - d. Identifying addresses for 'direct mailing' campaigns
2. Every four years, all properties known to have a swimming pool or outdoor spa will be inspected.
3. Upon inspecting a property and identifying a non compliant barrier the procedure set out in the "Reactive Approach" will be utilised to bring about compliance.

**Education**

The following is not a detailed procedure in respect of educational steps. Rather the following sets out a variety of measures that may be taken to increase community awareness:

1. Council's policies with respect of regulation Part 7 Division 1 will be printed and made available in pamphlet form to the public
2. A series of articles on pool safety and owner responsibilities will be prepared for the local newspapers at the start of each summer period.
3. Pool Shops, Childcare Centres, libraries and other public buildings to be asked to distribute (via the counter) pamphlets and other public awareness material
4. The use of telephone recordings to be investigated
5. Advertisements in local newspapers
6. Information and appropriate links on Council's website

**Reporting**

A report will be prepared by Council officers every four years at the conclusion of the four yearly audit detailing all actions taken under this policy, identifying:

- a) The number of pools/spas inspected



- b) The number of pools/spas that at 1st inspection required no further action
- c) The number of Minor Works Orders or Building Orders issued
- d) The number of orders complied with in the specified period
- e) The number of Building Orders referred for legal proceedings
- f) The number of Emergency Orders issued
- g) The number of Emergency Orders referred for legal proceedings
- h) The number of matters outstanding
- i) Details of education methods employed under the policy

This report will be forwarded to the Shire's Risk Management Committee for consideration.

### Conclusion

This policy will provide Council with a clear and transparent framework for directing resources to enforcement of swimming pool/spa barrier requirements. It will ensure that Council is taking a responsible approach to this legislative responsibility within its financial capacity.

### ADOPTED/AMENDMENT OF POLICY

Policy Review Date	Reason for Amendment
23 November 2005	Adopted by Council
24 May 2006	Review
23 October 2013	Review

Item: 10.5

## Contract 1954-2 - Building Surveying and Inspection Services

<b>OFFICER</b>	Doug McNeill
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	For Council to award the tender received for Contract 1954-2 – Building Surveying and Inspection Services.

### 1. EXECUTIVE SUMMARY

Council is asked to award a contract for its Municipal Building Surveying and Inspection Services which includes compliance and enforcement activities in accordance with the *Building Act 1993* and related legislation.

The contract term is two years with an optional one-year extension. This option is exercisable by Council only, at its sole discretion. Three tender submissions were received, one from the current supplier The Trustee for W.B.C.S. FAMILY TRUST (Munisol), another from Government Shared Services Pty Ltd (GOVSS PTY LTD), and a third from Hydromedial Consulting Group Pty Ltd.

Munisol scored highest in the evaluation and is recommended by the panel to be awarded the tender. The Munisol tender price is within the specified budget, and would provide the required level of service, with appropriate balance of skills and experience within the team.

## 2. RECOMMENDATION

**That Council:**

- 1. Awards Contract 1954-2 – Building Surveying and Inspections Services to The Trustee for W.B.C.S. FAMILY TRUST for the period of two years, with an option of a one-year extension, at the schedule of rates referred to in the confidentially distributed document pertaining to this contract.**
- 2. Authorises the Chief Executive Officer to sign the contracts following award of Contract 1954-2.**
- 3. Requests that the Chief Executive Officer ensures the contract price is listed on Council's website once steps listed in point 2 have been completed.**

## 3. KEY INFORMATION

This contract is for Municipal Building Surveying and Inspection Services which includes compliance and enforcement activities in accordance with the *Building Act 1993* and related legislation. The contract term is two years with an optional one-year extension. This option is exercisable by Council only, at its sole discretion.

### **Background**

Council's Building staff are currently engaged under a temporary short-term contract after the expiry in 2019 of a three-year contract that is due for renewal. The service has been contracted in this way since 2013 after Council found it challenging to engage suitably qualified and experienced building employees through the normal jobs market. Munisol, one of the three tenderers in the current process, has provided the service over this time. Council again tested the market in 2015 via a recruitment agency to seek the services of a Municipal Building Surveyor, but was unsuccessful. Given the continued tight job market in the building industry, it remains appropriate to have the service contracted to the private sector.

The service provided under the current contract is equivalent to two (2.0) full time staff, comprising a mix of part time persons, including a Municipal Building Surveyor (MBS) who is available on demand, supporting a Deputy Building Surveyor who undertakes most of the daily functions of the MBS, and two other staff who assist in processing applications and undertaking inspections and compliance work. Administrative support is provided by Council employed administrative staff.

A tender process to renew the contract was terminated earlier this year following Council's expressed desire to review whether it would continue to process building permit applications. Following a subsequent report to the May 2020 Council meeting, Council resolved not to continue this service.

The scope of the current tender was adjusted to reflect this decision on the building permit service. The first year of the contract will maintain the current resource level of 2.0 EFT to enable staff to complete outstanding building permit applications and fulfil obligations to undertake inspections of buildings under construction relating to permits previously issued by the Shire. This obligation will continue to draw upon Council's resources for many years as Council issued permits are enacted by owners, with the greatest impact in the first year. For the second and third years of the contract, the resource will drop to 1.6 EFT, reflecting the lower staff hours required to maintain the balance of the Building Department's regulatory activities, without building permit related work.

### **Current Tender**

A Request for Tender (RFT) was advertised seeking responses from suitable vendors to undertake the contract. Three tender submissions were received by the closing date of 1 July 2020. The submissions were evaluated by the Tender Evaluation Panel (TEP) using a set list of weighted criteria that considered not only financial value (35%) but also capacity (10%), capability (50%) and local contribution (5%).

The evaluation determined that The Trustee for W.B.C.S. FAMILY TRUST (Munisol) provided best value to Council. The company has over 35 years' experience in providing this type of service to Councils. It was noted by the tender evaluation panel that the proposed staff in the Munisol submission had a much higher collective level of experience than that of the other tenderers. Munisol is the incumbent provider of these services to Council and the experience to date has been positive. The tendered pricing is based over three years with the first year being for the equivalent of 2 full time staff for 48 weeks and the subsequent years being for the equivalent of 1.6 full time staff for 48 weeks per year.

## **4. COMMUNITY CONSULTATION & ENGAGEMENT**

Community consultation and engagement is not applicable in relation to the award of the tender.

## **5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES**

Alignment to Council Plan 2017-2021:

'Our Leadership & Management', Goal 3 – Organisational Development & Legislative Compliance.

Council's Building Department has significant responsibilities relating to public safety under the Building Act, as well as other related legislation including the Emergency Management Act. These range from processing building permit applications, applications for Report and Consent, undertaking inspections, issuing Building Notices & Orders to achieve safety and compliance, processing swimming pool registrations and ensuring compliance of businesses with Essential Safety Measure requirements.

## **6. CONSIDERATIONS**

### **ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC**

The service provided by this tender is required to address legislative responsibility for Council to engage a Municipal Building Surveyor (MBS), to undertake specific functions under the Building Act, and to maintain public safety.

### **LEGAL & RISK**

The tenderers are required as part of their submission to provide the requested documents and company policies so that an assessment can be made for Quality Management, Occupational Health and Safety Management and Environmental Management.

### **FINANCIAL & BUDGETARY**

Council has an annual budget in the Building Services Department of \$335,000 for this contract. This is increased annually according to CPI. The budget will drop to \$310,000 in 2021/22 to reflect the change in service related to building permit processing, and lesser contract staff requirement to

provide the service. This reduced expenditure will be offset by the loss of building permit revenue, with no net change to the cost of the overall service.

## 7. IMPLEMENTATION STRATEGY

Officers will complete documentation to award the tender in accordance with Council's resolution.

### COMMUNICATION

Upon award of the contract, the successful tenderer and unsuccessful tenderers will be notified via email. A Letter of Acceptance will be sent to the successful tenderer outlining any further information that is required prior to preparation of contract such as company structure, any applicable insurances and/or licenses, and applicable securities. Services will not commence until the contract has been executed.

### TIMELINE

Once the contract is awarded to the successful tenderer, the existing supplier will be immediately advised and transition arranged for commencement of the new contract.

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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

Item: 10.6

## Contract 2020 - Provision of Traffic Management Services

<b>OFFICER</b>	Paul Austin
<b>GENERAL MANAGER</b>	Tony McGann
<b>DIVISION</b>	Infrastructure & Leisure Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	For Council approval of Contract 2020 – Provision of Traffic Management Services. This is a Schedule of Rates panel contract.

### 1. EXECUTIVE SUMMARY

The provision of professional traffic management is an essential service required to compliment Services and Operations trained staff for maintenance and capital works activities as well as emergency management and major events.

Most Services and Operations staff have basic traffic management training and skills and the Department is able to provide this service in house for the vast majority of situations where it is needed. A professional service is required for more complex situations or for works on VicRoads roads.

This contract is for the provision of traffic management services for Council. The contract is structured as a schedule of rates panel contract with an initial term of three years with the option of two x one-year extensions. Invitees were requested to provide prices that were aligned to two zones (Zone 1: North of Gellibrand and Zone 2: South of Gellibrand) in order for Council to determine best value for money for each engagement.

A Request for Tender (RFT) was advertised seeking responses from suitable vendors to undertake the contract. All Invitees met the requirements of the invitation and specifications including the mandatory Occupational Health and Safety (OH&S) assessment. As a result, all are recommended for inclusion on the panel although preference will be given to the tenderers who provided the best value bids.



## 2. RECOMMENDATION

***That Council:***

- 1. Awards Contract 2020 – Provision of Traffic Management Services, for a period of three years with the option of a two x one-year extensions, to the following tenderers at the prices referred to in the confidentially distributed document pertaining to this contract:***
  - (a) Go Traffic Pty Ltd;***
  - (b) Barwon Traffic Management Pty Ltd;***
  - (c) Toot Traffic Pty Ltd.***
- 2. Authorises the Chief Executive Officer to sign the contracts following award of Contract 2020 – Provision of Traffic Management Services.***
- 3. Request that Council officers engage the tenderers in the order set out in recommendation 1 above. If the tenderer ranked one is not able to perform the service for any reason, then the tenderer ranked second will be engaged. This sequential order process is to be followed until there is a tenderer that able to perform the service. Should none of the panel members be able to provide the required service, the normal procurement procedure will apply.***

## 3. KEY INFORMATION

The provision of professional traffic management is an essential service required to compliment Services and Operations trained staff for maintenance and capital works activities as well as emergency management and major events.

Most Services and Operations staff have basic traffic management training and skills and the Department is able to provide this service in house for the vast majority of situations where it is needed. A professional service is required for more complex situations or for works on VicRoads roads. Council has never had a panel contract for this service before and it is recommended to Council in order to mitigate the risk of aggregate spending outside a public tender process exceeding the limit in the Local Government Act over a three-year period.

This contract is for the provision of traffic management services for Council. The contract is structured as a schedule of rates panel contract with an initial term of three years with the option of two x one-year extensions. Invitees were requested to provide prices that were aligned to two zones (Zone 1: North of Gellibrand and Zone 2: South of Gellibrand) in order for Council to determine best value for money for each engagement.

A Request for Tender (RFT) was advertised seeking responses from suitable vendors to undertake the contract. Three tender submissions were received by the closing date of 20 May 2020. All Invitees met the requirements of the invitation and specifications including the mandatory Occupational Health and Safety (OH&S) assessment.

All members of the TEP completed and signed Guarantee of Confidentiality and Declaration forms, with no conflicts being declared.

The tender evaluation was undertaken by the TEP. The tender evaluation panel members, independently, completed an evaluation of the qualitative criteria. The submissions were evaluated by the Tender Evaluation Panel (TEP) using a set list of weighted criteria that considered capacity (30%), capability (25%) and local contribution (5%).

An independent assessment of price was undertaken with a weighting of financial value (40%). Please see the confidential attachment for pricing schedule comparisons.

All Invitees met the requirements of the invitation and specifications including the mandatory Occupational Health and Safety (OH&S) assessment. As a result, all are recommended for inclusion on the panel although it is recommended that preference will be given to the tenderers who provided the best value bids

## **4. COMMUNITY CONSULTATION & ENGAGEMENT**

The Request for Tender (RFT) was advertised through the Colac Herald, Geelong Advertiser, Facebook and online through e-Procure. A total of three tender submissions were received by the closing date of 20 May 2020.

## **5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES**

Alignment to Council Plan 2017-2021:

Theme 2 - Our Places

- 2. Our places are managed for long-term sustainability.
- 5. Delivery of our capital works program.
- 6. Emergency management is coordinated locally and on a regional basis.

Theme 4 - Our Leadership & Management

- 1. Effectively manage financial resources.
- 4. Provide value for money services for our community.

## **6. CONSIDERATIONS**

### **ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC**

Nil

### **LEGAL & RISK**

Professional traffic management services are a legal requirement when it is necessary for road conditions to be altered due to works, emergencies or events. Significant penalties apply if these legal requirements are not met.

### **FINANCIAL & BUDGETARY**

Funding for this contract is provided by Council budget 2020/21 (Year 1), 2021/22 (Year 2) and 2022/23 (Year 3). Council has the option of two X one-year extensions.

Annual spend for the provision of traffic management services could be in the order of \$100,000 making the total contract expenditure in the order of \$300,000 with two X \$100,000 optional extensions.

## 7. IMPLEMENTATION STRATEGY

### COMMUNICATION

The successful contractors will be communicated once a decision has been made by Council.

### TIMELINE

2 September 2020 – Council Briefing

16 September 2020 – Ordinary Council Meeting

TBA – Contact contractors regarding Council's decision of the contract

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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

**Item: 10.7**

## **Options for a Hard Waste Collection**

<b>OFFICER</b>	Paul Austin
<b>GENERAL MANAGER</b>	Tony McGann
<b>DIVISION</b>	Infrastructure and Leisure Services
<b>ATTACHMENTS</b>	1. COS Hard Waste Survey [10.7.1 - 19 pages]
<b>PURPOSE</b>	To inform Council on the results of the hard waste collection survey as per the Council resolution from the 27 May 2020 Council meeting and make a recommendation on the issue.

### **1. EXECUTIVE SUMMARY**

In May 2020 Council resolved to undertake further work on the provision of a hard waste collection service for the community, including a survey of the community to get a better understanding of the need for the service and the preferred characteristics of it.

Councillors and Council Officers have discussed the issue at a Briefing Session in July 2020 and a survey of the community was carried out after that session.

The survey shows very strong community desire for a hard waste collection service (97%) and a high level of willingness to pay (81%) towards the provision of that service.

This report recommends that further work be undertaken on the possible introduction of this service and that a Business Case be presented to Council as part of its deliberations toward the 2021/2022 Council Budget.

## 2. RECOMMENDATION

***That Council:***

- 1. Note the results of the 2020 community survey in relation to a possible hard waste collection;***
- 2. Request that the Chief Executive Officer arrange further Briefing Session workshops to consider the results of the survey with a view to determining the preferred method of hard waste collection; and***
- 3. Request that the Chief Executive Officer prepare a Business Case so that the details of the method of the service can be finalised and funding of the service can be given strong consideration by the new Council during development of the draft 2021/2022 Council Budget.***

## 3. KEY INFORMATION

### **General**

A Notice of Motion was raised at the May 2020 Council Meeting. Council resolved 7 : 0 as follows:

***That Council:***

- 1. Endorse a community consultation process seeking feedback on a potential hard waste collection service across Colac Otway Shire.***
- 2. Contribute to the scope of this community consultation process at a Councillor Briefing and that it include the opportunity to discuss ways to elicit the most competitive tenders for such a collection, prior to the item's inclusion in a Council meeting agenda for endorsement; and***
- 3. Request Council Officers prepare a report to an Ordinary Council Meeting by September 2020 taking into account community consultation, with a view to potential undertaking of a hard waste collection service across Colac Otway Shire, including but not limited to costs, delivery models, potential contractors and any other factors relevant to the potential delivery of the service.***

A Council Briefing Session was held on 1 July 2020. At this session Councillors engaged with officers to discuss the issues specified in the resolution and assisted in the preparation of the community survey.

### **Methods of Collecting Hard Waste**

There are currently three types of hard waste services that are generally offered by Councils in Victoria, these are:

1. Kerbside collection
2. Book and call
3. Self-haul with free "tip vouchers"

More detail on these established methods is provided below:

#### **1. Kerbside collection**

The collection is generally conducted at the same time each year and hard waste can be placed on the nature strip or within the property, depending on Council's preference. A maximum amount of hard waste per property is usually specified by the Council.

The recent Waste Management tender sought interest from providers to supply this service to the 10,111 properties that received a waste service at that time. The waste was to be placed inside the property and a maximum amount of 3 cubic metres was to be allowed per property. Council received one tender for the service but resolved not to appoint a contractor at that time.

2. Book and call

Many Councils operate this type of service whereby a resident can book for pick up at any time. The number of pick-ups per year is usually restricted. Some Councils operate a fee for service whilst some include the service in their rates. The City of Greater Geelong are currently trialling this service at a cost of \$80 to the customer

3. Self-haul

Some Council offer this type of service, and Colac Otway has in the past, whereby customers take their own waste to a transfer station but receive vouchers which allow them to dispose of it for free. The disposal costs are then borne by Council.

4. Other methods of hard waste collection

Councillors expressed a preference for some level of user pay mechanism in the system and also felt that further investigation could be carried out in relation to:

- Metal recycling as a stand-alone opportunity followed by collection of the remainder of hard waste.
- Greater spread of timing across the Shire which would allow smaller businesses or charities to tender for the works.
- The incorporation of green waste collection, especially in areas of high fire risk.

## 4. COMMUNITY CONSULTATION & ENGAGEMENT

A Hard Waste Survey was carried out across Colac Otway Shire, following the July Council Briefing. There were 299 respondents to the survey. 97% of the responses indicated a desire for a kerbside hard waste collection with 69% of responses selecting that they are willing to pay between \$25 to \$49 for the service. Only 19% of the 298 responses said that they would not be willing to pay for the service.

Over half of the respondents said that they would prefer a twice-yearly collection as well as preferring a kerbside collection.

The survey was publicised on Facebook, the Apollo Bay Newsletter, Otway Light and the Colac Herald as well as in an interview with Mixx FM.

In 2018, there was an earlier and broader Waste Survey across Colac Otway Shire, with 443 respondents. 71% of those people indicated a desire for a kerbside hard waste collection but at that time 41% of respondents were not willing to pay for the service.

### Key questions and results from the “Let’s talk hard waste” Community Survey 2020

1. Would you utilise a hard waste service if offered by Council?

Yes	97%
No	3%



**2. What type of items would you like to dispose of in a hard waste collection? (more than one item may be selected)**

White goods	36%
Household items	54%
Green waste	8%
Scrap steel	32%
All of the above	49%
Other?	10%

**3. How often would you like a hard waste collection to be offered?**

Once a year	38%
twice a year	59%
every second year	3%

**4. What model of hard waste collection would you prefer?**

Kerbside Hard Waste	65%
Book & Collect	26%
Self-haul vouchers	9%

**5. What size volumes would you like to be collected?**

1 cubic metre	17%
2 cubic metres	43%
3 cubic metres	32%
Other?	8%

**6. What fee would you be prepared to pay either in your rates or in the waste management charge for each hard waste collection?**

Nil	19%
\$25-\$49	69%
\$50-\$100	3%
> \$100	9%

**Other verbatim feedback from the community that was captured in the survey is as follows:**

- 1. I would only use a hard waste if it was "offered" without the option to opt out and not be charged i.e. i would only use it if a fee was imposed regardless of whether I used it or not.*
- 2. I think that those who have excess waste over the normal amount that goes in bins should be happy to pay the true cost of disposing it. It's not something that all the other ratepayers should cover. If it's free x time per year or heavily subsidised there'll be a mountain of waste costing ratepayers a fortune.*
- 3. Other councils have had this for years and I'm wondering why we should be paying*
- 4. You don't provide a rubbish collection in our area but I'd like to think you could do this if we're paying for it to be collected, can only hope*
- 5. It would be good if we could put things out on the nature strip and others could come and help themselves to whatever they'd like first. (limit of 2 days or something so it's not left there) Means less into landfill.*
- 6. It is truly time that council offers services such as this we are very behind other councils*

7. *I like the idea of user pays system - not everyone will have hard rubbish to dispose of.*
8. *More green waste options, especially in spring and autumn*
9. *Maximum \$25 for pensioners or those on benefits, some don't have cars. Where is the nearest waste collection point in Colac Otway, there should be a permanent collection facility in Colac and Apollo Bay that is emptied when full*
10. *Green bin delivery changed to weekly in growth time - spring-early summer and autumn*
11. *I prefer a tip-shop option, where almost everything collected is available at very low cost back to the community. I'd like to be able to buy local compost and mulch, sculptural things for artmaking, household/garden/building things that can be reused, repaired, refurbished, upcycled.*
12. *Biannual book and collect free for pensioners. For rental properties annual vouchers for self haul. Fee could be based on real cost of redeemed vouchers spread across all rentals.*
13. *I think this should be part of our garbage collection fee.*
14. *Please give back to the community instead of charging more and more every year without residents gaining any benefit.*
15. *Households should be encouraged to recycle waste good responsibly often with guidelines but need organisations able to manage / dismantle this waste such as whitegoods, mattresses, e-waste, BBQs, old cars, parts and machinery etc*
16. *Opening a tip shop*
17. *Thanks for adding the Zero \$. Look at many Melbourne councils and their support towards recycling, they are amazing. They have great Community feedback! Twice a year would be fantastic, but if it could be included in our rates at no extra cost, then once is adequate, preferably in better weather.. spring cleaning!*
18. *If council offers a hard waste service it should be a user pays*
19. *Why do a survey when you know we need hard waste. I can't even get to the tip based on my work timetable. Stop spending money on surveys and just have a go. It's worked before*
20. *There should be no extra fee incurred for a hard rubbish collection. Council rates are already very high.*
21. *We get very little service from council apart from garbage collection and the occasional roadworks. This would go a bit further for value for money from council rates. I do notice that finally council has erected signage near ocean road to direct regarding parking, nature walk and not feeding birds etc for tourists which is very good. thank you*
22. *This should be a given that we would receive this service. I don't know why you need to ask us.*
23. *I think our rates which are high already more than cover the cost of such a service - this should be provided*
24. *Kennet River has many elderly residents who are no longer readily able to dispose of waste however curbside waste disposal twice a year - one for green waste in preparation for fire season and one for items as per above would be very helpful to everyone.*
25. *Very difficult to put hard rubbish out on narrow dirt roads intersecting with The Great Ocean Road. As we only use this feature rarely we would like a voucher available if required at no cost. We would not like to have to pay for the voucher if we don't require it.*
26. *as a remote community I would like to see 1 hard waste collection in late spring early summer for removal of vegetation in preparation for the fire season as the green bin is often not enough. If there were one dedicated day residents would be able to dispose of large amounts of green waste instead of burning off*

27. Kennett River has been the poor little cousin to Colac for years. With access to far less and there being a clear lack of equality in the spending of rates between remote to Colac, paying more for rates would be like saying hungry jacks chips are better than KFC.... a joke!
28. Wye River needs more support from Colac Otway Shire, our rates are very high and apart from a weekly garbage collection Wye River misses out on any form of funding as ALL our rates are spent in Colac..... A very dissatisfied rate payer.
29. Already have very high rates for little return in service from the shire. Appalling road conditions and weed infestation throughout coastal villages

## Key hard waste questions and results in the last Community Survey 2018

The hard waste related questions asked in the last community survey in 2018 are listed below:

### 1. Would you like a hard waste collection?

Yes	72%
No	4%
May be depends on price	24%

### 2. How often would you like a hard waste collection to be offered?

Twice a year	60%
Every Year	26%
Every 2 <sup>nd</sup> year	4%
Other	10%

### 3. What fee would you be prepared to pay in your rates for each hard waste collection?

None	41%
\$1-\$5	14%
\$6-\$10	16%
\$10-\$15	7%
\$15-\$20	11%

### 4. What model of hard waste collection would you prefer?

Self-Haul Vouchers-	18%
Kerbside collections-	58%
Book & call pick up service-	19%
Transfer station book & call service	1%
Other	4%

## 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 2 - Our Places

2. Our places are managed for long-term sustainability.

## 6. CONSIDERATIONS

### ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

The provision of a Hard Waste Service could assist with a reduction in the occurrence of illegal dumping occurring on roadsides and hence there are peripheral impacts for the environment due to the type of materials dumped and impact on the visual amenity.

### LEGAL & RISK

There is an OHS Risk for the Hard Waste Service as it involves staff or contractors manually loading the waste goods onto the truck or trailers and vice versa at the disposal point.

### FINANCIAL & BUDGETARY

The financial and budget impact of a potential hard waste service can be fully considered as part of a Business Case submitted for consideration in the draft 2021/2022 budget.

The budget amount would vary depending on the method of service chosen as well as the Council's preference for passing on some or all of the cost to service users. The 2020 survey results indicate that 69% of respondents would be prepared to pay up to \$49 for the service.

It is useful to understand that the cost of haulage and disposal to landfill (excluding collection) is approximately \$34 per cubic metre, depending on the density of the waste. Hence if all of the 10,000 (nominal) properties currently provided with a waste service were to provide 2 cubic metres per year of hard waste then the fee at the tip gate (excluding collection) would be in the order of \$680,000 per year.

## 7. IMPLEMENTATION STRATEGY

### COMMUNICATION

Further consultation will be required with the community prior to the introduction of this service and the additional costs involved.

### TIMELINE

To be advised.

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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

# Colac Otway Shire Hard Waste Survey

Monday, August 24, 2020

# 299

**Total Responses**

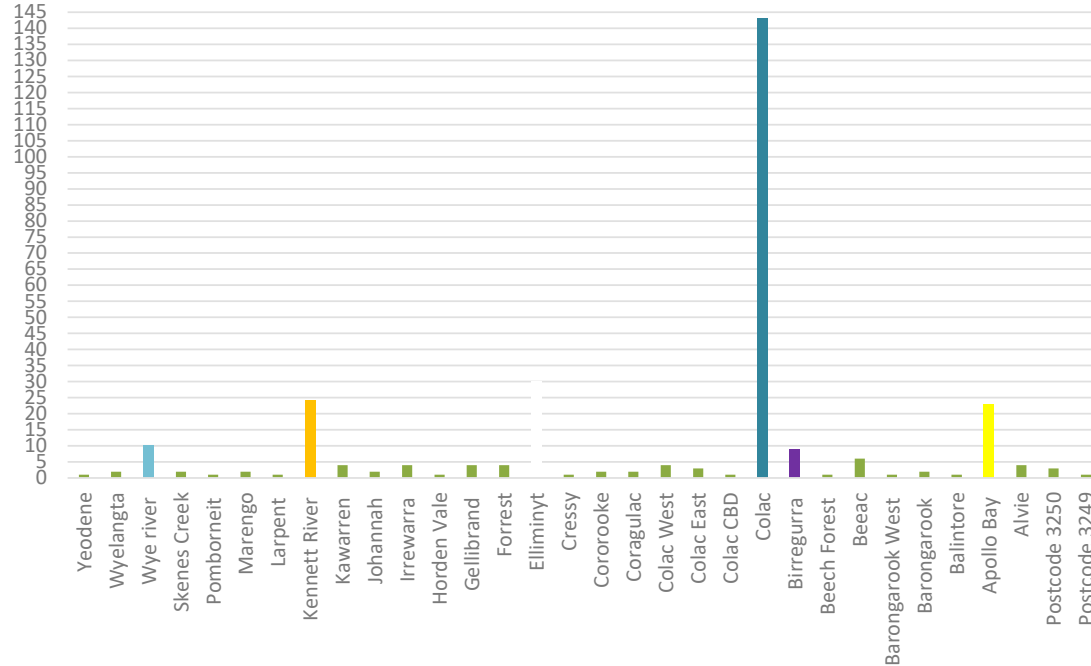
Date Created: Tuesday, July 28, 2020

Complete Responses: 299



Answered: 299 Skipped: 0

### Q.1 What town or area do you live in?



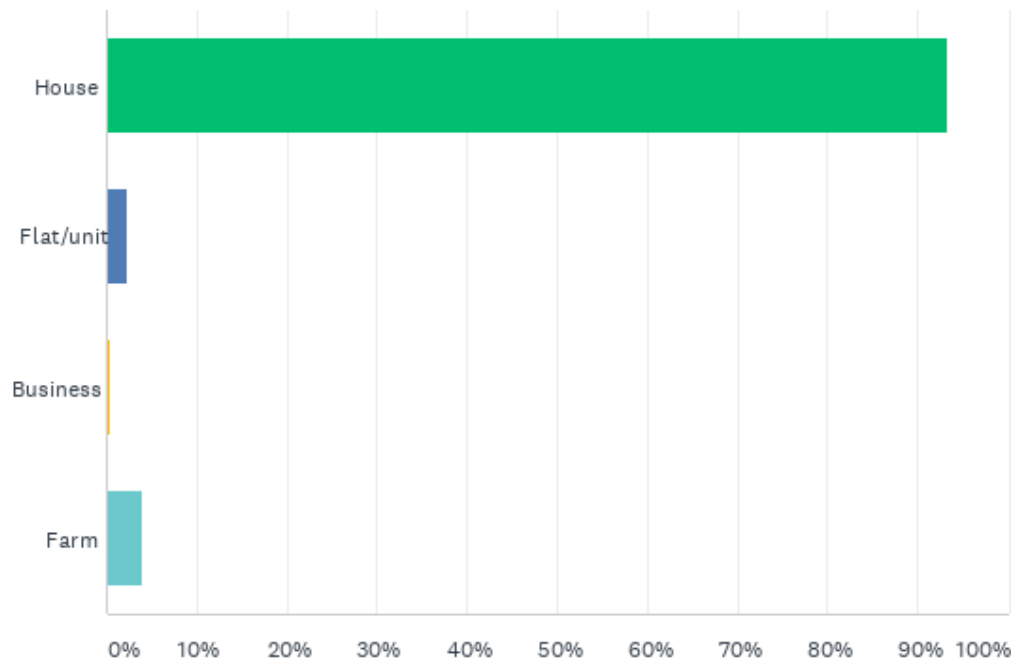
## Q1: What town or area do you live in?

Yeodene	1
Wyelangta	2
Wye river	10
Skenes Creek	2
Pomborneit	1
Marengo	2
Larpent	1
Kennett River	24
Kawarren	4
Johannah	2
Irrewarra	4
Horden Vale	1
Gellibrand	4
Forrest	4
Elliminyt	30
Cressy	1
Cororooke	2
Coragulac	2
Colac West	4
Colac East	3
Colac CBD	1
Colac	143
Birregurra	9
Beech Forest	1
Beeac	6
Barongarook West	1
Barongarook	2
Balintore	1
Apollo Bay	23
Alvie	4
Postcode 3250	3
Postcode 3249	1

Answered: 299 Skipped: 0

## Q2: Choose what best describes your place of residence?

Answered: 299 Skipped: 0



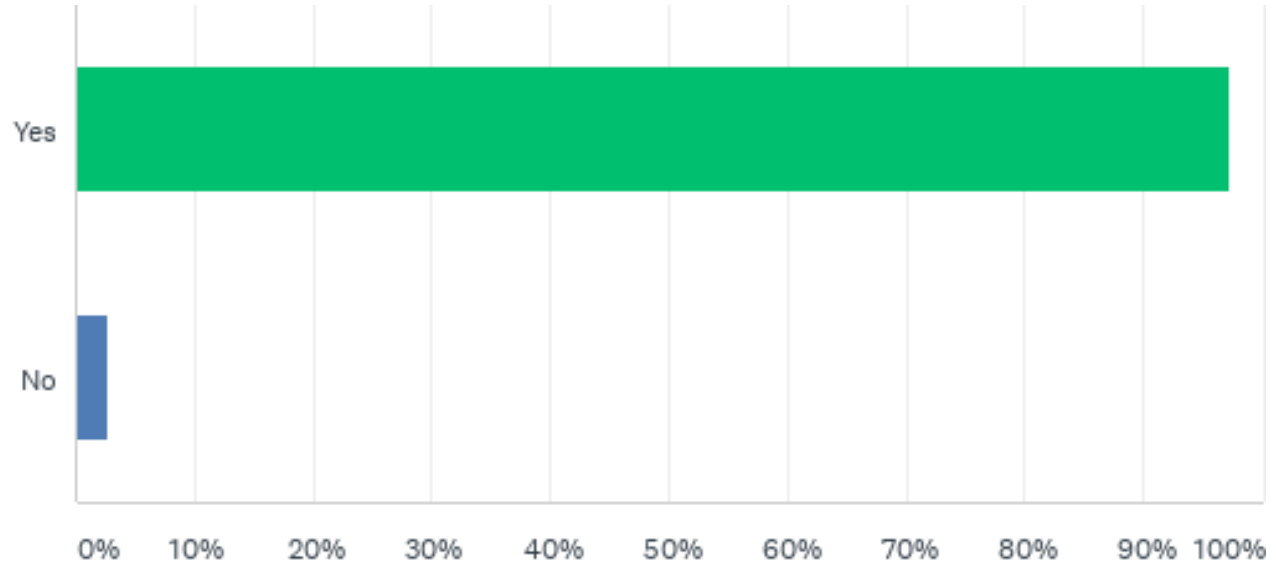
## Q2: Choose what best describes your place of residence?

Answered: 299 Skipped: 0

ANSWER CHOICES	RESPONSES	
House	93.31%	279
Flat/unit	2.34%	7
Business	0.33%	1
Farm	4.01%	12
TOTAL		299

### Q3: Would you utilise a hard waste service if offered by Council?

Answered: 299 Skipped: 0



### Q3: Would you utilise a hard waste service if offered by Council?

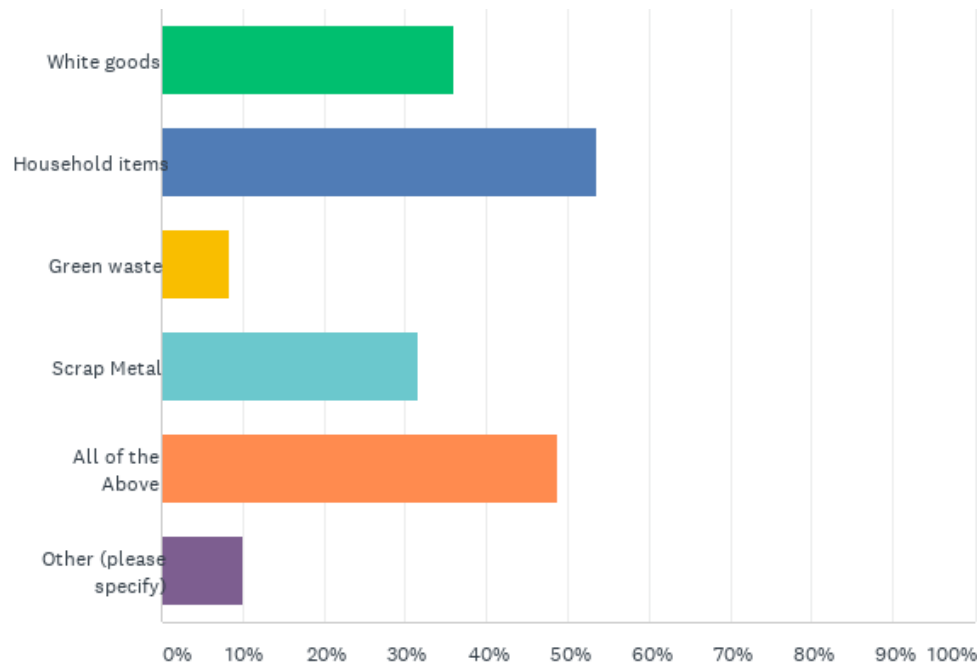
Answered: 299 Skipped: 0

ANSWER CHOICES	RESPONSES	
Yes	97.32%	291
No	2.68%	8
TOTAL		299



## Q4: What type of items would you like to dispose of in a hard waste collection [Attachment 10.7.1](#)

Answered: 297 Skipped: 2



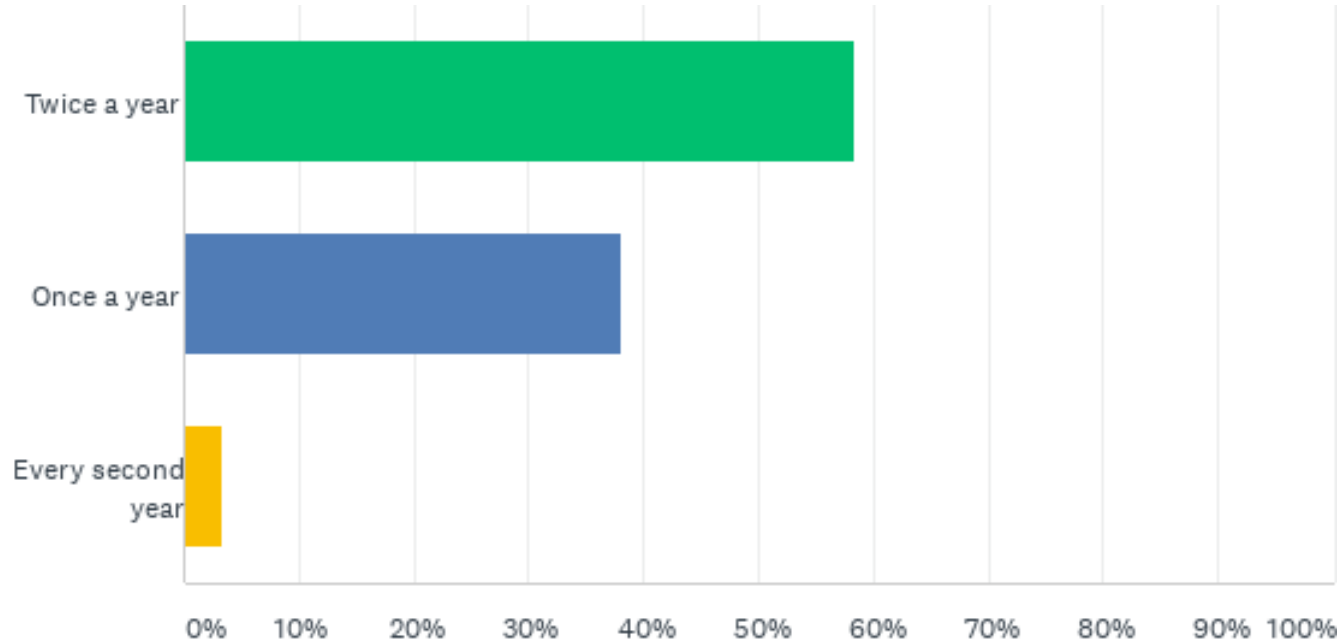
## Q4: What type of items would you like to dispose of in a hard waste collection Attachment 10.7.1

Answered: 297 Skipped: 2

ANSWER CHOICES	RESPONSES	
White goods	36.03%	107
Household items	53.54%	159
Green waste	8.42%	25
Scrap Metal	31.65%	94
All of the Above	48.82%	145
Other (please specify)	10.10%	30
Total Respondents: 297		

## Q5: How often would you like a hard waste collection to be offered?

Answered: 296 Skipped: 3



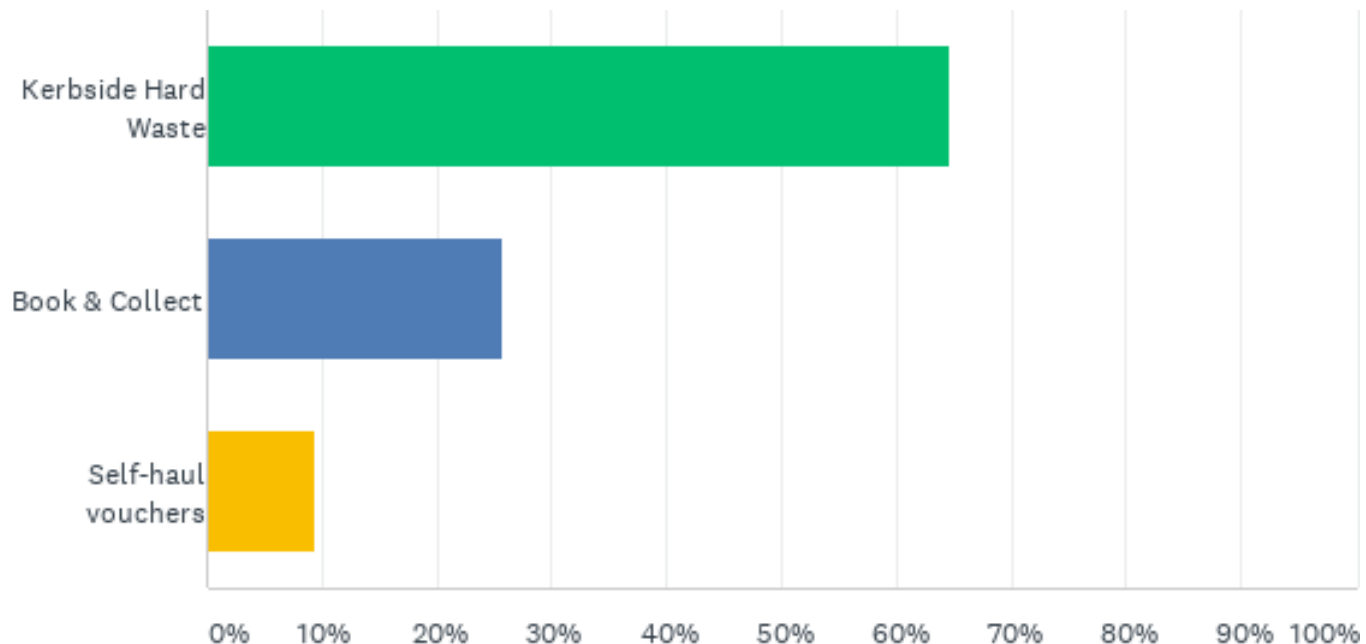
## Q5: How often would you like a hard waste collection to be offered?

Answered: 296 Skipped: 3

ANSWER CHOICES	RESPONSES	
Twice a year	58.45%	173
Once a year	38.18%	113
Every second year	3.38%	10
TOTAL		296

## Q6: What model of hard waste collection would you prefer?

Answered: 295 Skipped: 4



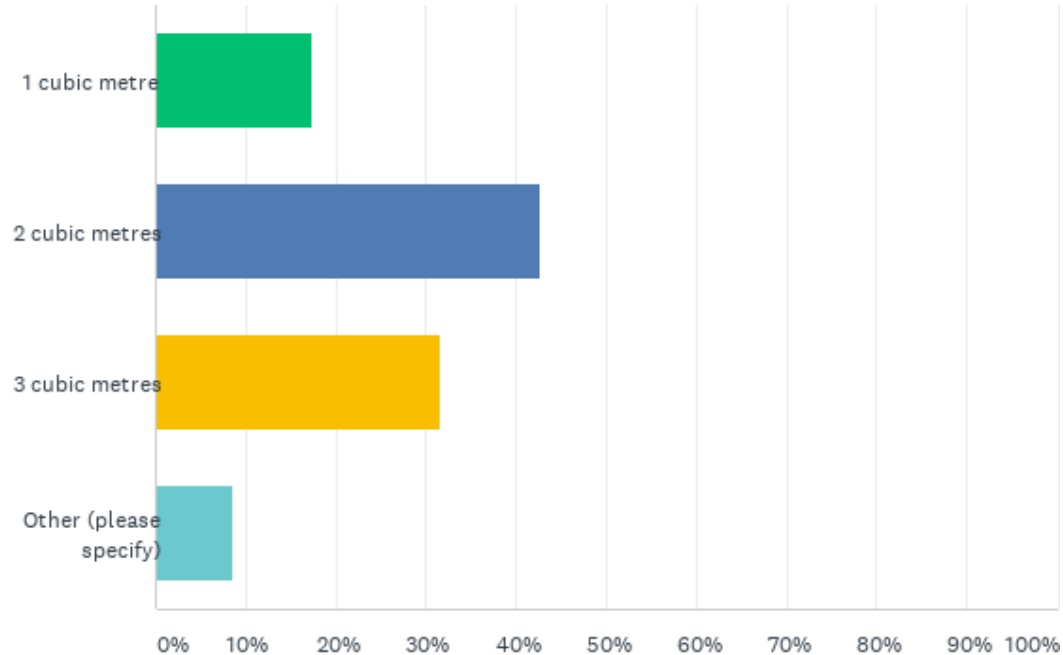
## Q6: What model of hard waste collection would you prefer?

Answered: 295 Skipped: 4

ANSWER CHOICES	RESPONSES	
Kerbside Hard Waste	64.75%	191
Book & Collect	25.76%	76
Self-haul vouchers	9.49%	28
TOTAL		295

## Q7: What size volumes would you like to be collected?

Answered: 295 Skipped: 4





## Q7: What size volumes would you like to be collected?

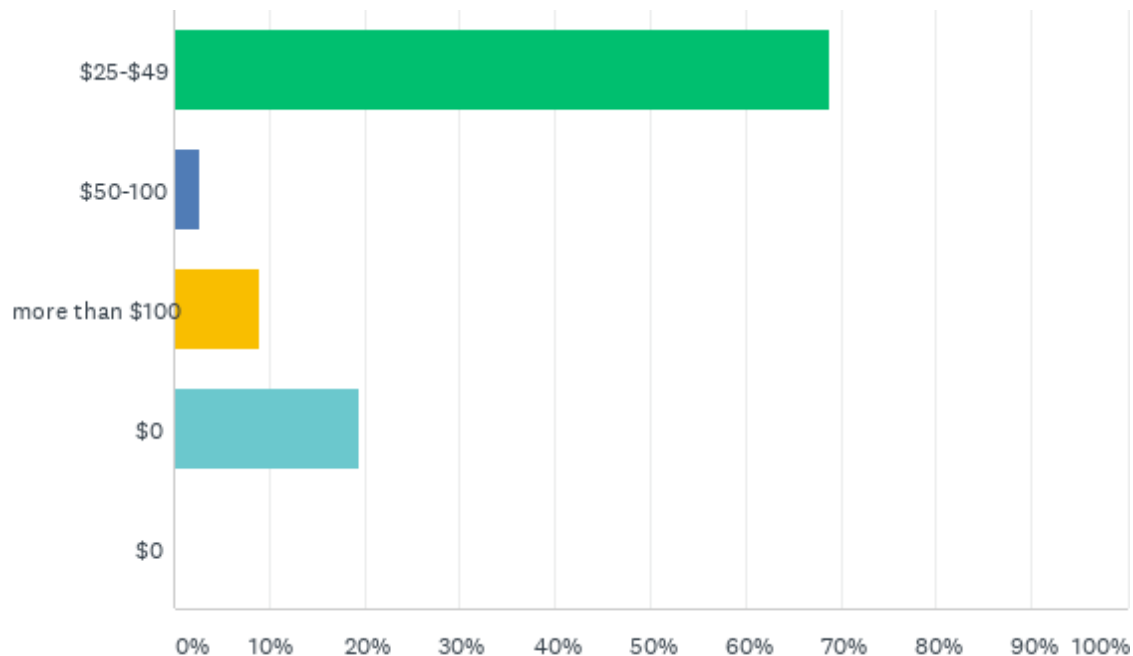
Answered: 295 Skipped: 4

ANSWER CHOICES	RESPONSES	
1 cubic metre	17.29%	51
2 cubic metres	42.71%	126
3 cubic metres	31.53%	93
Other (please specify)	8.47%	25
TOTAL		295

## Q8: What fee would you be prepared to pay either in your rates or in the waste management charge for each hard waste collection?

Attachment 10.7.1

Answered: 298 Skipped: 1



## Q8: What fee would you be prepared to pay either in your rates or in the waste management charge for each hard waste collection?

Attachment 10.7.1

Answered: 298 Skipped: 1

ANSWER CHOICES	RESPONSES	
\$25-\$49	68.79%	205
\$50-100	2.68%	8
more than \$100	9.06%	27
\$0	19.46%	58
\$0	0.00%	0
TOTAL		298

# Q9: Do you have any further feedback?

Attachment 10.7.1

Answered: 29 Skipped: 270\* answers of 'no' or 'thank you' not included

I would only use a hard waste if it was "offered" without the option to opt out and not be charged i.e. I would only use it if a fee was imposed regardless of whether I used it or not.

I think that those who have excess waste over the normal amount that goes in bins should be happy to pay the true cost of disposing it. It's not something that all the other ratepayers should cover. If its free x time per year or heavily subsidised there'll be a mountain of waste costing ratepayers a fortune.

Other councils have had this for years and I'm wondering why we should be paying

You don't provide a rubbish collection in our area but I'd like to think you could do this if we're paying for it to be collected, can only hope

It would be good if we could put things out on the nature strip and others could come and help themselves to whatever they'd like first. (limit of 2 days or something so it's not left there) Means less into landfill.

It is truly time that council offers services such as this we are very behind other councils

I like the idea of user pays system - not everyone will have hard rubbish to dispose of.

More green waste options, especially in spring and autumn

Maximum \$25 for pensioners or those on benefits, some don't have cars. Where is the nearest e waste collection point in Colac Otway, there should be a permanent collection facility in Colac and Apollo Bay that is emptied when full

Green bin delivery changed to weekly in growth time - spring-early summer and autumn

I prefer a tip-shop option, where almost everything collected is available at very low cost back to the community. I'd like to be able to buy local compost and mulch, sculptural things for artmaking, household/garden/building things that can be reused, repaired, refurbished, upcycled.

Biannual book and collect free for pensioners. For rental properties annual vouchers for self haul. Fee could be based on real cost of redeemed vouchers spread across all rentals.

I think this should be part of our garbage collection fee.

Please give back to the community instead of charging more and more every year without residents gaining any benefit.

Households should be encouraged to recycle waste good responsibly often with guidelines but need organisations able to manage / dismantle this waste such as whitegoods, mattresses, e-waste, bbqs, old cars, parts and machinery etc

Opening a tip shop

Thanks for adding the Zero \$. Look at many Melbourne councils and their support towards recycling, they are amazing. They have great Community feedback! Twice a year would be fantastic, but if it could be included in our rates at no extra cost, then once is adequate, preferably in better weather.. spring cleaning!

If council offers a hard waste service it should be a user pays

Why do a survey when you know we need hard waste. I can't even get to the tip based on my work timetable. Stop spending money on surveys and just have a go. It's worked before

There should be no extra fee incurred for a hard rubbish collection. Council rates are already very high.

notice that finally council has erected signage near ocean road to direct regarding parking, nature walk and not feeding birds etc for tourists which if very good. thank you

This should be a given that we would receive this service. It don't know why you need to ask us.

I think our rates which are high already more than cover the cost of such a service - this should be provided

Kennet River has many elderly residents who are no longer readily able to dispose of waste however curbside waste disposal twice a year - one for green waste in preparation for fire season and one for items as per above would be very helpful to everyone.

Very difficult to put hard rubbish out on narrow dirt roads intersecting with The Great Ocean Road. As we only use this feature rarely we would like a voucher available if required at no cost. We would not like to have to pay for the voucher if we don't require it.

as a remote community I would like to see 1 hard waste collection in late spring early summer for removal of vegetation in preparation for the fire season as the green bin is often not enough If there were one dedicated day residents would be able to dispose of large amounts of green waste instead of burning off

Kennett River has been the poor little cousin to Colac for years. With access to far less and there being a clear lack of equality in the spending of rates between remote to Colac, paying more for rates would be like saying hungry jacks chips are better than KFC.... a joke!

Wye River needs more support from Colac Otway Shire, our rates are very high and apart from a weekly garbage collection Wye River misses out on any form of funding as ALL our rates are spent in Colac..... A very dissatisfied rate payer.

Already have very high rates for little return in service from the shire. Appalling road conditions and weed infestation throughout coastal villages

## Item: 10.8

### Instruments of Delegation - Port of Apollo Bay

<b>OFFICER</b>	Simon McBeth
<b>GENERAL MANAGER</b>	Errol Lawrence Tony McGann
<b>DIVISION</b>	Infrastructure & Leisure Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Attachment 1- Port Manager Instrument of Delegation - 16 th September 2020 - council copy [<b>10.8.1</b> - 14 pages]</li> <li>2. Attachment 2- Port Manager Instrument of Sub- Delegation - 16 th September 2020- Council Copy [<b>10.8.2</b> - 7 pages]</li> <li>3. Attachment 3- Waterway Manager Instrument of Delegation - 16 th September 2020 - Council Copy [<b>10.8.3</b> - 9 pages]</li> </ol>
<b>PURPOSE</b>	The purpose of this report is for Council to consider and endorse the instruments and sub instruments of delegation for the Port of Apollo Bay (POAB).

## 1. EXECUTIVE SUMMARY

Council is the designated Committee of Management for the Port of Apollo Bay (POAB) under s112(2) of the Marine Act 1988, and under s44A of the Port Services Act 1995 (now the Port Management Act 1995) is the body appointed as the “Local Port Manager” of the POAB.

Under s44C of the Port Management Act 1995, the Port Manager of a local port may delegate, in writing, any power conferred on it by or under this Act (other than this power of delegation) to any of its employees.

Council is also appointed as Waterway Manager under the Marine Safety Act 2010 for the Local Port of Apollo Bay.

Under s217 of the Marine Safety Act 2010, a Waterway Manager may, by instrument, delegate to any person employed or engaged by the waterway manager under s216(3) any function or power conferred on the Waterway Manager by or under this Act, other than this power of delegation.

The Instrument of Delegations at the Port of Apollo Bay were last reviewed and authorised by Council in January 2020. Since that date there has been an organisational change at Colac Otway Shire. As a result, the management of the POAB has transferred from the management of Service and Operations to the Project Director City Deal. The instruments and sub instruments of delegation have been

updated to reflect this change. Prior to January 2020 Ordinary Council Meeting the instruments of delegation were reviewed and endorsed by Maddocks Solicitors. As the only change to the documents is to reflect a change in the line of management the documents were not reviewed again by lawyers.

The recommendations contained in this report are intended to address this change in organisational structure within the Port Delegations.

## 2. RECOMMENDATION

### ***That Council:***

- 1. Authorise the instrument of delegation (attachment 1) and instrument of sub-delegation (attachment 2) from the Port Manager (Colac Otway Shire) to members of council staff.***
- 2. Authorise the instrument of delegation (attachment 3) from the Waterway Manager (Colac Otway Shire) to members of council staff.***
- 3. Request that the Chief Executive Officer authorise and sign the instruments of delegation and affix the Common Seal of Council; the instruments come into force immediately the Common Seal of Council is affixed.***

## 3. KEY INFORMATION

- Council was gazetted as the designated Committee of Management for the Port of Apollo Bay in February 1996 under s112(2) of the Marine Act 1988.
- When Council was appointed as Committee of Management for the Port of Apollo Bay (Government Gazette 1 February 1996) specific functions and powers were granted to enable the management of the Port under the then Marine Act 1988. The Marine Act was amended in 2004 to provide a more accurate definition of the different levels of local authorities. As such, Council became the body appointed under s44A of the Port Services Act 1995 (now the Port Management Act 1995) as the “Local Port Manager” of the Port of Apollo Bay.
- Under s44C of the Port Management Act 1995, the Port Manager of a local port may delegate, in writing, any power conferred on it by or under this Act (other than this power of delegation) to any of its employees.
- Council was appointed as Waterway Manager under the Marine Safety Act 2010 for the Local Port of Apollo Bay in June 2012. Council extended its agreement as the declared Waterway Manager for the Local Port of Apollo Bay for a three-year period until 30 June 2022.
- Under s217 of the Marine Safety Act 2010, a Waterway Manager may, by instrument, delegate to any person employed or engaged by the waterway manager under s216(3) any function or power conferred on the Waterway Manager by or under this Act, other than this power of delegation.
- Each duty and/or function and/or power of the delegations are described in schedules of the instruments of delegation attached to this document.
- Port delegations were updated and authorised by Council in January 2020.
- The organisation structure at Port was altered in June 2020, whereby the Port Manager now reports to the Project Director, City Deal Projects instead of the Manager Services and Operations.

- The instruments and sub instruments of delegation have been updated to reflect this change in organisational structure.
- Prior to this change, these instruments of delegation were reviewed and endorsed by Maddocks Solicitors. No other changes to the instruments and sub instruments have been made.

## 4. COMMUNITY CONSULTATION & ENGAGEMENT

It is not proposed to undertake community consultation on this issue because in effect it simply retains the status quo, in terms of the staff involved. The community would not see any change.

## 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 4 - Our Leadership & Management

3. Organisational development and legislative compliance.

## 6. CONSIDERATIONS

### ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

These factors are not impacted as a result of this administrative change.

### LEGAL & RISK

There is a low level of legal risk associated with current delegations. The current port delegations have a number of powers, responsibilities and obligations delegated to the position of Manager of Services and Operations. This position no longer has any role in management of the Port. Furthermore, the current manager of Port function within the Shire, the Project Director, City Deals projects, has organisational responsibilities for this function but no current power under the relevant legislation to perform this role.

These instruments and sub-instruments of delegation will address this risk.

### FINANCIAL & BUDGETARY

Not applicable

## 7. IMPLEMENTATION STRATEGY

Instruments of delegation will come into force immediately upon signing by the Chief Executive Officer and upon affixing the Common Seal of Colac Otway Shire Council.

### COMMUNICATION

Not applicable

### TIMELINE

To be signed and have common seal affixed immediately following passing of council resolution.



## 8. OFFICER DIRECT OR INDIRECT INTEREST

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



Maddocks

Maddocks Delegations and Authorisations

***Instrument of Delegation from the Port Manager to Members of  
Council Staff***

**Colac Otway Shire Council  
(as Port Manager for the Port of Apollo Bay)**

**Instrument of Delegation**

**to**

**Members of Council Staff**



Maddocks

## Instrument of Delegation

In exercise of the power conferred by s 44C of the *Port Management Act 1995* (Vic), Colac Otway Shire Council, as Port Manager for the Port of Apollo Bay:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;

2. records that a reference in the Schedule to:

**"PDCDP" means Project Director, City Deal Projects**

**"PM" means Port Manager**

**"PTL" means Port Team Leader**

**"PO" means Port Officer**

3. declares that:

- 3.1 this Instrument of Delegation is authorised by a resolution of Council passed on the **insert date**; and

- 3.2 the delegation:

- 3.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

- 3.2.2 remains in force until varied or revoked;

- 3.2.3 is subject to any conditions and limitations set out in the Schedule; and

- 3.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

**The Common Seal of the Colac Otway Council** )  
 was hereunto affixed this day **the insert date** in )  
 the presence of: )

.....  
 Chief Executive

## **SCHEDULE**

## INDEX

*Port Management Act 1995 (Vic)*

*Port Management (Local Ports) Regulations 2015 (Vic)*

[8041495:  
25472653\_1]



Maddocks

<b>PORT MANAGEMENT ACT 1995</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 44B(1)	Power to do all things that are necessary or convenient to enable the Port Manager to carry out its functions under s 44A	PDCDP, PM, PTL, PO	
s 44B(2)(a)	Power to enter into other contracts and agreements	PDCDP, PM	
s 44B(2)(b)	Power to employ staff, or engage consultants, contractors or agents	PDCDP, PM, PTL	
s 44B(2)(c)	Power to exercise the Port Manager's powers outside the port lands or waters of the port to carry out the functions of Port Manager of that port or to ensure the safe operation of the port	PDCDP, PM, PTL, PO	
s 44D(1)	Power to impose a charge for the use of any facility in the port	PDCDP, PM, PTL	
s 44D(4)	Power to make allowances or provide for exemptions when imposing charges	PDCDP, PM	
s 44D(5)	Duty to specify who is to be liable for paying the charge	PDCDP, PM	
s 44D(6)	Duty to ensure that the Port Manager does not impose a charge on a person for using a facility without adequate notice	PDCDP, PM	
s 44D(8)	Power to charge interest on any unpaid charge	PDCDP, PM	



Maddocks

<b>PORT MANAGEMENT ACT 1995</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 44E(a)	Power to alter, dredge, cleanse, scour, straighten and improve the bed and channel of any river or sea-bed in port waters	PDCDP, PM, PTL, PO	
s 44E(b)	Power to reduce or remove any banks or shoals within any such river or sea-bed	PDCDP, PM, PTL, PO	
s 44E(c)	Power to abate and remove impediments, obstructions and nuisances in, or on the banks and shores of, any such river or sea-bed	PDCDP, PM, PTL, PO	
s 44F	Power to carry out works set out in s 44F(a) to (e)	PDCDP, PM, PTL, PO	
s 88Q(1)	Power to move any thing or cause any thing to be moved from a relevant port if the criteria in s 88Q(1)(a) to (b) is met	PDCDP, PM, PTL	
s 88Q(2)	Power to immediately remove a thing from a port if the criteria in s 88Q(2)(a) to (b) are met	PDCDP, PM, PTL, PO	
s 88R(2)	Duty, when moving a thing under s 88Q(1) or (2), to move the thing to a place that the Port Manager reasonably believes is the nearest safe and convenient place	PDCDP, PM, PTL, PO	
s 88S	Duty to make all reasonable enquiries to establish the identity or location of the owner of the property where the Port Manager has moved a thing under s 88Q(1) or (2)	PDCDP, PM, PTL, PO	
s 88T(1)	Power to dispose of the thing moved under s 88Q(1) or (2) either by gift, sale, destruction, or otherwise dealing with the thing	PDCDP, PM, PTL	





Maddocks

<b>PORT MANAGEMENT ACT 1995</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 88T(2)	Duty not to dispose of a thing under s 88T(1) unless the requirements in s 88T(2)(a) and (b) have been met	PDCDP, PM, PTL, PO	
s 88T(4)	Duty to give the owner notice in writing that the Port Manager intends to dispose of the thing	PDCDP, PM, PTL	
s 88T(5)	Power to dispose of the thing after the 28 days have expired, either by gift, sale, destruction, or otherwise dealing with the thing	PDCDP, PM, PTL	
s 88U(1)	Power to recover costs incurred by the moving, storing or disposing of the thing	PDCDP, PM, PTL	
s 88V(1)	Duty to pay to the owner, and any other person with an interest in the thing, an amount commensurate with the value of the person's interest in the thing less any amount payable under s 88U	PDCDP, PM	
s 88W(a)	Power to recover the costs of moving and disposal of the thing from the proceeds of that disposal	PDCDP, PM	
s 91C(1)(a) and (b)	Duty to ensure that a safety management plan and environment management plan is prepared	PDCDP, PM	For the port or part of the port that the Port Manager manages, superintends or controls  The safety management plan and environment management plan may be prepared as a single plan
s 91C(1A)(a)	Duty to ensure that the safety management plan is audited	PDCDP, PM	For the port or part of the port that the Port Manager manages, superintends or controls



Maddocks

<b>PORT MANAGEMENT ACT 1995</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 91C(1A)(b)	Duty to ensure that the environment management plan is audited	PDCDP, PM	For the port or part of the port that the Port Manager manages, superintends or controls
s 91C(2)	Duty to ensure that reasonable steps to implement measures and follow processes and procedures in s 91C(2) are taken	PDCDP, PM, TL	
s 91C(3)	Duty to comply with written direction of the Minister under s 91H	PDCDP, PM, TL, PO	
s 91C(4)	Duty to ensure that copies of certain documents are kept at the office of the Port Manager	PDCDP, PM, PTL	
s 91C(5)	Duty to ensure that copies of the documents are made available for inspection by an authorised person	PDCDP, PM, PTL, PO	
s 91F	Duty to ensure that an audit under s 91E is conducted	PDCDP, PM, PTL	
s 91FA	Function of receiving a report from the person who has audited a management plan under s 91E	PDCDP, PM	
s 91H	Function of receiving Ministerial directions and power to comply with directions issued	PDCDP, PM	
s 91HA	Function of receiving a Ministerial direction in relation to the publication of the audit report and power to comply with the direction issued	PDCDP, PM	
s 91HB	Duty to make an annual report to the Minister and any bodies that are prescribed by the Regulations, on the safety and	PDCDP, PM	



Maddocks

<b>PORT MANAGEMENT ACT 1995</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
	environmental performance outcomes for the port or the part of the port		



Maddocks

<b>PORT MANAGEMENT (LOCAL PORTS) REGULATIONS 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
r 10	Power to make a determination to set aside an area	PDCDP, PM, PTL	
r 11	Power to make a determination to set aside an area	PDCDP, PM, PTL	
r 12	Power to make a determination to set aside an area	PDCDP, PM, PTL	
r 13	Power to make a determination to set aside an area	PDCDP, PM, PTL	
r 14	Power to include any reasonable condition in its determination to set aside an area	PDCDP, PM, PTL	
r 15	Duty to keep a written record of any set aside determination, including any condition to which the determination is subject	PDCDP, PM, PTL	
r 16(1)	Duty to display details of the set aside determination as soon as practicable after making the determination	PDCDP, PM, PTL	
r 16(2)(a)	Duty to publish any set aside determination made under r 16(1) in the Government Gazette and on the Port Manager's Internet website	PDCDP, PM, PTL	
r 16(2)(b)	Power to publish any set aside determination made under r 16(1) in any other manner that the Port Manager considers appropriate	PDCDP, PM, PTL	



Maddocks

<b>PORT MANAGEMENT (LOCAL PORTS) REGULATIONS 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
r 17(1)	Power to approve the form in which a person may apply for a permit issued under r 17	PDCDP, PM, PTL	
r 17(2)(a)	Power to issue a permit that authorises a person to berth, moor or anchor a vessel	PDCDP, PM, PTL, PO	
r 17(2)(b)	Power to issue a permit that authorises a person to manage cargo	PDCDP, PM, PTL, PO	
r 17(2)(c)	Power to issue a permit that authorises a person to engage in an activity or access an area which does not fall within r 17(2)(a) and (b)	PDCDP, PM, PTL	
r 17(4)	Power to refuse to issue a permit to an applicant	PDCDP, PM, PTL, PO	
r 17(5)	Power to attach any reasonable condition to a permit issued under r 17(2)	PDCDP, PM, PTL, PO	
r 19	Duty not to issue a permit in respect of land in a local port that has been reserved under the <i>Crown Land (Reserves) Act 1978</i> (Vic), or to which the <i>National Parks Act 1975</i> (Vic) applies, if the purpose of the permit is detrimental to the purpose for which the land is reserved	PDCDP, PM, PTL, PO	
r 20	Power to suspend a permit	PDCDP, PM, PTL, PO	
r 21(1)	Power to cancel or vary a permit	PDCDP, PM, PTL, PO	



Maddocks

<b>PORT MANAGEMENT (LOCAL PORTS) REGULATIONS 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
r 21(3)	Power to cancel or vary a permit at the request of the holder of the permit	PDCDP, PM, PTL, PO	
r 23	Power to request the permit holder to produce their permit when engaging in an activity or accessing an area as authorised by the permit (or purports to do so)	PDCDP, PM, PTL, PO	
r 24	Duty to issue an identity card to each person to whom the Port Manager delegates any power conferred on it under s 44C of the <i>Port Management Act 1995</i> (Vic)	PDCDP, PM	
r 29(1)(a)	Power to approve a structure to which a vessel can be moored	PDCDP, PM, PTL	
r 35(a)	Power to give a direction	PDCDP, PM, PTL, PO	
r 39	Function of receiving notification of any incident involving hazardous port activities	PDCDP, PM, PTL, PO	
r 44(2)	Power to make guidelines in relation to leaving vessels, goods or other things unattended in a local port	PDCDP, PM, PTL	
r 44(3)(a)	Duty to publish the guidelines made under r 44(2) in the Government Gazette and on the Port Manager's Internet website	PDCDP, PM, PTL	
r 44(3)(b)	Power to publish the guidelines made under r 44(2) in any other manner that the Port Manager considers appropriate	PDCDP, PM, PTL	



Maddocks

<b>PORT MANAGEMENT (LOCAL PORTS) REGULATIONS 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
r 45	Power to give a direction that a vessel, goods or other thing be removed from the local port, or moved to another place within the local port	PDCDP, PM, PTL, PO	
r 46(1)	Power to move or dispose of a vessel, goods or other thing which may be the subject of a direction given under r 45(1)	PDCDP, PM, PTL, PO	
r 46(2)	Power to move the vessel, goods or other thing to a place located within or outside the local port for storage	PDCDP, PM, PTL, PO	
r 46(3)	Duty to maintain a record of any action taken under r 46	PDCDP, PM, PTL, PO	
r 46(4)	Power to give permission for a vessel, goods or other thing stored under r 46(2) to be removed or interfered with	PDCDP, PM, PTL	
r 47(1)	Power to dispose of a vessel, goods (other than goods that are perishable) or other thing by sale, destruction, appropriation or any other means if the criteria in r 47(1)(a) to (c) are met	PDCDP, PM, PTL	
r 47(2)	Power to dispose of goods that are perishable and are left at the local port if the criteria in r 47(2)(a) and (b) are met	PDCDP, PM, PTL	
r 47(3)	Duty to maintain a record of any action taken under r 47	PDCDP, PM, PTL	
r 50(1)	Power to erect or display a sign or notice with respect to jumping and diving on or near a wharf, natural asset or other infrastructure	PDCDP, PM, PTL, PO	



Maddocks

<b>PORT MANAGEMENT (LOCAL PORTS) REGULATIONS 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
r 51(1)	Power to erect or display a sign or notice with respect to swimming and other in water activities on or near a wharf	PDCDP, PM, PTL, PO	
r 55(2)	Power to make guidelines in relation to the organisation, or conduct, of organised activities in a local port	PDCDP, PM, PTL	
r 55(3)(a)	Duty to publish the guidelines made under r 55(2) in the Government Gazette and on the Port Manager's Internet website	PDCDP, PM, PTL	
r 55(3)(b)	Power to publish the guidelines made under r 55(2) in any other manner that the Port Manager considers appropriate	PDCDP, PM, PTL	
r 61	Power to provide marine safety equipment or other safety equipment in a local port	PDCDP, PM, PTL, PO	
r 66(1)	Power to give directions to a person, the master or owner of a vessel, or a person in charge of a vehicle in a local port	PDCDP, PM, PTL, PO	Subject to r 66(2)



Maddocks Delegations and Authorisations

***Instrument of Sub-Delegation from the Chief Executive  
Officer to Members of Council Staff***

**Colac Otway Shire Council  
(as Port Manager for the Port of Apollo Bay)**

**Instrument of Sub-Delegation**

**to**

**Members of Council Staff**



Maddocks

## Instrument of Sub-Delegation

**By this Instrument of Sub-Delegation, I, as Chief Executive Officer of Colac Otway Shire Council, as Port Manager for the Port of Apollo Bay:**

1. delegate each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;
2. record that references in the Schedule are as follows:
 

**"PDCDP" means Project Director, City Deal Projects**

**"PM" means Port Manager**

**"PTL" means Port Team Leader**

**"PO" means Port Officer**
3. record that on the coming into force of this Instrument of Sub-Delegation each delegation under the Instrument of Sub-Delegation dated 7<sup>th</sup> August 2020 and executed by the Chief Executive Officer of the Colac Otway Shire is revoked;
4. declare that this Instrument of Sub-Delegation –
  - 4.1 comes into force immediately upon its execution;
  - 4.2 remains in force until varied or revoked;
  - 4.3 is subject to any conditions and limitations set out in the Schedule; and
  - 4.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

**This Instrument of Sub-Delegation** is dated the **insert date** and is made by the Chief Executive Officer under authority of an Instrument of Delegation authorised by Resolution of Council made on **insert date resolution passed by council**

**Signed** by the Chief Executive Officer of Colac )  
Otway Shire Council in the presence of: )

.....  
Witness

Date: .....



Maddocks

**SCHEDULE**

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 24	Duty to ensure the safety of marine safety infrastructure operations	PDCDP, PM PTL, PO	
s 28(1)	Function of receiving information on marine safety infrastructure operations	PDCDP, PM PTL	
s 193(1)	Duty to notify the Safety Director of the intention to make a request under s 194	PDCDP, PM	
s 193(3)(b)	Function of receiving notice from the Safety Director	PDCDP, PM	
s 193(5)	Function of receiving advice from the Safety Director	PDCDP, PM	
s 193(6)	Function of receiving advice from the Safety Director	PDCDP, PM	
s 193(7)	Function of receiving advice from the Safety Director	PDCDP, PM	
s 194(1)	Power to request that the Safety Director makes waterway rules	PDCDP, PM	In relation to waters under its control
s 196(1)	Duty to invite submissions and comments regarding proposed waterway rule	PDCDP, PM	Subject to Part 5.1
s 196(2)	Duty to publish notice and make copies available	PDCDP, PM PTL	
s 196(5)	Duty to take into account every submission or comment received	PDCDP, PM	



Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 200	Function of consulting with the Safety Director	PDCDP, PM	
s 202	Duty to comply with a standard determined under s 199	PDCDP, PM PTL, PO	
s 203(1)	Function of receiving an application for an exemption or a modification	PDCDP, PM	Where the Port Manager is the 'applicable regulatory entity'
s 203(3)	Power to make a declaration in respect of the matters listed in s 203(3)(a) to (c)	PDCDP, PM	Where the Port Manager is the 'applicable regulatory entity'
s 203(6)	Duty to publish declaration	PDCDP, PM	Where the Port Manager is the 'applicable regulatory entity'
s 204(1)	Duty to give certain documents to the Safety Director	PDCDP, PM	
s 204(4)	Duty to comply with a direction made by the Safety Director	PDCDP, PM PTL, PO	
s 208(2)	Power to prohibit a person, or class of person, or vessel, or class of vessel, from entering or remaining in a specified part of waters under Council's control	PDCDP, PM PTL	Subject to ss 208 and 209
s 209(1)	Duty to give a copy of the draft notice to the Safety Director	PDCDP, PM PTL	
s 209(4)	Duty to comply with a direction made by the Safety Director	PDCDP, PM PTL, PO	



## Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 211(1)(a)	Power to give directions to masters of vessels in relation to the navigation and movement of those vessels	PDCDP, PM PTL, PO	Where the Port Manager is an 'applicable regulatory entity'
s 211(1)(b)	Power to publish notice in the Government Gazette prohibiting the navigation and movement of vessels, and or regulating the position and manner in which vessels may anchor or be secured	PDCDP, PM	Where the Port Manager is an 'applicable regulatory entity'  Subject to s 212
s 212(1)	Duty to give draft of the notice to the Safety Director	PDCDP, PM	
s 212(4)	Duty to comply with a direction made by the Safety Director	PDCDP, PM PTL, PO	
s 215(1)(b)	Function of determining that, due to an emergency, persons must not enter or remain in a part of waters	PDCDP, PM PTL, PO	
s 215(2)	Power to direct a person not to enter or remain in waters	PDCDP, PM PTL, PO	
s 215(3)	Duty to make a written copy of oral direction as soon as possible and keep a copy for a period of 6 years after the date of the direction	PDCDP, PM PTL, PO	
s 220(4)	Duty to ensure that a licensed harbour master is engaged at all times	PDCDP	In respect of any part of waters in which the Safety Director has determined that a licensed harbour master is required to be engaged



Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 221(1)	Duty to issue an identity card to the harbour master	PDCDP	
s 221(3)	Duty to produce identity card	PDCDP, PM PTL, PO	If there is no harbour master for the Port of Apollo Bay
s 221(4)	Duty to warn the person to whom the direction is given that failure to comply with the direction may constitute an offence under s 237(1)	PDCDP, PM PTL, PO	If there is no harbour master for the Port of Apollo Bay
s 227(2)	Function of consulting with the Safety Director	PDCDP, PM	
s 227(3)	Function of consulting with the Safety Director	PDCDP, PM	
s 229(2)	Power to authorise an assistant harbour master	PDCDP	For the waters that have been so declared to be part of the port under s 5 of the <i>Port Management Act 1995</i> (Vic)
s 229(3)	Power to authorise an assistant harbour master	PDCDP	If a harbour master is engaged, the harbour master has been consulted and the Safety Director has given written approval
s 232	Power to give written and oral directions	PDCDP, PM PTL, PO	If there is no harbour master for the Port of Apollo Bay  Subject to ss 233 and 234



Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 232(5)	Function of keeping a written copy of a direction made by a harbour master engaged by Council at Council offices for a period of 6 years after the date of the direction	PDCDP, PM PTL	
s 235	Power to amend or revoke directions	PDCDP, PM PTL	If there is no harbour master for the Port of Apollo Bay
s 236(1)	Power to cause the vessel to be dealt with as required	PDCDP, PM PTL, PO	If there is no harbour master for the Port of Apollo Bay
s 236(2)	Power to board a vessel and move, secure or otherwise operate the vessel	PDCDP, PM PTL, PO	If there is no harbour master for the Port of Apollo Bay
s 236(3)	Power to recover, from master or owner of the vessel, reasonable charges and expenses incurred from a harbour master's actions under s 236(1)	PDCDP, PM	
s 281	Function of consulting with the Safety Director regarding development and review of the Marine Enforcement Policy	PDCDP, PM	

Maddocks Delegations and Authorisations

***Instrument of Delegation from the Waterway Manager***

**Colac Otway Shire Council  
(as Waterway Manager for the Port of Apollo Bay)**

**Instrument of Delegation**





Maddocks

## Instrument of Delegation

In exercise of the power conferred by s 217 of the *Marine Safety Act 2010* (Vic), Colac Otway Shire Council, as Waterway Manager for the Port of Apollo Bay:

1. delegate each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff, or person engaged by Council under s 216(3) of the *Marine Safety Act 2010* (Vic), described opposite each such duty and/or function and/or power in column 3 of the Schedule;

2. records that a reference in the Schedule to:

**"PDCDP" means Project Director, City Deals Project**

**"PM" means Port Manager**

**"PTL" means Port Team Leader**

**"PO" means Port Officer**

3. declares that:

- 3.1 this Instrument of Delegation is authorised by a resolution of Council passed on **insert date**; and

- 3.2 the delegation:

- 3.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

- 3.2.2 remains in force until varied or revoked;

- 3.2.3 is subject to any conditions and limitations set out in the Schedule; and

- 3.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

**The Common Seal of the Colac Otway Council** )  
 was hereunto affixed this day the **insert date** in the )  
 presence of: )

.....  
 Chief Executive



Maddocks

**SCHEDULE**

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 193(1)	Duty to notify the Safety Director of the intention to make a request under s 194	PDCDP, PM, PTL	
s 193(3)(b)	Function of receiving notice from the Safety Director	PDCDP, PM, PTL	
s 193(5)	Function of receiving advice from the Safety Director	PDCDP, PM, PTL	
s 193(6)	Function of receiving advice from the Safety Director	PDCDP, PM, PTL	
s 193(7)	Function of receiving advice from the Safety Director	PDCDP, PM, PTL	
s 194(1)	Power to request that the Safety Director makes waterway rules	PDCDP, PM, PTL	In relation to waters under its control
s 196(1)	Duty to invite submissions and comments regarding proposed waterway rule	PDCDP, PM, PTL	Subject to Part 5.1
s 196(2)	Duty to publish notice and make copies available	PDCDP, PM, PTL	
s 196(5)	Duty to take into account every submission or comment received	PDCDP, PM, PTL	
s 200	Function of consulting with the Safety Director	PDCDP, PM	
s 202	Duty to comply with a standard determined under s 199	PDCDP, PM, PTL, PO	



Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 203(3)	Power to make a declaration in respect of the matters listed in ss 203(3)(a) – 203(3)(c)	PDCDP, PM	Where Council is an applicable regulatory entity
s 203(6)	Duty to publish declaration	PDCDP, PM	Where Council is an applicable regulatory entity
s 204(1)	Duty to give certain documents to the Safety Director	PDCDP, PM, PTL, PO	
s 204(4)	Duty to comply with a direction by the Safety Director	PDCDP, PM, PTL, PO	
s 208(2)	Power to prohibit a person, or class of person, or vessel, or class of vessel, from entering or remaining in a specified part of waters under Council's control	PDCDP, PM, PTL	Subject to ss 208 and 209
s 209(1)	Duty to give a copy of the draft notice to the Safety Director	PDCDP, PM	
s 209(4)	Duty to comply with a direction by the Safety Director	PDCDP, PM, PTL, PO	
s 211(1)(a)	Power to give directions to masters of vessels in relation to the navigation and movement of those vessels	PDCDP, PM, PTL, PO	Where Council is an applicable regulatory entity
s 211(1)(b)	Power to publish notice in the Government Gazette prohibiting the navigation and movement of vessels, and or regulation the position and manner in which vessels may anchor or be secured	PDCDP, PM	Where Council is an applicable regulatory entity  Subject to s 212



Maddocks

<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 212(1)	Duty to give draft of the notice to the Safety Director	PDCDP, PM	
s 212(4)	Duty to comply with a direction of the Safety Director	PDCDP, PM, PTL, PO	
s 215(1)	Function of determining that, due to an emergency, persons must not enter or remain in a part of waters	PDCDP, PM, PTL	
s 215(2)	Power to direct a person not to enter or remain in waters	PDCDP, PM, PTL, PO	
s 215(3)	Duty to make a written copy of oral direction as soon as possible and keep a copy for a period of 6 years after the date of the direction	PDCDP, PM, PTL, PO	
s 216(1)(a)	Function of managing vessel activities on the water	PDCDP, PM, PTL, PO	Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(b)	Function of managing and allocating moorings and berths in water	PDCDP, PM, PTL, PO	Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(c)	Function of providing and maintaining navigation aids, including appropriate signage as to water levels, hazards and applicable marine laws	PDCDP, PM, PTL, PO	In accordance with any standards developed by the Safety Director



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<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
			Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(d)	Function of controlling the navigation and vessel movement in the water	PDCDP, PM, PTL, PO	Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(e)	Function of designating areas in which anchorage of vessels is permitted and not permitted	PDCDP, PM, PTL, PO	Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(f)	Function of altering and dredging channels for navigation in water	PDCDP, PM, PTL, PO	In accordance with any directions or determination of the Safety Director  Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels
s 216(1)(g)	Function of removing or marking obstructions in the water	PDCDP, PM, PTL, PO	Council must carry out functions under s 216(1) in a manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels



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<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 216(3)(a)	Power to enter into contracts and agreements for the carrying out of Council's functions under s 216 of the <i>Marine Safety Act 2010</i> (Vic)	PDCDP, PM, PTL	
s 216(3)(b)	Power to enter into contracts or agency agreements with persons to assist in the carrying out of Council's functions under the <i>Marine Safety Act 2010</i> (Vic)	PDCDP, PM, PTL	
s 216(3)(c)	Power to charge the prescribed fees for any service provided	PDCDP, PM, PTL	Council must have regard to any relevant regulations made under s 311
s 216(3)(d)	Power to do all things necessary to enable Council to carry out its functions under s 216 of the <i>Marine Safety Act 2010</i> (Vic)	PDCDP, PM, PTL, PO	
s 219A(1)	Power to move any 'thing' or cause any 'thing' to be moved from water	PDCDP, PM, PTL, PO	Subject to ss 219A(1)(a) and 219A(1)(b)
s 219A(2)	Power to immediately remove a 'thing' from water	PDCDP, PM, PTL, PO	Subject to ss 219A(2)(a) and 219A(2)(b)
s 219B(1)	Power to enter the vehicle or vessel using reasonable force if necessary	PDCDP, PM, PTL, PO	For the purpose of conveniently or expediently moving the vehicle or vessel
s 219B(2)	Duty to move the 'thing' to the nearest safe and convenient place	PDCDP, PM, PTL, PO	
s 219C	Duty to make all reasonable enquiries to establish the identity or location of the owner of the property	PDCDP, PM, PTL, PO	



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<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 219D(1)	Power to dispose of a 'thing'	PDCDP, PM, PTL, PO	Council must not to dispose of a 'thing' under s 219D(1) subject to ss 219D(2)(a) – (b) and 219D(3)
s 219D(4)	Duty to give the owner of a 'thing' that has been moved notice, in writing, that Council intends to dispose of it	PDCDP, PM, PTL, PO	
s 219D(5)	Power to dispose of the 'thing' after 28 days, either by gift, sale, destruction, or by otherwise dealing with the 'thing'	PDCDP, PM, PTL, PO	If notice in writing is given under s 219D(4) to the owner and the owner does not recover the 'thing'
s 219E(1)	Power to recover costs from the owner of the 'thing'	PDCDP, PM, PTL	If a 'thing' has been moved under ss 219A(1) or 219A(2)
s 219F(1)	Duty to pay to the owner, and any other person with an interest in the 'thing', an amount commensurate with the value of the person's interest in the 'thing', less any amount payable under s 219E	PDCDP, PM	If the owner of a 'thing' is unable to recover possession of the 'thing' because the thing has been disposed of under Part 5.5 Division 2
s 219G(a)	Power to recover the costs of moving and disposing of the 'thing'	PDCDP, PM, PTL	If the 'thing' has been disposed of under s 219D(1) and the identity or location of the owner has not been established
s 220(5)	Duty to ensure that a licensed harbour master is engaged at all times	PDCDP	In respect of any part of waters in which the Safety Director has determined that a licensed harbour master is required to be engaged
s 221(1)	Duty to issue an identity card to the harbour master	PDCDP	



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<b>MARINE SAFETY ACT 2010</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>ITEM DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS AND LIMITATIONS</b>
s 227(2)	Function of consulting with the Safety Director	PDCDP, PM	
s 227(3)	Function of consulting with the Safety Director	PDCDP, PM	
s 229(4)	Power to authorise, in writing, a person to act as an assistant harbour master	PDCDP, PM	If a harbour master is engaged, the harbour master has been consulted and the Safety Director has given written approval
s 232(5)	Function of keeping a written copy of a direction made by a harbour master engaged by Council at Council offices for a period of 6 years after the date of the direction	PDCDP, PM, PTL	
s 236(3)	Power to recover, from master or owner of the vessel, reasonable charges and expenses incurred from a harbour master's actions under s 236(1)	PDCDP, PM, PTL	
s 281	Function of consulting with the Safety Director regarding development and review of the Marine Enforcement Policy	PDCDP, PM	



Item: 10.9

## Library Services - Transition to the Geelong Regional Library Corporation

<b>OFFICER</b>	Ian Seuren
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Geelong Regional Library Corporation - Supplementary Agreement - Colac Otway Shire membership [<b>10.9.1</b> - 12 pages]</li><li>2. Geelong Regional Library Corporation - Library Agreement 2009 [<b>10.9.2</b> - 15 pages]</li></ol>
<b>PURPOSE</b>	To progress the transition of library services to the Geelong Regional Library Corporation through the signing of a Supplemental Agreement with the Corporation.

### 1. EXECUTIVE SUMMARY

At its June 2020 Ordinary Council Meeting, Council resolved to withdraw from the Corangamite Regional Library Corporation and join the Geelong Regional Library Corporation (GRLC) by 30 June 2021.

A working group has been established inclusive of Council, Geelong Regional Library Corporation and the Corangamite Regional Library Corporation to process the transition of library services from Corangamite to Geelong. A Project Plan has been developed to guide the transition of business. The priority task has been to work through governance arrangements.

In order for Colac Otway Shire to become a member of the GRLC, endorsement is required by all existing member Councils; these being City of Greater Geelong, Surf Coast Shire, Golden Plains Shire and the Borough of Queenscliffe. A Supplemental Agreement has been drafted by Maddocks Lawyers (Attachment 1). There are no changes to the current Regional Library Agreement (Attachment 2) for existing members Councils and Colac Otway Shire will be obligated to abide by all the current agreement conditions. The Regional Library Agreement is similar to the agreement that Council currently has with the CRLC.

In order for the Supplemental Agreement to be executed, all Member Councils must endorse the Supplemental Agreement. The Common Seal of each Member Council must then be affixed to the final document. The Supplemental Agreement is then to be sent to the Minister for Local Government.

## 2. RECOMMENDATION

***That Council:***

- 1. Notes the resolution from its June 2020 Ordinary Council Meeting to withdraw from the Corangamite Regional Library Corporation and join the Geelong Regional Library Corporation by 30 June 2021.***
- 2. Authorises the execution of the Geelong Regional Library Corporation Supplemental Agreement, and the Mayor and Chief Executive Officer as signatories to the Agreement.***
- 3. Authorises the Chief Executive Officer to affix the Common Seal to the Geelong Regional Library Corporation Supplemental Agreement.***

## 3. KEY INFORMATION

At its June 2020 Ordinary Council Meeting, Council resolved:

***That Council:***

- 1. notes the findings of the Colac Otway Shire Library Service Review including the results from the community consultation;***
- 2. resolves to withdraw its membership of the Corangamite Regional Library Corporation by 30 June 2021;***
- 3. instructs the Chief Executive to write to the Corangamite Regional Library Corporation prior to 30 June 2020 stating Council's intention to withdraw its membership of the corporation;***
- 4. instructs the Chief Executive to write to the Geelong Regional Library Corporation requesting that they accept Colac Otway Shire as a member Council prior to 30 June 2021;***
- 5. reviews the levels of service to be provided by the Geelong Regional Library Corporation, including the Outreach Service, to reduce the potential cost of the service to be provided by the Geelong Regional Library Corporation;***
- 6. requests a further briefing on the transition costs and operational costs of becoming a partner with the Geelong Regional Library Corporation following further investigation.***

On 24 June 2020, the Geelong Regional Library Corporation (GRLC) Board resolved to endorse accepting Colac Otway Shire as a GRLC member in principle and subject to all member Councils endorsing the membership as required under the Library Agreement.

Council's Chief Executive wrote to the GRLC requesting the opportunity to join the GRLC, which was received by the Corporation on 25 June 2020.

In order for Colac Otway Shire to become a member of the GRLC, endorsement is required by all existing member Councils; these being City of Greater Geelong, Surf Coast Shire, Golden Plains Shire and the Borough of Queenscliff. A Supplemental Agreement has been drafted by Maddocks Lawyers (Attachment 1). There are no changes to the current Regional Library Agreement (Attachment 2) for existing member Councils and Colac Otway Shire will be obligated to abide by all the current

agreement conditions. The Regional Library Agreement is similar to the agreement Council currently has with the CRLC.

In order for the Agreement to be executed, all Member Councils must endorse the Supplemental Agreement. The Common Seal of each Member Council must then be affixed to the final document. The Supplemental Agreement is then to be sent to the Minister for Local Government.

At the time of writing this report, three existing member Councils (City of Greater Geelong, Golden Plains Shire and Borough of Queenscliffe) had accepted Colac Otway Shire into the GRLC, and resolved to sign the Supplemental Agreement. Surf Coast Shire considered the request on 15 September 2020.

Although Council will be considered a member of the GRLC once the Supplemental Agreement has been approved and gazetted, its library services will continue to be provided by the Corangamite Regional Library Corporation for the remainder of the 2020/21 year. There will be no financial commitment to the GRLC until the 2021/22 financial year.

A Project Working Group (PWG) has been established inclusive of Council, Geelong Regional Library Corporation and the Corangamite Regional Library Corporation to process the transition of library services from Corangamite to Geelong. A Project Plan has been developed to guide the transition of business, which will be implemented through fortnightly PWG meetings. The Project Plan includes the following key issues to be worked through:

- Governance
- Finance
- Technology
- People
- Collection
- Branches and Mobile Library
- Communication and Change Management

There are many factors to consider in the transition of library services from staffing arrangements and entitlements, through to collections and outreach services. A key component of the transition is supporting existing staff, as well as ensuring a smooth transition for the users of our service.

Further reports will be provided to Council as the transition progresses, including finer details on the practicalities and operational costs associated with the service being delivered by GRLC.

## 4. COMMUNITY CONSULTATION & ENGAGEMENT

Council has previously undertaken community consultation to inform the Library Services Review, and in turn its decision at the June 2020 Ordinary Council Meeting to withdraw from the Corangamite Regional Library Corporation and join the GRLC.

Engagement has been undertaken with the GRLC, with the Board having discussed the possibility of Colac Otway Shire joining since 2017. This culminated with the GRLC Board supporting Council's request to join the Corporation at its June 2020 Board meeting.

## 5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Alignment to Council Plan 2017-2021:

Theme 3 - Our Community

2. Connect people through events and activities.
3. Opportunities for the community to participate in lifelong learning.

Theme 4 - Our Leadership & Management

4. Provide value for money services for our community.

## 6. CONSIDERATIONS

### ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

Public Libraries contribute significantly to our community in a variety of ways including:

- Creating informed communities, supporting and strengthening democracy through the equitable and free provision of access to local and global information sources;
- Providing free and universal access to information technology infrastructure, computer literacy and technology resources;
- Providing opportunities for lifelong learning and culture through resources to support self-directed learning and programmed information, reading, cultural and digital literacy activities;
- Building community by providing welcoming, neutral, community space that is open to all members of the community from all walks of life and by connecting individuals, groups and government.

Research shows that public libraries are one of the most productive investments in public services across all levels of government. For example, every \$1 invested in CRLC libraries by member Councils and other funding sources generates a return of \$3.80 to the community through efficient access to collections and educational, social, health and employment benefits.

Contemporary libraries retain a strong focus on reading, research and historical collections (including ebooks) for people of all ages and interests. Libraries are also experiencing increasing community demand for reading and social programs, efficient access to technology, and safe comfortable places and spaces to read, study, work, meet and relax.

### LEGAL & RISK

In order for Colac Otway Shire to become a member of the GRLC, endorsement is required by all existing member Councils. A Supplemental Agreement has been drafted by Maddocks Lawyers (Attachment 1). There are no changes to the current Regional Library Agreement (Attachment 2) for existing members Councils and Colac Otway Shire is obligated to abide by all the current agreement conditions. This agreement is similar to the current Corangamite Regional Library Corporation Library Agreement, which Council is a signatory to.

The Common Seal of each Member Council must be affixed to the final document. The Supplemental Agreement is then to be sent to the Minister for Local Government with a covering letter indicating the changes that have been made to GRLC Membership. The Agreement will be examined by the Local Government Victoria legal team. It also requires approval by the Minister for Local Government, and once approved will be gazetted.

## **FINANCIAL & BUDGETARY**

When making its decision to request to join the GRLC, Council considered the ongoing operational costs associated with this decision. The Project Working Group is currently working through the details of the likely operational costs which will be influenced by a range of issues including staffing requirements, Outreach services, etc. A further report will be presented to Council in future months once likely costs are defined in more detail.

Council has covered the cost of drafting the Supplemental Agreement, at a cost of approximately \$1500.

From a GRLC perspective, the admission of Council to the Corporation will provide several advantages including a contribution to regional costs of approximately \$300,000. There are economies of scale that can be achieved through an additional member Council across the Corporation headquarters that will benefit existing members Councils. The State Government grant currently received by CRLC for Colac Otway Shire's membership (\$190K) would also come over to the GRLC. An additional 41,000 collection items would be added to the shared regional collection providing a greater range for GRLC library members and visitors.

Although Council will be considered a member of the GRLC once the Supplemental Agreement has been approved and gazetted, its library services will continue to be provided by the Corangamite Regional Library Corporation for the remainder of the 2020/21 year. Therefore, it is not anticipated that there will be any servicing costs by being a member of the GRLC in the 2020/21 financial year.

## **7. IMPLEMENTATION STRATEGY**

Should Council support the officer recommendation, the Supplemental Agreement will be signed and the Common Seal affixed. Once the Supplemental Agreement has been signed by all member Councils, it will be forwarded to the Minister for Local Government for approval.

### **COMMUNICATION**

Council will communicate its decision with the GRLC in order to progress its membership.

### **TIMELINE**

It is anticipated that Council's membership will be processed by the end of the 2020 calendar year. Library services will be provided by the GRLC from 1 July 2021.

## **8. OFFICER DIRECT OR INDIRECT INTEREST**

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



## Maddocks

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DX 259 Melbourne

## Supplementary Agreement

**Greater Geelong City Council**  
and

**Golden Plains Shire Council**  
and

**Surf Coast Shire Council**  
and

**Borough of Queenscliffe**  
and

**Colac Otway Shire Council**



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## Supplementary Agreement

### Dated

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### Parties

Name	<b>Greater Geelong City Council</b>
Address	having its Municipal Office at 30 Gheringhap Street, Geelong, Victoria 3220
Email	contactus@geelongcity.vic.gov.au
Contact	Martin Cutter, Chief Executive Officer
Short name	Greater Geelong

Name	<b>Golden Plains Shire Council</b>
Address	having its Municipal Office at 2 Pope Street, Bannockburn, Victoria 3331
Email	enquiries@gplains.vic.gov.au
Contact	Eric Braslis, Chief Executive Officer
Short name	Golden Plains

Name	<b>Surf Coast Shire Council</b>
Address	having its Municipal Office at 1 Merrijig Drive, Torquay, Victoria 3228
Email	info@surfcoast.vic.gov.au
Contact	Keith Baillie, Chief Executive Officer
Short name	Surf Coast

Name	<b>Borough of Queenscliffe</b>
Address	having its Municipal Office at 50 Learmonth Street, Queenscliffe, Victoria, 3225
Email	info@queenscliffe.vic.gov.au
Contact	Martin Gill, Chief Executive Officer
Short name	Queenscliffe

Name	<b>Colac Otway Shire Council</b>
Address	having its Municipal Office at 2-6 Rae Street, Colac, Victoria, 3250
Email	inq@colacotway.vic.gov.au
Contact	Peter Brown, Chief Executive Officer
Short name	Colac Otway





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## Background

- A. The Geelong Regional Library Corporation (**the Regional Library**) was established by Greater Geelong, Golden Plains, Surf Coast and Queenscliffe on or about 27 March 1997, by agreement made under section 196 of the Act (**the Original Agreement**).
- B. On 19 March 2009, Greater Geelong, Golden Plains, Surf Coast and Queenscliffe entered into an agreement which, following approval by the Minister for Local Government and the publication of a notice in the *Victoria Government Gazette* under section 196(2) of the *Local Government Act* 1989, had the effect of replacing the Original Agreement and itself has been amended by a Supplemental Agreement dated 27 June 2016 and Further Supplemental Agreement dated 26 October 2019 (which agreement, as amended, is **the Current Agreement**).
- C. Clause 12.1 of the Current Agreement provides for the admission of other councils to membership of the Regional Library.
- D. Colac Otway wishes to become a member of the Regional Library, and a party to the Current Agreement.
- E. Greater Geelong, Golden Plains, Surf Coast and Queenscliffe are willing to admit Colac Otway to membership of the Regional Library, and to add Colac Otway as a party to the Current Agreement.
- F. Greater Geelong, Golden Plains, Surf Coast and Queenscliffe also wish to amend the Current Agreement, to reflect developments that have occurred since the Current Agreement was entered into.
- G. This Supplementary Agreement sets out the terms on which Colac Otway is admitted to membership of the Regional Library and becomes a party to the Current Agreement, and the amendments which are to be made to the Current Agreement.



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## The Parties Agree

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### 1. Definitions

In this Agreement:

**Act** means the *Local Government Act* 1989;

**Effective Date** means 2 April 2021; and

**Minister** means the Victorian Government Minister responsible for administering the Act.

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### 2. Condition Precedent, Commencement and Effect

- 2.1 This Agreement has no effect unless it is approved by the Minister in accordance with clause 23.1 of the Current Agreement and section 196(8) of the Act.
- 2.2 This Agreement commences operation on the date on which the notice in accordance with section 196(8) of the Act is published in the *Victoria Government Gazette*.

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### 3. Colac Otway Admission

- 3.1 On and from the Effective Date, Colac Otway is:
  - 3.1.1 a party to the Current Agreement, as if it were expressly named as such; and
  - 3.1.2 by reason of becoming a party to the Current Agreement, a member of the Regional Library.
- 3.2 The:
  - 3.2.1 assets which Colac Otway is to transfer or make available to the Regional Library on or from the Effective Date; and
  - 3.2.2 financial contribution which Colac Otway is to make to the Regional Library on the Effective Date or between the Effective Date and 30 June 2021

will be as agreed between and among Greater Geelong, Golden Plains, Surf Coast, Queenscliffe and Colac Otway or, in default of agreement, as determined in accordance with clause 14 of the Current Agreement.

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### 4. Amendments

On and from the Effective Date:

- 4.1 clause 4.2 of the Current Agreement will be deleted and be replaced by:

The Board must consist only of the following members:



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- (a) four members appointed by Greater Geelong;
  - (b) one member appointed by Golden Plains;
  - (c) one member appointed by Surf Coast;
  - (d) one member appointed by Queenscliffe; and
  - (e) one member appointed by Colac Otway.
- 4.2 clause 4.4 of the Current Agreement will be amended by deleting 'Golden Plains, Surf Coast and Queenscliffe' and substituting 'Golden Plains, Surf Coast, Queenscliffe and Colac Otway'.
- 4.3 clause 5.9 of the Current Agreement will be amended by deleting 'section 76 of the Act' and substituting 'section 43 of the *Local Government Act 2020*'.
- 4.4 clause 14.1 of the Current Agreement will be amended by deleting '1984' and substituting '2011'.
- 4.5 clause 21 of the Current Agreement will be deleted and be replaced by:
- 21.1 A member Council giving notice or notifying under this agreement must do so in writing:
    - (a) directed to the recipient's address specified in this clause, as varied by any notice; and
    - (b) hand delivered or sent by prepaid post or email to that address:

The member Councils' postal and email addresses are:

Greater Geelong City Council:

Address 30 Gheringhap Street, Geelong, Victoria 3220  
Email [contactus@geelongcity.vic.gov.au](mailto:contactus@geelongcity.vic.gov.au)

Golden Plains Shire Council:

Address 2 Pope Street, Bannockburn, Victoria 3331  
Email [enquiries@gplains.vic.gov.au](mailto:enquiries@gplains.vic.gov.au)

Surf Coast Shire Council:

Address 1 Merrijig Drive, Torquay, Victoria 3228  
Email [info@surfcoast.vic.gov.au](mailto:info@surfcoast.vic.gov.au)

Borough of Queenscliffe

Address 50 Learmonth Street, Queenscliffe, Victoria, 3225  
Email [info@queenscliffe.vic.gov.au](mailto:info@queenscliffe.vic.gov.au)

Colac Otway Shire Council

Address 2-6 Rae Street, Colac, Victoria, 3250  
Email [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)
  - 21.2 A notice given in accordance with clause 21.1 is taken to be received:
    - (a) if hand delivered, on delivery;

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- (b) if sent by prepaid post, 3 days after the date of posting; and
  - (c) if sent by email, at the time that the email containing the notice left the sender's email system (unless the sender receives notification that the email containing the notice was not received by the recipient or, if received after 5pm, at 9am on the next Business Day).
- 21.3 A member Council must give notice in writing of any changes to its address or email address recorded in clause 21.1.

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**5. Confirmation**

In all other respects, Greater Geelong, Golden Plains, Surf Coast and Queenscliffe confirm the provisions of the Current Agreement.



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## Signing Page

**Executed** by the Parties

**THE COMMON SEAL of GREATER** )  
**GEELONG CITY COUNCIL** was affixed this )  
day of 2020 in )  
the presence of: )

.....  
Mayor (signature)

.....  
Mayor (name)

.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)

**THE COMMON SEAL of GOLDEN PLAINS** )  
**SHIRE COUNCIL** was affixed this            day )  
of            2020 in the presence of: )

Witness (name)



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THE COMMON SEAL of SURF COAST )  
SHIRE COUNCIL was affixed this day )  
of 2020 in the presence of: )

.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)

.....  
Witness (signature)

.....  
Witness (name)



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THE COMMON SEAL of the BOROUGH OF )  
QUEENSCLIFFE was affixed this day )  
of 2020 in the presence of: )

.....  
Councillor (signature)

.....  
Councillor (name)

.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)





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THE COMMON SEAL of COLAC OTWAY )  
SHIRE COUNCIL was affixed this day )  
of 2020 in the presence of: )

.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)

.....  
Witness (signature)

.....  
Witness (name)

**GREATER GEELONG CITY COUNCIL**  
and  
**GOLDEN PLAINS SHIRE COUNCIL**  
and  
**SURF COAST SHIRE COUNCIL**  
and  
**BOROUGH OF QUEENSCLIFFE**

**AGREEMENT TO CONTINUE GEELONG  
REGIONAL LIBRARY CORPORATION**



**AGREEMENT TO CONTINUE GEELONG REGIONAL LIBRARY CORPORATION**  
**AGREEMENT** dated 19 March 2009.

<b>BETWEEN</b>	<b>GREATER GEELONG CITY COUNCIL</b> of City Hall, 30 Gheringhap Street, Geelong ( <b>'Greater Geelong'</b> )
<b>AND</b>	<b>GOLDEN PLAINS SHIRE COUNCIL</b> of 2 Pope Street, Bannockburn ( <b>'Golden Plains'</b> )
<b>AND</b>	<b>SURF COAST SHIRE COUNCIL</b> of 25 Grossman's Road, Torquay ( <b>'Surf Coast'</b> )
<b>AND</b>	<b>BOROUGH OF QUEENSCLIFFE</b> of 50 Learmonth Street, Queenscliffe ( <b>'Queenscliffe'</b> )

**RECITALS**

- A. The Geelong Regional Library Corporation (**the Regional Library**) was established by Greater Geelong, Golden Plains, Surf Coast and Queenscliffe on or about 27 March 1997, by agreement made under section 196 of the Act (**the Original Agreement**).
- B. Greater Geelong, Golden Plains, Surf Coast and Queenscliffe have decided to substitute this Agreement for the Original Agreement.
- C. The Regional Library will continue to service the area comprising the member Councils' municipal districts.
- D. The Regional Library will operate in accordance with the requirements of section 196 of the Act.

**AGREEMENT**

**1 DEFINITIONS**

In this agreement:

**'Act'** means the *Local Government Act 1989* (Vic);

**'Asset'** means a resource made available by a member Council to the Regional Library to assist in the latter's provision of library services, and includes real property and any item of machinery, plant, equipment, furniture or fitting;

**'Board'** means the governing body of the Regional Library established under clause 4.1;

**'Budget'** has the same meaning as in section 127 of the Act;

**'Chairperson'** means the chairperson of the Board;

**'Chief Executive Officer'** means the person appointed in accordance with the Act, who should have:

- (a) an appropriate academic library qualification; or
- (b) such other relevant qualifications as determined by the Board;

**'Deputy Chairperson'** means the deputy chairperson of the Board;

**'General Election'** means a general election held in accordance with section 31(1) of the Act;

**'Library Plan'** means the statement of the corporate direction of the Regional Library which includes objectives, strategies, performance indicators and any other information in compliance with section 125 of the Act;

**'Local Law'** means a local law made in accordance with Part 5 of the Act;

**'Member Council'** means a council which is a member of the Regional Library;

**'Minister'** means the Victorian Government Minister responsible for administering the Act;

**'Original Agreement'** means the agreement described in Recital A of this agreement;

**'Regional Library'** means the Geelong Regional Library Corporation established under the Original Agreement and continued by this agreement;

**'Register of Council Assets'** means the register maintained by the Regional Library of non-current or fixed assets made available for the use of the Regional Library by the member Councils;

**'Senior Officer'** has the same meaning as in section 3(1) of the Act; and

## **2. CONDITION PRECEDENT, COMMENCEMENT AND EFFECT**

- 2.1 This agreement has no effect unless it is approved by the Minister in accordance with section 196(2) of the Act.
- 2.2 This agreement commences operation on the date on which the notice in accordance with section 196(2) of the Act is published in the *Victoria Government Gazette*.
- 2.3 Subject to clause 2.4, the Original Agreement ends on the day on which this agreement commences operation.
- 2.4 Any:
  - (a) right accrued; or
  - (b) obligation incurred
 by reason of the Original Agreement will continue to exist notwithstanding the cessation of the Original Agreement.

## **3. CONTINUATION OF THE REGIONAL LIBRARY**

There will continue to be constituted a regional library corporation for the purposes of section 196 of the Act by the name of Geelong Regional Library to:

- (a) provide, subject to any conditions attached to any State government library subsidies and grants to the Regional Library or the member Councils, a regional library service for part or all of the member Councils' municipal districts as determined by the Board;
- (b) make Local Laws relating to the Regional Library;
- (c) perform any other functions which are conferred on the Regional Library under this agreement or the Act, including defining overall

- policy objectives, developing strategic policy and approving a Corporate Plan and an Annual Operating Plan; and
- (d) to do all things necessary or expedient in accordance with this agreement and the Act for the carrying out of its functions.

#### **4. THE BOARD**

- 4.1 There will be a Board of the Regional Library which, among other things, will be responsible for:
- (a) compliance with the provisions of the Act; and
  - (b) the implementation of this agreement.
- 4.2 The Board must consist only of the following members:
- (a) four members appointed by Greater Geelong;
  - (b) one member appointed by Golden Plains;
  - (c) one member appointed by Surf Coast; and
  - (d) one member appointed by Queenscliffe.
- 4.3 A member Council may appoint a person to act as the deputy of a member.
- 4.4 Each member or deputy appointed by Golden Plains, Surf Coast and Queenscliffe must be a councillor of that member Council. Each member or deputy appointed by Greater Geelong must be a councillor or employee of Greater Geelong, provided that not less than two members and the deputies of those members appointed by Greater Geelong must be councillors of Greater Geelong.
- 4.5 A member and deputy will hold office until:
- (a) the term of the member or deputy's appointment expires;
  - (b) the member or deputy is removed; or
  - (c) the member or deputy resigns or ceases to be a councillor or employee of a member Council.
- 4.6 A member Council may remove from office its appointed member or deputy.
- 4.7 A member Council must fill any vacancy of a member or deputy as soon as possible and notify the Board in writing of the new member or deputy.
- 4.8 The office of a member automatically becomes vacant if the member is absent for three consecutive meetings without the leave of the Board.

#### **5. PROCEEDINGS OF THE BOARD**

- 5.1 The Board must hold an ordinary meeting at least once every three months.
- 5.2 If a special meeting is called, it must be called by the Chief Executive Officer on the request of the Chairperson or any three members of the Board.
- 5.3 The Board must elect a member to be Chairperson and a member to be Deputy Chairperson of the Board, provided that only a member who is a councillor of a member Council will be eligible to be elected as Chairperson and Deputy Chairperson.

- 5.4 The election for the Chairperson and Deputy Chairperson of the Board must be held by the Board as soon as is practicable after a general election and by no later than the following 1 March. The Chairperson and the Deputy Chairperson will hold office for 12 months, unless the term of their office as a member of the Board is determined in accordance with clause 4.5 of the agreement.
- 5.5 The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson must preside at a meeting of the Board.
- 5.6 In the absence of the Chairperson and the Deputy Chairperson from a Board meeting, the remaining members of the Board may elect one of their number to preside at that meeting.
- 5.7 Notice of motion to recommend amendment of this agreement and notice of motion for the adoption or amendment of Local Laws by the Board must be given in writing to the member Councils at least one month before the meeting of the Board at which the motion is to be discussed.
- 5.8 In all its deliberations, the Board must have paramount regard to the interests of the community, and have regard to all other interests which are relevant (including the financial consequences for the member Councils arising from its deliberations). The Board must use reasonable efforts to do all things necessary to:
  - (a) identify the economic and financial consequences for the Regional Library of its deliberations;
  - (b) advise the member Councils in writing of:
    - (i) the economic and financial consequences referred to in clause 5.8(a); and
    - (ii) the manner in which the economic and financial consequences referred to in clause 5.8(a) have been identified and assessed;
  - (c) obtain advice from the member Councils as to the manner in which the economic and financial consequences referred to in clause 5.8(a) may impact upon the member Councils;
  - (d) obtain advice from the member Councils as to the impact upon the member Councils of any economic and financial consequences other than those referred to in clause 5.8(a); and
  - (e) consider all the economic and financial consequences upon the member Councils.
- 5.9 Each member Council agrees to indemnify the Regional Library in respect of any liability incurred as a consequence of the operation of section 76 of the Act in relation to each of its appointed members.

## **6. CHIEF EXECUTIVE OFFICER**

- 6.1 The Board must appoint a Chief Executive Officer of the Regional Library.
- 6.2 In addition to any responsibilities imposed on a Chief Executive Officer under the Act, the Chief Executive Officer will be responsible to the Board for the finances and administration of the Regional Library including:
  - (a) the implementation of the Library Plan and Budget;
  - (b) delivery of the whole of the regional library service;

- (c) administrative support for the Board; and
- (d) any other duties specified by the Board.

## **7. EQUITY AND OPERATION COSTS**

- 7.1 Each member Council agrees to make available to the Regional Library the assets set out in the Statement of Council Assets executed by the member Councils and the Chief Executive Officer. Such Statement of Council Assets must:
- (a) identify which member Council has made available which asset;
  - (b) provide for the terms on which the asset has been made available; and
  - (c) be updated annually by 31 March.
- 7.2 Each member Council agrees that it has transferred to the Regional Library the assets set out in the Statement of Regional Library Assets in Schedule 1.
- 7.3 Each member Council agrees that:
- (a) if during, the term of this agreement, a member Council wishes to transfer assets to the Regional Library the assets to be transferred must be set out in a Further Statement of Regional Library Assets executed by the member Councils; and
  - (b) once the Further Statement of Regional Library Assets has been executed by the member Councils and the Chief Executive Officer, the assets listed in the Statement are to be treated as though they were listed in Schedule 1, from the date of the that further Statement.
- 7.4 The Chief Executive Officer must maintain a register of the assets owned by the Regional Library.
- 7.5 A member Council must, unless otherwise agreed by the other member Councils or provided for in this agreement, give notice to every other member Council and the Chief Executive Officer of any intention to withdraw assets from the use of the Regional Library on a date which is:
- (a) 30 June; and
  - (b) not less than 15 months from the date on which the notice of its intention is given.
- 7.6 The Regional Library must, unless otherwise agreed by the member Councils, be responsible for the maintenance, repair, replacement and operating costs of assets owned by the Regional Library.
- 7.7 The Regional Library must, unless otherwise agreed by the member Councils, be responsible for the maintenance, repair, replacement and operating costs of the assets:
- (a) transferred to the Regional Library; or
  - (b) made available for the use of the Regional Library.
- 7.8 The Regional Library must, unless otherwise agreed by the member Councils and subject to clauses 7.6 and 7.7. be responsible for its own operating costs.
- 7.9 The annual Budget must apportion the costs of operation of the Library Service as follows:

- (a) the direct costs incurred at each point of service and mobile libraries must be borne by the member Councils in whose municipal district the service is delivered;
- (b) costs other than those costs referred to in clause 7.9(a) and clause 7.9(c) must be apportioned such that each member Council is liable to pay the same percentage of these costs as usage of each member Council's points of service and mobile library (if any) bears to the usage of all points of service and mobile libraries operated by the Regional Library, such:
  - (i) usage being calculated by combining the number of loans made by and visits to the points of service and mobile libraries; and
  - (ii) formula and its rationale being set out in each draft Budget prepared in accordance with clause 9.1;
- (c) the cost of providing, maintaining and furnishing suitable static or mobile premises for the delivery of the service within the municipal district of each member Council must be borne by the member Council in whose municipal district the service is provided unless otherwise agreed by the Regional Library; and
- (d) in the event that any member Council objects to the sum assessed as its contribution under clause 7 then such objection will be a dispute to be determined in accordance with clause 14.

## **8. STRATEGIC PLANNING**

- 8.1 The Chief Executive Officer must by 31 March following a general election provide each member Council with a copy of the Regional Library's proposed Library Plan prepared in accordance with section 125 of the Act.
- 8.2 The Regional Library must adopt a Library Plan by the date specified in the Act.

## **9. ANNUAL BUDGET**

- 9.1 The Chief Executive Officer must by 1 March each year provide each member Council with a copy of the Regional Library's proposed annual Budget prepared in accordance with section 127 of the Act.
- 9.2 The proposed annual Budget must include:
  - (a) the amount of funds currently held by the Regional Library;
  - (b) the amount of each member Councils' proposed financial contribution to the Regional Library for the financial year commencing 1 July; and
  - (c) the amount of funds to be received from any other source by the Regional Library in the financial year commencing 1 July.
- 9.3 The Regional Library must adopt its annual Budget by the date specified in the Act.



## **10. ANNUAL FINANCIAL CONTRIBUTION**

- 10.1 The amount to be contributed to the Regional Library by each member Council during each financial year will be the sum of:
- (a) the amount specified in the Regional Library's adopted annual Budget;
  - (b) all State Government library subsidies and grants received by the member Council for library services; and
  - (c) funds received by the member Council from any other source for library services.
- 10.2 Each member Council's financial contribution to the Regional Library must be paid in quarterly instalments on the first day of July, October, January and April each year.
- 10.3 The first instalment must be the same amount paid by the member Council in the previous quarter and the second installment will include any adjustment to ensure the two installments together equal half the amount to be paid by that member Council for that financial year.
- 10.4 All:
- (a) State Government library subsidies and grants must be paid to the Regional Library within one month of receipt of the monies by a member Council; and
  - (b) other contributions under clause 10.1 must be paid to the Regional Library within one month or receipt of the monies by the member Council.
- 10.5 In addition to the contributions payable under this clause, a member Council must be responsible for the Regional Library's costs in providing any additional service or resources requested by the member Council and such costs are to be paid within 30 days of the member Council receiving an invoice from the Regional Library.
- 10.6 Interest must be paid on any amount payable under clause 10.1 and 10.5 which is not received by the Chief Executive Officer within 30 days of the due date at the rate fixed by the Governor in Council for the purposes of section 172 of the Act and calculated monthly from the date the amount became due until the date it is received by the Chief Executive Officer.

## **11. ANNUAL REPORTING AND ACCOUNTS**

- 11.1 The Chief Executive Officer must, within three months of the end of each financial year, provide each member Council with a copy of the Regional Library's annual report prepared in accordance with section 126 of the Act.
- 11.2 The books of accounts and all other financial records of the Regional Library will be available for inspection at all reasonable times by any councillor of, or person authorised by, a member Council, or, by any person authorised by the Head of the Department responsible for administering State Government library subsidies and grants from which the Regional Library or the member Councils receive funds.
- 11.3 The Regional Library must provide the Chief Executive Officer of each member Council with quarterly financial reports which include an operating statement reporting the Regional Library's performance to budget and other performance indicators, within one month of the end of the quarter.

## **12. ENTRY AND EXIT OF MEMBER COUNCILS**

- 12.1 A Council which is not a member Council to this agreement may, by supplementary agreement with the member Councils, be admitted as a party to this agreement and, subject to the provisions of the supplementary agreement, will have the same rights, duties and obligations of the member Councils under this agreement.
- 12.2 A member Council must, unless otherwise agreed by the other member Councils or provided for in this agreement, give to the other member Councils and the Chief Executive Officer notice of any intention to withdraw from this agreement on a date which is:
- (a) 30 June; and
  - (b) not less than 15 months from the date on which the notice is given.
- 12.3 A member Council which withdraws from this agreement will be entitled to a portion of the net assets of the Regional Library as at the date of its withdrawal from the agreement, less an amount which the Board agrees represents the costs to the Regional Library of the withdrawal.
- 12.4 The portion of net assets to which a member Council is entitled under clause 12.3:
- (a) must be calculated according to the greater of:
    - (i) the value of the assets as disclosed by the relevant audited financial statements; or
    - (ii) the market value of the assets, as determined by an independent valuer;
  - (b) must be in the same proportion as its financial contribution to the Regional Library bears to all the member Councils' financial contributions to the Regional Library over the duration of the Original Agreement and this agreement; and
  - (c) may be taken in such combination of property and cash as agreed between a member Council and the Board, and, if it is agreed that a member Council is entitled to library materials, the cost of removing them must be paid for by the member Council.
- 12.5 A member Council which withdraws from this agreement will be liable for a portion of the liabilities, including contingent liabilities, of the Regional Library as at the date of its withdrawal from the agreement.
- 12.6 The portion of the liabilities and contingent liabilities to which a member Council is liable under clause 12.5:
- (a) must be calculated according to the liabilities and contingent liabilities as disclosed by the relevant audited financial statements and reports, and any notes attached to them; and
  - (b) must be in the same proportion as its financial contribution to the Regional Library bears to all the member Councils' financial contributions to the Regional Library over the duration of the Original Agreement and this agreement.

### **13. DISSOLUTION OF REGIONAL LIBRARY**

- 13.1 Subject to section 197G of the Act, the Regional Library may be dissolved by agreement of at least two thirds of the member Councils to this agreement including those admitted as a member Council by supplementary agreement.
- 13.2 If the Regional Library is dissolved under this clause:
- (a) each member Council will be entitled to a portion of the Regional Library's assets in the same proportion as its financial contribution to the Regional Library bears to all the member Councils' financial contributions to the Regional Library over the duration of the Original Agreement and this agreement; and
  - (b) each member Council will be liable for a portion of the liabilities and contingent liabilities of the Regional Library in the same proportion as its financial contribution to the Regional library bears to all the member Councils' financial contributions to the Regional Library over the duration of the Original Agreement and this agreement.

### **14. DISPUTE RESOLUTION**

- 14.1 If any dispute arises in relation to the Regional Library or this agreement:
- (a) the dispute will be determined as a dispute under the *Commercial Arbitration Act 1984* (Vic); and
  - (b) the arbitrator's decision will be final and binding on the member Councils.
- 14.2 The member Councils to the arbitration will:
- (a) be responsible for their own arbitration costs; and
  - (b) unless otherwise determined by the arbitrator, share the arbitrator's costs equally.

### **15. REVIEW**

The member Councils will, together with the Board, review the operation of this agreement at least once in every five years.

### **16. FURTHER ACTION**

Each member Council must:

- (a) use reasonable efforts to do all things necessary or desirable to give full effect to this agreement; and
- (b) refrain from doing anything that might hinder performance of this agreement.

### **17. ASSIGNMENT**

A member Council must not assign this agreement or any right under this agreement.

**18. ENTIRE AGREEMENT**

Subject to clause 2.4, this agreement:

- (a) constitutes the entire agreement between the member Council as to its subject matter; and
- (b) in relation to that subject matter, supersedes any prior understanding or agreement between the member Councils and any prior condition, warranty, indemnity or representation imposed, given or made by a member Council.

**19. WAIVER**

The failure of a member Council at any time to require performance of any obligation under this agreement is not a waiver of that member Council's right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that member Council acknowledges in writing that the failure is a waiver; and
- (b) at any other time to require performance of that or any other obligation under this agreement.

**20. GOVERNING LAW AND JURISDICTION**

- 20.1 This agreement is governed by the law applicable in Victoria.
- 20.2 Each member Council submits to the exclusive jurisdiction of the courts of Victoria.

**21. NOTICE**

- 21.1 A member Council giving notice or notifying under this agreement must do so in writing:
  - (a) directed to the recipient's address specified in this clause, as varied by any notice; and
  - (b) hand delivered or sent by prepaid post or facsimile to that address.

The member Councils' addresses and facsimile numbers are:

Greater Geelong City Council:

Address City Hall, 30 Gheringhap Street, Geelong Victoria 3220  
Facsimile no 03 5227 0258

Golden Plains Shire Council:

Address 2 Pope Street, Bannockburn Victoria 3331  
Facsimile no 03 5281 1208

Surf Coast Shire Council:

Address: 25 Grossman's Road, Torquay Victoria 3228  
Facsimile no 03 526 4527

Borough of Queenscliffe:

Address 50 Learmonth Street, Queenscliffe Victoria 3225

Facsimile no 03 528 3115

- 21.2 A notice given in accordance with clause 21.1 is taken to be received:
- (a) if hand delivered, on delivery;
  - (b) if sent by prepaid post, 3 days after the date of posting; and
  - (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice unless, within eight Business Hours after that transmission, the recipient informs the sender that it has not received the entire notice.
- 21.3 A member Council must give notice in writing of any changes to its address or facsimile number recorded in clause 21.1.

## **22. SEVERABILITY**

- 22.1 The member Councils agree that a construction of this agreement that results in all provisions being enforceable is to be preferred to a construction that does not so result.
- 22.2 If, despite the application of clause 22.1, a provision of this agreement is illegal or unenforceable:
- (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
  - (b) in any other case, the whole provision is severed, and the remainder of this agreement continues in force.

## **23. MODIFICATIONS**

- 23.1 This agreement may only be altered or modified:
- (a) in writing signed by all the member Councils;
  - (b) if the alteration or modification is approved by the Minister by a notice published in the Victoria Government Gazette.
- 23.2 The transfer of assets to or the making available of additional assets for the use of the Regional Library pursuant to clause 7.3 (a) will not constitute an amendment to this agreement.

## **24. INTERPRETATION**

In this agreement, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;

- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this agreement and a reference to this agreement includes any schedules and annexure;
- (e) a reference to a document or agreement, including this agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (f) a reference to a member Council includes its administrators and successors;
- (g) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies; and
- (h) a reference to any legislation or statutory instrument or regulation is construed in accordance with the Interpretation of Legislation Act 1984 (Vic).

**EXECUTED** as an agreement

**THE COMMON SEAL** of **GREATER GEELONG CITY COUNCIL** was affixed hereto in the presence of:

)  
)  
)



.....  
Mayor (signature)

.....  
Mayor (name)

.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)

**THE COMMON SEAL** of **GOLDEN PLAINS SHIRE COUNCIL** was affixed hereto in the presence of:

)  
)  
)



.....  
Chief Executive Officer (signature)

.....  
Chief Executive Officer (name)

.....  
Witness (signature)

.....  
Witness (name)

**THE COMMON SEAL of SURF COAST  
SHIRE COUNCIL** was hereunto affixed in  
accordance with instrument of delegation  
dated 4 July 2006 in the presence of:

)  
)  
)  
)



.....  
Chief Executive Officer (signature)

.....  
**MARK DAVIES**  
Chief Executive Officer (name)

**THE COMMON SEAL of the BOROUGH  
OF QUEENSLIFFE** was hereto affixed  
in the presence of:

)  
)  
)

.....  
*Patricia E Semmens*  
Mayor (signature)

.....  
**PATRICIA E SEMMENS**  
Mayor (name)

.....  
*Stephen Lee*  
Councillor (signature)

.....  
**STEPHEN LEE**  
Councillor (name)

.....  
*Leonard Jenner*  
Chief Executive Officer (signature)

.....  
**LEONARD JENNER**  
Chief Executive Officer (name)





Item: 10.10

**Audit Committee Minutes - 13 May 2020**

<b>OFFICER</b>	Lyndal McLean
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Audit Committee Meeting - Minutes - Signed - 13 May 2020 [10.10.1 - 34 pages]
<b>PURPOSE</b>	To receive for information the Colac Otway Shire Audit Committee minutes dated 13 May 2020.

**RECOMMENDATION**

*That Council receives for information the Colac Otway Shire Audit Committee minutes dated 13 May 2020.*



**AUDIT COMMITTEE MEETING**

**MINUTES**

**Wednesday 13 May 2020**

**at 9:00 am**

**COPACC**

**95 - 97 Gellibrand Street, Colac**



## COLAC OTWAY SHIRE AUDIT COMMITTEE MEETING

Wednesday 13 May 2020

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**COLAC OTWAY SHIRE AUDIT COMMITTEE MEETING**

MINUTES of the **AUDIT COMMITTEE MEETING OF THE COLAC OTWAY SHIRE** held at COPACC on  
Wednesday 13 May 2020 at 9:00 am.

**MINUTES****1 DECLARATION OF OPENING OF MEETING****2 PRESENT**

Mike Said (Chair) (via video conference)  
Brian Keane (via video conference)  
Cr Stephen Hart (via video conference)  
Cr Jason Schram (via video conference)

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, Governance Coordinator  
Doug McNeill, Manager, Planning, Building & Health (via video conference)  
Madeleine Bisits, Manager, Assets & Project Delivery (via video conference)  
Nicole Frampton, Recreation & Open Space Coordinator  
Jason Clissold, Manager, Financial Services (via video conference)  
Nick Howard, Finance Coordinator  
Steven Crawford, Acting Manager, Information Services (via video conference)  
Marni Young, Risk & OHS Coordinator  
Ben McLaughlin, Coordinator Procurement & Tenders (via video conference)  
Dale Barrow, Acting Manager, Services & Operations (via video conference)  
Daniel Roberts, OH&S & Environment Officer (via video conference)  
Andrew Zavitsanos, Crowe Horwath  
Christopher Kol, McLaren Hunt

**3 APOLOGIES**

Nil

#### 4 DECLARATIONS OF INTEREST

Cr Stephen Hart	7.1 - CEO Statement of Compliance - one item in that report - section on 'Two Way Radio Lease' only
Nature of Disclosure	Indirect Interest
Type on interest	Section 78A
Nature of interest	Own Bank of Queensland shares. Bank of Queensland has a direct interest in the 'Two Way Radio Lease'. That gives me an indirect financial interest in the 'Two Way Radio Lease'.

#### 5 CONFIRMATION OF MINUTES

- Audit Committee Meeting held on 12 February 2020.

##### **RESOLUTION**

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

*That the Audit Committee confirms the minutes from the Audit Committee Meeting held on 12 February 2020.*

**CARRIED 4 : 0**

#### 6 BUSINESS ARISING FROM THE PREVIOUS MEETING

Nil



### Item: 7.1

## Chief Executive Statement of Compliance

<b>OFFICER</b>	Peter Brown
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To update the Audit Committee on compliance matters across the municipality

Cr Stephen Hart declared a conflict of interest for part of this item - the section on the Two Way Radio Lease only. As the Two Way Radio Lease was not discussed, Cr Stephen Hart remained in the meeting for the duration of this item.

Cr Stephen Hart	7.1 - CEO Statement of Compliance - one item in that report - section on 'Two Way Radio Lease' only
Nature of Disclosure	Indirect Interest
Type on interest	Section 78A
Nature of interest	Own Bank of Queensland shares. Bank of Queensland has a direct interest in the 'Two Way Radio Lease'. That gives me an indirect financial interest in the 'Two Way Radio Lease'.

## RECOMMENDATION

*That the Audit Committee notes the Chief Executive Statement of Compliance.*

### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Jason Schram*

*That the Audit Committee:*

- 1. notes the Chief Executive Statement of Compliance; and*

**2. with respect to the fraud matter, concurs that no further action can be taken.**

**CARRIED 4 : 0**

**Nicole Frampton left the meeting at 10.07am.**

**Madeleine Bisits left the meeting at 10.07am.**

**Frank Castles left the meeting at 10.07am.**

**Tony McGann left the meeting at 10.07am.**





## Item: 7.2

## Financial Reporting - Review significant variances between actual and budget

<b>OFFICER</b>	Nick Howard
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Quarterly Budget Report - 9 Months Ending 31 March 2020 [7.2.1 - 10 pages]</li> <li>2. Financial Statements - Mar 20 [7.2.2 - 3 pages]</li> <li>3. Capital Expenditure Report - Mar 20 [7.2.3 - 12 pages]</li> <li>4. Service Area Report - Mar 20 [7.2.4 - 6 pages]</li> <li>5. Major Projects Report - Mar 20 [7.2.5 - 10 pages]</li> </ol>
<b>PURPOSE</b>	To present the Budget Report for the 9 months ending 31 March 2020

### RECOMMENDATION

*That the Audit Committee notes the attached Budget Report for the 9 months ending 31 March 2020.*

### ALTERNATIVE MOTION

*MOVED Cr Stephen Hart, SECONDED Cr Jason Schram*

*That the Audit Committee:*

1. *notes the attached Budget Report for the 9 months ending 31 March 2020; and*
2. *requests that a report regarding the Colac Library matter be brought to the 12 August 2020 Audit Committee Meeting.*

**CARRIED 4 : 0**

Peter Brown left the meeting at 10.18am.

Peter Brown returned to the meeting at 10.20am.



## Item: 7.3

## Financial Reporting - Review of Investment and Debt Management Policies

<b>OFFICER</b>	Maree Powell
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To update Audit Committee on the progress of Council's review of the Debt Management Policy.

### RECOMMENDATION

*That the Audit Committee notes the deferral of the review of the Debt Management Policy until the December 2020 Audit Committee meeting.*

### RESOLUTION

*MOVED Mike Said, SECONDED Brian Keane*

*That Audit Committee members resolve that items:*

- 7.3 Financial Reporting - Review of Investment and Debt Management Policies,*
- 7.9 Internal Audit - Review Internal Charter, resourcing and policy*
- 7.15 External Audit - Review External Audit findings, recommendations and management responses,*
- 7.17 Compliance - Policy Review: Update of relevant policies, procedures and delegations and*
- 7.19 Compliance - Policy Review: 11.5 Residential Properties deemed to be Not Rateable as used for Charitable Purposes*

*be noted.*

**CARRIED 4 : 0**

Steven Crawford attended the meeting at 10.17am.





#### Item: 7.4

### Internal Control - Consider the effectiveness of Council's internal control system, including IT security and control and any significant changes to procedures.

<b>OFFICER</b>	Steven Crawford
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To report on the progress of the effectiveness of Council's internal control system, including IT security and control and report significant changes to procedures.

### RECOMMENDATION

*That the Audit Committee acknowledges the response provided regarding the security of the Crisisworks application.*

#### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

- 1. acknowledges the response provided regarding the security of the Crisisworks application;*
- 2. notes that there have been no break downs in internal control to date with regards to staff working from home due to the COVID-19 restrictions;*
- 3. notes that controls have been put in place by the ICT department for staff using personal devices whilst working from home due to the COVID-19 pandemic; and*
- 4. recognises the work done by Council to protect its interests with regard to internal controls.*

**CARRIED 4 : 0**

**Nick Howard left the meeting at 10.23am.  
Ben McLaughlin attended the meeting at 10.30am.  
Steven Crawford left the meeting at 10.32am.**



### Item: 7.5

## Internal Control - Review of Procurement, Purchasing, Tenders and Contract Practices

<b>OFFICER</b>	Ben McLaughlin
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Procurement and Contracts Report - March 2020 [7.5.1 - 9 pages]
<b>PURPOSE</b>	This report provides the Audit Committee with an update on the compliance of procurement activity up to 31 March 2020 against the current policy.

### RESOLUTION

*MOVED Cr Stephen Hart, SECONDED Brian Keane*

*That the Audit Committee notes the report on the status of compliance with the Procurement Policy and the action items to improve compliance.*

**CARRIED 4 : 0**

Marni Young attended the meeting at 10.33am.  
 Dale Barrow attended the meeting at 10.40am.  
 Daniel Roberts attended the meeting at 10.40am.  
 Ben McLaughlin left the meeting at 10.51am.





## Item: 7.6

## Risk Management - Review Policy, Review Risk Management Framework & Strategic Risks (All)

<b>OFFICER</b>	Marni Young
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. JLT Public Sector Risk Report - 2019 [7.6.1 - 16 pages]</li> <li>2. Risk Register Corporate - Strategic Risks - Audit Committee - 13 May 2020 [7.6.2 - 2 pages]</li> <li>3. Risk Register Corporate - Risk Matrix - Audit Committee [7.6.3 - 1 page]</li> <li>4. Risk Register Corporate - Operational Risk Items - Requested updates by Audit Committee [7.6.4 - 1 page]</li> <li>5. Risk Management Committee - Meeting Minutes - 20191203 [7.6.5 - 9 pages]</li> </ol>
<b>PURPOSE</b>	This report provides the Risk Management Policy and framework for review and the strategic risks listed in the Corporate Risk Register for consideration and comment.

### RESOLUTION

**MOVED** Cr Stephen Hart, **SECONDED** Cr Jason Schram

*That the Audit Committee receives:*

1. *the Risk Management Policy and framework for review;*
2. *the strategic risks from Council's Corporate Risk Register current as at 6 April 2020; and*
3. *the Risk Management Committee meeting minutes from 3 December 2019.*

**CARRIED 4 : 0**

Nick Howard returned to the meeting at 10.55am.

Jason Clissold attended the meeting at 11.02am.

Daniel Roberts left the meeting at 11.05am.

Dale Barrow left the meeting at 11.05am.

**Item: 7.7****Internal Control - Review instances of fraud or corruption**

<b>OFFICER</b>	Nick Howard
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Fraud Control Program - Nov 19- Jan 20 [7.7.1 - 2 pages]
<b>PURPOSE</b>	To monitor our internal controls and processes in order to assist in the detection and prevention of fraud.

**RESOLUTION**

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

*That the Audit Committee receives the Fraud Control Program Report for the period 1 November 2019 to 31 January 2020.*

**CARRIED 4 : 0**



### Item: 7.8

## Business Continuity - Monitor processes and practices to ensure effective business continuity

<b>OFFICER</b>	Marni Young
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Debrief Report - Business Continuity Desktop Exercise - March 2020 [7.8.1 - 11 pages]
<b>PURPOSE</b>	This report provides a summary of the processes and practices in place to ensure effective business continuity, and the plan proposed for continual improvement and maturity.

## RESOLUTION

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

*That the Audit Committee receives:*

1. *the debrief report for the desktop exercise of business continuity plans conducted in March 2020; and*
2. *the officer recommendation to further mature and improve Council's current business continuity planning framework.*

**CARRIED 4 : 0**

Ian Seuren left the meeting at 11.14am.

Marni Young left the meeting at 11.14am.

Ian Seuren returned to the meeting at 11.18am.

The next item to be heard was item 7.10 Internal Audit - Review & approve Internal Audit three (3) year program.



**Item: 7.9****Internal Audit - Review Internal Audit Charter, resourcing and policy**

<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To update Audit Committee on the progress of Council's review of the Internal Audit Committee Policy and Audit Committee Charter (Council Policy #16.1).

**RECOMMENDATION**

*That the Audit Committee notes the deferral of the review of Council Policy 16.1 Internal Audit Policy and Audit Committee Charter until the August 2020 Audit Committee meeting.*

*This item was taken as read. Please refer to the resolution under item 7.3 Financial Reporting - Review of Investment and Debt Management Policies.*



### Item: 7.10

## Internal Audit - Review & approve Internal Audit three (3) year program

<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Strategic Internal Audit Plan July 2020 to June 2023 - Crowe [7.10.1 - 16 pages]</li> <li>2. Crowe Publications of Interest - January - March 2020 [7.10.2 - 11 pages]</li> </ol>
<b>PURPOSE</b>	Provide the Audit Committee with the proposed internal audit projects for 2020/2021.

This item was heard immediately after item 7.8 Business Continuity - Monitor processes and practices to ensure effective business continuity.

### RESOLUTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

1. *endorses the Strategic Internal Audit Plan for 2020/21; and*
2. *notes the Publications of Interest, January to March 2020.*

**CARRIED 4 : 0**



### Item: 7.11

## Internal Audit - Review & approve Internal Audit scopes and progress

<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Audit Committee - Colac Otway Shire progress report as at 30 April 2020 final [7.11.1 - 1 page]</li> <li>2. Payroll Memorandum of Audit Planning - Crowe - 2020 2021 Audit Plan [7.11.2 - 6 pages]</li> </ol>
<b>PURPOSE</b>	To Review and Approve Internal Audit Scopes and Progress

### RESOLUTION

*MOVED Cr Jason Schram, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

1. *notes the Internal Audit Progress Report as at 30 April 2020; and*
2. *approves the Memorandum of Audit Plan for the internal audit of payroll to be conducted during July to September 2020.*

**CARRIED 4 : 0**



**Item: 7.12****Internal Audit - Review completed Internal Audit reports, recommendations & management responses**

<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To present the Contract Management and Cyber Security (Penetration Test) internal audit reports to the Committee

**RESOLUTION**

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee notes:*

- 1. the officer comments regarding the Contract Management and the Cyber Security (Penetration Test) audits; and*
- 2. that both reports will be presented to the August 2020 Audit Committee meeting.*

**CARRIED 4 : 0**



## Item: 7.13

## Internal Audit - High and Medium Risk Rating Recommendations from previous Internal Audit Reports

<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. Audit Actions Matrix - Completed since December 2019 Audit Committee Meeting - printed 17 April 2020 [7.13.1 - 12 pages]</li> <li>2. Audit Actions Matrix - Incomplete - pre December 2017 - printed 15 April 2020 [7.13.2 - 9 pages]</li> <li>3. Audit Actions Matrix - Incomplete post December 2017 - printed 17 April 2020 [7.13.3 - 13 pages]</li> </ol>
<b>PURPOSE</b>	To review high and medium risk rating recommendations from previous internal audit reports.

### RECOMMENDATION

*That the Audit Committee receives the update on Internal Audit reports of high and medium risk rating recommendations as at April 2020.*

#### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

- 1. receives the update on Internal Audit reports of high and medium risk rating recommendations as at April 2020; and*
- 2. recommends that consideration be given to reviewing incomplete Audit Actions to confirm their validity.*

**CARRIED 4 : 0**



### Item: 7.14

## External Audit - Review External Audit, Scope and Approach

<b>OFFICER</b>	Nick Howard
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Audit Strategy 2019-20 ( Updated 26.03.20) [7.14.1 - 21 pages]
<b>PURPOSE</b>	To present the amended external audit strategy for 2019/20 to the Audit Committee (amended and reissued due to COVID-19)

## RESOLUTION

**MOVED** Brian Keane, **SECONDED** Cr Jason Schram

*That the Audit Committee notes the amended external audit strategy from the Victorian Auditor-General's Office for the financial year ending 30 June 2020.*

**CARRIED 4 : 0**

The next item to be heard was item 7.16 External Audit - Review High & Medium Risk Rating Recommendations.





### Item: 7.15

## External Audit - Review External Audit findings, recommendations and management responses

<b>OFFICER</b>	Jason Clissold
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Interim Management Letter 2019-20 [7.15.1 - 14 pages]
<b>PURPOSE</b>	To present and review the audit findings contained in the Interim Management Letter for the year ending 30 June 2020

### RECOMMENDATION

*That the Audit Committee notes the Interim Management Letter for the year ending 30 June 2020.*

*This item was taken as read. Please refer to the resolution under item 7.3 Financial Reporting - Review of Investment and Debt Management Policies.*



## Item: 7.16

## External Audit - Review High & Medium Risk Rating Recommendations

<b>OFFICER</b>	Nick Howard
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil
<b>PURPOSE</b>	To review high and medium risk rating recommendations from previous External Audit reports

This item was heard immediately after item 7.14 External Audit - Review External Audit, Scope and Approach.

### RECOMMENDATION

*That the Audit Committee agrees to:*

- 1. review all outstanding risks as a function of the Interim and Final External Auditor Management Reports; and*
- 2. removes the requirement for External Audit report 8.7(C) – Review High and Medium Risk Rating recommendations from previous External Audit reports, from current and future Audit Plans.*

### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee agrees to:*

- 1. review all outstanding risks as a function of the Interim and Final External Auditor Management Reports;*
- 2. removes the requirement for External Audit report 8.7(C) – Review High and Medium Risk Rating recommendations from previous External Audit reports, from current and future Audit Plans; and*



3. *including any outstanding in the outstanding audit actions.*

**CARRIED 4 : 0**

The next item to be heard was item 7.18 Compliance – Policy Review: 11.4 Assistance to Rates Debtors in Hardship.



### Item: 7.17

## Compliance - Policy Review: Update of relevant policies, procedures and delegations

<b>OFFICER</b>	Sarah McKew
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. 18.13 Live Streaming of Council Meetings - Interim Council Policy - adopted 22 April 2020 [7.17.1 - 4 pages]</li> <li>2. 16.3 Investment Policy - Review 22 April 2020 [7.17.2 - 5 pages]</li> <li>3. 20200312 Grants, Contributions &amp; Sponsorship Policy Draft [7.17.3 - 3 pages]</li> </ol>
<b>PURPOSE</b>	To review updates to Council policies, procedures and delegations

### RECOMMENDATION

*That the Audit Committee notes this update on the review of Policies, Procedures and Delegations.*

*This item was taken as read. Please refer to the resolution under item 7.3 Financial Reporting - Review of Investment and Debt Management Policies.*



## Item: 7.18

## Compliance – Policy Review: 11.4 Assistance to Rates Debtors in Hardship

<b>OFFICER</b>	Paul Carmichael
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Policy 11.4 - Assistance to Rates Debtors in Hardship (updated) [7.18.1 - 4 pages]</li> <li>2. Rates Hardship policy - Application for assistance [7.18.2 - 5 pages]</li> </ol>
<b>PURPOSE</b>	To review the updated Council Policy 11.4 Assistance to Rates Debtors in Hardship and recommend its adoption to Council.

This item was heard immediately after item 7.16 External Audit - Review High & Medium Risk Rating Recommendations.

### RECOMMENDATION

*That the Audit Committee:*

1. *endorses the updated Council Policy 11.4 - Assistance to Rates Debtors in Hardship;*
2. *notes the Rates Hardship Policy – Application form; and*
3. *recommends to Council that the updated Council Policy 11.4 - Assistance to Rates Debtors in Hardship, be adopted.*

### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

1. *notes the updated Council Policy 11.4 - Assistance to Rates Debtors in Hardship;*
2. *notes the Rates Hardship Policy – Application form; and*

- 3. recommends to Council that the updated Council Policy 11.4 - Assistance to Rates Debtors in Hardship, be adopted once reviewed and considered by Council.**

**CARRIED 4 : 0**

The next item to be heard was item 7.20 Compliance - Policy Review: Administration & Enforcement of Building Legislation.





### Item: 7.19

## Compliance – Policy Review: 11.5 Residential Properties deemed to be Not Rateable as used for Charitable Purposes

<b>OFFICER</b>	Jason Clissold
<b>GENERAL MANAGER</b>	Errol Lawrence
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Policy 11.5 - Residential Properties used for Charitable Purposes (updated) [7.19.1 - 3 pages]
<b>PURPOSE</b>	To review the updated Council Policy 11.5 - Residential Properties deemed to be Not Rateable as used for Charitable Purposes and recommend its adoption to Council.

### RECOMMENDATION

*That the Audit Committee:*

- 1. endorses the updated Council Policy 11.5 - Residential Properties used for Charitable Purposes; and*
- 2. recommends to Council that the updated Council Policy 11.5 - Residential Properties used for Charitable Purposes, be adopted.*

*This item was taken as read. Please refer to the resolution under item 7.3 Financial Reporting - Review of Investment and Debt Management Policies.*



## Item: 7.20

## Compliance - Policy Review: Administration & Enforcement of Building Legislation

<b>OFFICER</b>	Doug McNeill
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>Existing Council Policy - Swimming Pool and Spa Safety Barriers [7.20.1 - 5 pages]</li> <li>Existing Council Policy - Essential Safety Measures [7.20.2 - 6 pages]</li> <li>Existing Council Policy - Municipal Building Control Intervention Filter [7.20.3 - 7 pages]</li> <li>Draft Council Policy - Administration &amp; Enforcement of Building Legislation - Final [7.20.4 - 6 pages]</li> <li>Draft Operating Procedure - Swimming Pool &amp; Spa Barrier Compliance [7.20.5 - 3 pages]</li> <li>Draft Operating Procedure - Essential Safety Measures Audit &amp; Enforcement [7.20.6 - 4 pages]</li> <li>Draft Operating Procedure - Compliance Response - Non-Council Issued Building Permits - 2020501 [7.20.7 - 4 pages]</li> </ol>
<b>PURPOSE</b>	To present the draft Council Policy 'Administration and Enforcement of Building Legislation', which is intended to replace three existing policies, prior to consideration by Council at the June 2020 Ordinary Council Meeting.

This item was heard immediately after item 7.18 Compliance – Policy Review: 11.4 Assistance to Rates Debtors in Hardship.

### RESOLUTION

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

*That the Audit Committee:*

- notes the attached draft Council Policy – Administration and Enforcement of Building Legislation which is intended to replace three existing Council Policies – “Municipal Building*

***Control Intervention Filter Criteria”; “Essential Safety Measures” and “Municipal Pool and Spa Enforcement”.***

- 2. notes that it is proposed to seek a Council resolution at the June Ordinary Council meeting to place the draft policy on public exhibition for six weeks to seek community feedback before it is formally considered for adoption.***

***CARRIED 4 : 0***

**Peter Brown left the meeting at 11.50am.**

**Peter Brown returned to the meeting at 11.52am.**

**Doug McNeill left the meeting at 11.59am.**

**Cr Jason Schram left the meeting at 11.47am.**





## Item: 7.21

## Reporting Responsibilities - Other: Consider Findings of Local Government Inspectorate report "Protecting integrity: Yarriambiack Shire Council Investigation"

<b>OFFICER</b>	Sarah McKew
<b>GENERAL MANAGER</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. LGI - Yarriambiack Shire Council Investigation - November 2019 [7.21.1 - 29 pages]</li> <li>2. Reporting Template - Yarriambiack Shire - Protecting Integrity - 31 January 2020 [7.21.2 - 6 pages]</li> </ol>
<b>PURPOSE</b>	To report to the Audit Committee Colac Otway Shire Council's status regarding the recommendations contained within the Local Government Inspectorate's report "Protecting integrity: Yarriambiack Shire Council Investigation".

### RECOMMENDATION

*That the Audit Committee notes Council's response to the recommendations of the November 2019 Local Government Inspectorate report "Protecting integrity: Yarriambiack Shire Council Investigation".*

### ALTERNATIVE MOTION

*MOVED Brian Keane, SECONDED Cr Stephen Hart*

*That the Audit Committee:*

1. *notes Council's response to the recommendations of the November 2019 Local Government Inspectorate report "Protecting integrity: Yarriambiack Shire Council Investigation"; and*
2. *recommends that anticipated completion dates be included in similar future reports.*

**CARRIED 3 : 0**

**Item: 7.22****Other - Review Audit Committee Plan**

<b>OFFICER</b>	Lyndal McLean
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Audit Committee Plan 2020 - updated April 2020 [7.22.1 - 2 pages]
<b>PURPOSE</b>	To review the Audit Committee Plan.

**RESOLUTION**

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

**That the Audit Committee:**

1. **notes the updated 2020 Audit Committee Plan; and**
2. **notes the Audit Committee Plan for 2021 will be presented at the August Audit Committee meeting.**

**CARRIED 3 : 0**


**Item: 7.23****Internal Control - COVID-19 Pandemic**

<b>OFFICER</b>	Sarah McKew
<b>CHIEF EXECUTIVE</b>	Peter Brown
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Audit Committee - Item from Said M for 13 May 2020 Agenda [7.23.1 - 9 pages]
<b>PURPOSE</b>	To discuss the April 2020 ICAC report: Managing corrupt conduct during the COVID-19 outbreak

*This report was included for information and to generate discussion. No resolution was required for this item.*

*The meeting was declared closed at 12.04pm.*

*CONFIRMED AND SIGNED at the meeting held on 12 August 2020.*

  
.....CHAIR  
12/8/20

## 10.11

### Notice of Motion - Meredith Park, Irrewarra

<b>COUNCILLOR</b>	Cr Schram
<b>ATTACHMENTS</b>	1. Cr Schram's Meredith Park NoM image [10.11.1 - 1 page]

## 1. COUNCILLOR COMMENT

Meredith Park reserve is an important public reserve on the shores of Lake Colac.

The intent of this notice of motion is to give much needed consideration to future management options at the park. Currently there are no regulations and no structure to permissible camping areas at the park. Colac Otway Shire is the manager of the Park that is Crown Land not owned by the Colac Otway Shire.

Not since 1954 has the park had any regulations set aside for its use (see attached).

Meredith Park should be a place of beauty and delight for our community and those that visit. With no regulations or master plan for Meredith Park it becomes at times untidy and attracts visitors intent on setting up permanent camp. Some of these visitors cause trouble and over recent years it has, at times, become an unsafe place to visit as council has no enforceable regulations associated with the park. There has been a number of police incidents at the park which can harm Colac's reputation as a destination.

It is my opinion that Meredith Park has been neglected for many years as it is not a Council asset. Hopefully with this report it will lay out options for our Council and Community with approximate costings to find a better way forward for the management and funding of Meredith Park so it becomes a place of pride once again and a safe and welcoming place for residents and visitors to our region.

## 2. OFFICER COMMENT

Meredith Park (the Park) is situated on Crown Land on the north eastern shoreline of Lake Colac. Colac Otway Shire is the Committee of Management for the Park. The Lake Colac Consultative Committee (the Committee) is convened by Council to discuss the issues associated with the lake including the Park. The Committee includes multiple stakeholders including representatives from key government agencies and a range of community stakeholder groups. A working group was formed under the Committee in 2018 to look at the issues specifically relating to the Park and one of the actions that arose was to investigate the regulations associated with it.



Currently, Colac Otway Shire does not have Local Laws developed specifically to help ensure the park is used and managed appropriately. However, through discussions held with the members of the working group for the Park, Council was made aware of a set of regulations developed in 1954. Due to the age of the regulations Council has recently sought legal advice on the regulations from 1954, which found that another set of regulations were developed for the Park following the Council amalgamations in 1996.

On the basis of this advice, officers intend to investigate the future management arrangements of the Park. This investigation would include engaging the community in relation to whether the regulations from 1996 still meet current expectations for the use of the Park along with other options such as the development of new Local Laws and/or new management plans separate from the existing Lake Colac Foreshore Masterplan. Importantly this investigation would also include a review of the most appropriate management arrangements for the Park.

It is important to note that if this motion is supported, no community consultation would be undertaken prior to or during the 2020 Council Caretaker period. It is anticipated that any required consultation would be undertaken in early 2021.

The Lake Colac Foreshore Master Plan, adopted by Council in 2016, includes a development plan for the Park. Officers believe that this plan provides the appropriate direction for the future development of the Park based on community aspirations.

### 3. NOTICE OF MOTION

***That Council:***

- 1. Instruct officers to prepare a report that will be brought back to a future council meeting no later than May 2021 with options and opportunities to improve the camping area at Meredith Park with the view to implementing new guidelines, enforceable regulations, better management and camp ground improvements within the reserve and consider future management options.***
- 2. Asks officers to present possible opportunities to council as part of the report, for a stand-alone master plan for Meredith Park separate from the staged Masterplan of Lake Colac.***
- 3. Goes out for public consultation for a six week period to seek feedback on ideas, improvements, regulations and options for Meredith Park.***
- 4. Instructs officers to consult with the Lake Colac Committee and relevant agencies such as but not limited to DELWP and Parks Vic in preparation of the report.***
- 5. Ensures the report will be made public.***

(Extract from the Victoria Government Gazette, No. 656, dated 14th July, 1954.)

## Regulations for the care protection, and management of "MEREDITH PARK" at LAKE COLAC.

WHEREAS by section 181 of the Land Act 1928 as re-enacted by section 9 of the Land Act 1941, power is given to the Board of Land and Works to make Regulations in respect of the care, protection, and management of any Crown land which has been reserved under the Land Acts for any public purpose whatsoever, and which has not been conveyed to or vested in trustees, and for the further purposes as enacted Now therefore the Board of Land and Works, in pursuance of the powers conferred as aforesaid, doth hereby make the following Regulations in respect of the land in the Parish of Ondit permanently reserved as a site for Watering purposes by Order in Council dated the 23rd March, 1874, and of the land in the Parish of Irrowarra temporarily reserved as a site for Public purposes by Order in Council dated the 25th November, 1953, both of which areas are together known as "Meredith Park" (hereinafter referred to as the "Park"):-

### REGULATIONS.

1. The Park shall be open to the public at all times free of charge, except on such days, not exceeding twenty-six (26) in any one year, as any portion of the Park exclusive of the beach may be set aside for purposes consistent with the reservation and with the consent of the Committee of Management.
2. No person shall enter or remain in the Park who may offend against decency as regards dress, language, or conduct.
3. No person shall damage or interfere in any way with the trees, shrubs, or grass in the Park, nor shall fires be lighted therein, except with the written consent of the Committee of Management.
4. No person shall in any way injure any of the buildings, fences or seats in the Park, nor leave or deposit any glass, paper, bottles, rubbish, or any other litter on any part of the Park, except in receptacles which may be provided for the purpose.
5. No person shall break glass of any kind in the Park or leave thereon anything which shall or may injure any person.
6. No person shall remove from the Park any gravel, stone, sand, or loam.
7. No person shall remove any wood or other material which may be in or around the Park without the written consent of the Committee of Management.
8. No person shall put or graze in the Park any cattle, horses, sheep, or any other animals without the written consent of the Committee of Management.
9. No person shall camp in or on the Park, nor erect thereon any structure, nor any booth or other structure for the purpose of offering for sale any article without the written permission of the Committee of Management.
10. No person shall discharge firearms in the park.
11. Permission of the Committee of Management must be obtained beforehand for the holding of all organized sports, picnics, or functions of any kind in the park.

Every person who contravenes or fails to comply with these regulations shall, in accordance with the provisions of section 181 of the Land Act 1928, as re-enacted by section 9 of the Land Act 1941, for each offence be liable to a penalty of not more than Five pounds (£5), and every person who contravenes or fails to comply with any such Regulation and who, after he has been warned by any bailiff of Crown lands or by any member of the Police Force, does not desist therefrom may be forthwith apprehended by such bailiff or member of the Police Force and taken before some justice to be dealt with according to law, and shall be liable to a penalty of not more than Ten pounds (£10). — (Rs.2673.)

The common seal of the Board of Land and Works was hereunto affixed this 7th day of July, 1954, in the presence of —

(Seal)

J. H. SMITH, President.  
W. M. CRAWFORD, Member.

The Park has been placed under the control of the Council of the Shire of Colac as a Committee of Management thereof, with power and authority to enforce the foregoing Regulations.

By Authority: W. M. HOUSTON, Government Printer Melbourne.



## 10.12

### Notice of Motion - Action for Apollo Bay & Coast Committee

**COUNCILLOR** Cr Schram

**ATTACHMENTS** Nil

#### 1. COUNCILLOR COMMENT (OPTIONAL)

No Councillor comment was provided.

#### 2. OFFICER COMMENT

Council established the Action for Apollo Bay group a number of years ago as a mechanism to engage with key agencies representing Apollo Bay and surrounds. The group meets monthly in Apollo Bay (currently meeting virtually due to the COVID-19 situation) and includes representatives from the Apollo Bay Chamber of Commerce, Skenes Creek Advancement Association, Apollo Bay Fishermen's Co-Operative and the Otway Coast Committee. All Councillors and Council's Executive Management Team are invited to the meetings. Other Council officers attend as required to discuss specific items of interest.

The Acton for Apollo Bay group was established as an informal consultative group and has operated effectively since its inception. It provides an opportunity for key groups to discuss topics with Councillors, the CEO and General Managers. Council prepares an agenda and records any actions coming from the meeting. Meetings are chaired by the Mayor, or another Councillor if the Mayor is not able to attend.

Key topics that have been discussed and progressed in recent times include but are not limited to:

- Great Ocean Road Reform / Great Ocean Road Coast and Parks Authority
- City Deal
- Apollo Bay Skenes Creek Marengo Community Infrastructure Plan
- Apollo Bay Harbour
- Coastal erosion
- Great Ocean Road Events
- Impact of COVID-19
- Apollo Bay Fuel
- Power supply
- Apollo Bay Early Years Hub

### 3. NOTICE OF MOTION

***That Council:***

- 1. Establishes an Action for Apollo Bay & Coast Improvement Advisory Committee (the Committee).***
- 2. Determines that the Committee may comprise of:***
  - a. The Mayor who will be the Chair;***
  - b. All Councillors;***
  - c. One representative from the following organisations:***
    - i. Apollo Bay Chamber of Commerce;***
    - ii. Skenes Creek Advancement Association;***
    - iii. Wye River Separation Creek Progress Association;***
    - iv. Apollo Bay Co Op or Professional Fisherman's Representative.***
  - d. Up to three community members appointed by an Expression of Interest process from Apollo Bay and up to 2 community members from other coastal communities;***
  - e. Great Ocean Road Coast and Parks Authority (note – this will be effective by 1 December and there won't be an Otway Coast Committee after this time);***
  - f. Great Ocean Road Tourism;***
  - g. Victoria Police;***
  - h. The Chief Executive Officer and any other Council officer delegated by the Chief Executive Officer.***
- 3. Determines that community representation will be appointed by an Expression of Interest process for a 2 year period and must be endorsed by Council;***
- 4. Requests the Chief Executive Officer develops a Terms of Reference for the Action for Apollo Bay & Coast Advisory Committee to guide the Committee's function, processes and accountabilities, and that the Committee not be constituted until Council has considered and adopted the Terms of Reference.***

## 10.13

# Notice of Motion - COVID-19 Rate Relief and Business and Community Support

**COUNCILLOR** Cr Potter

**ATTACHMENTS** Nil

## 1. COUNCILLOR COMMENT

Council passed a business and community support package alongside the budget in June. This package was aimed at supporting a reduction in business costs, relief for leaseholders of Council owned assets such as caravan parks and sporting clubs, some funding for arts projects for community wellbeing and strategy for some stimulus for tourism visitation and buy local strategy. There is approximately \$300,000 unallocated in this fund.

Since then, unexpectedly and unforeseen was a second COVID-19 wave and a subsequent statewide lockdown. This has had an extraordinary impact on many businesses in Colac Otway Shire, as well as the community in general.

A couple of businesses wrote to Council seeking rates relief, and I have spoken with a number of business operators in the hospitality and accommodation fields. They have expressed the dire position they are in due to the impact of the lockdown, with no relief in sight.

An offer of a 10% discount on rates for certain sectors may amount to roughly the same amount of money as remains in the business and community support package. It's not a lot but in the words of one business owner I spoke with, 'it's better than nothing'.

## 2. OFFICER COMMENT

Council is aware of the impact the pandemic is having on our community and in response:

- initially extended the period for unpaid rates to be paid to 30 June 2020,
- did not charge interest on unpaid rates from 1 March 2020 to 30 June 2020,
- waived any interest that had accrued in 2019-20 and
- is not referring accounts to our debt collector where ever possible.

Further, Council has provided in its 2020/2021 budget for:

- interest not to be charged on outstanding rates up to 31 December 2020,
- a range of fees and charges not to be charged/increased in 2020-21 (e.g. street furniture permits, health/food premises registration fees),
- provided \$60,000 towards a Business Diversification Grants program aimed at helping businesses identify options for diversifying their business to aid their survival through the pandemic,
- provided \$40,000 to be put toward a Shire wide buy local campaign,
- provided \$30,000 to be put towards developing a marketing campaign aiming to attract domestic visitation back to the Otways region in the post pandemic recovery period,
- provided \$27,500 towards conducting an event audit/study to identify significant events/festivals etc. that could possibly be attracted to the Shire in the post pandemic period,
- made funds to be available for as yet unspecified assistance measures.

The final dot point mentioned above is the amount referred in Councillor Potter's Notice of Motion (NOM), and is currently approximately \$277,000. This money could be used for direct rate relief to specific rate payers. Identifying which rate payers should receive the relief would be a significant challenge. The following points are made regarding the NOM:

- Trying to determine reasonable qualification criteria for applicants, that are fair and equitable, and that satisfies all parties, is extremely difficult.
- Whatever criteria that are used there will undoubtedly be some worthy candidates that fall through the cracks. There is not a "one size fits all" solution for this proposal.
- If the qualification criteria are too onerous or complicated, the administration will be extremely difficult and time consuming.
- Should there be a large number of qualifiers for the relief, the amount each one receives may be relatively small, i.e. \$277K isn't a large amount in the scheme of things. Even though the proposed maximum relief is 10%, if there are a large number of applicants the percentage could be considerably smaller. Even at 10%, a business with a \$5000 rates bill will only receive \$500. The amount each applicant could receive will be a token gesture at best.

### 3. NOTICE OF MOTION

*That Council:*

- 1. Acknowledges the impact of the declaration of Stage 4 and Stage 3 restrictions issued in response to the Covid-19 crisis by the State Government, on the Colac Otway Shire community and in particular the hospitality, accommodation and retail sectors.*
- 2. Uses the balance of the business and community support package already in place (approximately \$277K and up to a maximum relief of 10% of an individual rate assessment), to provide a discount on Shire rates to those businesses in the hospitality, commercial accommodation and retail sectors that meet the following criteria:*
  - a. Must currently operate a business in the Colac Otway Shire.*
  - b. Must have an active ABN as at 1 March 2020*
  - c. Must have fewer than 20 FTE employees*
  - d. Will be asked to provide evidence of having received funding through a State or Federal government COVID-19 grant/subsidy program.*
- 3. Advocates to the State and Federal governments for the release of a stimulus package within COS shire immediately there is a removal of stage 4 and stage 3 restrictions.*

10.14

## Notice of Motion - Land Availability in Colac

**COUNCILLOR** Cr Schram

**ATTACHMENTS** Nil

### 1. COUNCILLOR COMMENT

Colac has suffered along with the rest of our shire during this pandemic but is well poised to stage a great economic recovery with potentially lots of job opportunities and new housing developments. The only thing that may stall the attraction of new residents to Colac is the lack of available building blocks and Council must make every effort to fast track the release of said land so that we are ahead of the pack to lead Victoria's economic recovery. We must position ourselves for the best outcomes for our community when it comes to attracting new residents and this can only be done by having a fast and efficient planning department that's focus is on fast tracking these developments.

With the potential lack of visa and backpacker type workers Colac will need to attract hundreds of new employees to our Region. We will also attract many Metropolitan investors to our region as Colac & District has shown itself to be a valuable place to work from home. With this attraction and if we have the quick release of land it will also attract much needed infrastructure and investment and the flow on affects will help the economic recovery to many of our smaller businesses that have endured through the toughest of times brought on by the pandemic.

### 2. OFFICER COMMENT

There are three elements which influence residential land supply in Colac, these being the time taken to navigate the various subdivision approval processes, the rate at which land owners choose to develop and release land, and the availability of appropriately zoned land.

#### Development in Existing Zoned areas

In existing zoned areas, there are many constraints that prevent rapid subdivision land release, including floodprone land that requires drainage enhancements over time as outlined in the Colac Stormwater Development Strategy 2019. There are some subdivisions which Council's Planning team have not be able to progress, or which have taken significant time to assess due to flooding issues, or alternatively due to the highly fragmented nature of allotments that creates challenges for higher density of development to occur. These unfortunately are not constraints which can be overcome by additional planning staff resources. Whilst land is zoned residential north of Murray Street and north/west of the former Colac High School, and there is developer interest in subdividing some of

that land, there are currently issues with servicing of that land by Barwon Water. Excessive land owner contributions required for sewerage upgrades is inhibiting development. Officers have been meeting with Barwon Water to facilitate a resolution of this issue. Further, a Development Plan is required by the planning scheme controls to ensure that all of that land is developed in a co-ordinated way, and whilst much of this planning has been completed by Council, it is waiting on the finalisation of a cultural heritage assessment which commenced early in 2020 but has stalled due to COVID-19 restrictions impacting on the capacity of consultants to do the work. It is also influenced by the future development of the former High School site, which is yet to be resolved due to the lack of certainty by State Government on the future of the front part of the site. These are outside the control of Council. Officers hope to present Council with a draft Development Plan for consideration early in 2021.

A further factor in land release timing is subdivider intent. Often permits are issued by Council for subdivision of land or land is appropriately zoned, but the owners take some time to progress the subdivision and/or only release the land in small stages. An example is the Wyuna Estate where significant land is zoned and there is high purchaser demand, but stages are only released slowly when there is opportunity for larger areas of land to be subdivided at any one time to meet the obvious demand. Council's Economic Development Department are currently contacting owners of such land to seek a better understanding of what is preventing faster land release, and to identify any barriers that Council can assist with.

Given the above, whilst Council could increase statutory planning staff resources, this would be unlikely to have a significant impact on the timing of planning permits being issued. Council has added a staff member to the statutory planning team late in 2019 and this has made a difference to that team's capacity to process applications in a timely way. The benefits of this additional resourcing are now evident in improved processing times for applications.

#### **Further Strategic Planning Required**

The Colac 2050 Growth Plan identified significant new areas at the periphery of Colac which could be rezoned in future to provide new residential land to support the growth of Colac. The area of land identified could accommodate a population of 20,000, approximately 8,000 more than the current resident population. Council adopted a planning scheme amendment in July 2019 to reflect the Growth Plan's policy directions in the Planning Scheme, and it is expected that the Minister for Planning will be approving and gazetting this amendment over the coming weeks after delaying its consideration by 12 months to accommodate structural changes to the planning scheme initiated and undertaken by the State Government. Officers have written on a number of occasions to the Minister expressing Council's desire for the amendment to be approved promptly. The delay in approval of the amendment however has not caused any delay to persons who wish to rezone land.

Further strategic planning needs to occur in the proposed growth areas before land can be rezoned, and this is yet to be funded by Council. A priority area for this planning is all of the farming and rural living areas identified for growth in Colac West, estimated to cost approximately \$350,000. This planning would go beyond identifying broad areas for development and establish the location of key features such as main roads, open space, stormwater drainage and other community/servicing infrastructure. The planning would also establish development contribution amounts to be paid by developers as land is subsequently rezoned. Officers had included part funding for this in the draft 2020/21 budget, but it was not included in the final budget presented to Council due to the impacts of COVID-19 and the need to accommodate budget impacts of the response to this. There is a grant program now open titled "Streamlining for Growth" by the Victorian Planning Authority (VPA) which offers potential for Council to access funding to assist with this project. Officers are preparing an application for VPA funding, but should Council be successful, Council funding will be required to be allocated to fund the balance of the cost. Further, given the significant number of strategic planning



projects currently being undertaken by the Council's two strategic planners, additional funds would be required from Council to enable the Colac West Outline Development Plan to be undertaken this financial year (i.e. to fund another strategic planning staff member). Were Council to allocate funds for this purpose, the project would be given immediate priority. No rezoning can occur until such planning is undertaken, and given the time frame for these processes, even with fast track priority, it would be unlikely that subdivision applications could be considered by Council within 3 years at the earliest. The sooner this planning occurs however, the sooner that new residentially zoned land can be released to the market.

Council officers have met a number of times with owners of land in the growth area identified south of Harris Road at Elliminyt, between Colac Lavers Hill Road and Wyuna Estate. This area was identified in the Colac 2050 Growth Plan for short term rezoning, subject to the same strategic planning required for Colac West. Given the smaller scale of that area and interest of land owners to develop, the responsibility for preparing an Outline Development Plan and Shared Infrastructure Plan (i.e. development contributions) has been left with the land owners. Unfortunately, despite much encouragement from officers for the owners to commence this work since 2018 (which would be overseen by Shire officers to ensure it was appropriately conducted), there has been little progression occurred. This relies on the various land owners reaching consensus on how this is to occur. Officers will continue to support these property owners in this work. This Elliminyt area is considered the most likely short-term rezoning to occur due to the more straight forward planning issues and defined development area and land owner interest. If Council was intent of fast-tracking planning to support new development, it could also decide to fund upfront this planning work and retrieve the costs from land owners later as part of the development contribution process. This could assist in moving the work forward, but it again (as with the Colac West ODP) would rely on further strategic planning resources being employed (i.e. extra staff member).

### **Cutting Red Tape**

Council's strategic planning staff have initiated several planning scheme amendments to reduce the impact of planning controls for land owners in Colac/Elliminyt over the past few years. These have included:

- Changes to the flood overlays in Colac and Elliminyt to ensure the mapping is accurately applied (several properties have been removed from the overlay based on a recent flood study) and planning permit requirements for dwellings and related structures removed if floor levels are established higher than identified flood levels. This amendment is adopted and has been forwarded to the Minister for approval.
- Removal of the Environmental Significance Overlay (ESO1) from the north-western corner of the Shire after it was found to be unnecessary in protecting groundwater, and removal of the majority of the ESO2 from waterways in Colac/Elliminyt based on updated Government biodiversity mapping. This amendment has been adopted by Council and is currently with the Minister for approval.
- Review of all local zone and overlay schedules to update them and seek opportunities to exempt unnecessary permit requirements. Consultant Glossop is close to finalising this work, prior to consideration by Council.
- Changes to the precinct based Heritage Overlay controls in Colac and Apollo Bay. Amendment C106 has been prepared with the intent of introducing exemptions from planning permit requirements in four precincts for various minor buildings and works and demolition of 'non contributory' buildings. The officer report to commence this process is being reported to the current Council meeting.

The effect of these changes will be to remove barriers to land owners developing their properties for housing, and is part of an on-going program seeking to ensure that planning controls are well targeted and are not applied to circumstances which do not realise the benefit intended.

### **Opportunities for Council to Assist in Land Supply**

The only significant parcel of land owned by Council in Colac that could be sold to contribute to land supply for housing is land immediately south of the former landfill close to Lake Colac at 36-52 Bruce Street. Strategic planning officers have spent considerable time and resources working with consultants to prepare an environmental audit of this land and environmental assessments to guide whether the land is suitable for development, and it is hoped to present the new Council with briefings and a report on their options for the site early in 2021. Given the timing of the election, induction of new Councillors in November and December, and the considerable range of other projects/initiatives that need to be considered by the new Council late this year, it is not considered viable to have this matter reported any earlier than February/March 2021. There is further work occurring by staff to investigate the options for Council to consider in this decision of facilitating the supply of affordable housing to service Colac's key industries.

## **3. NOTICE OF MOTION**

### ***That Council:***

- 1. Makes every effort in cutting red tape and where possible fast track land for development in and around Colac.***
- 2. Continues to write to the Planning Minister to finalise and sign off on the Colac 2050 growth plan.***
- 3. Considers employing more planners or planning contractors to speed up planning applications specifically residential land developments.***
- 4. Insists officers present council owned residential land at Bruce Street to the Council options to sell the land to developers or develop the land itself to the December 2020 meeting.***
- 5. Ask officers to present options to the council on how to fast track land development that will help stimulate Colac's recovery from that Pandemic and helps ensure there are no delays due to possible land shortages in the 24 months.***

## Item: 10.15

# Old Beechy Rail Trail 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 - 26 August 2020 - OCM 20200826 [<b>10.15.1</b> - 1 page]</li> <li>2. Assembly of Councillors - Colac Municipal Aerodrome Meeting 31082020 [<b>10.15.2</b> - 1 page]</li> <li>3. Assembly of Councillors - Councillor Briefing - 2 September 2020 CB 20200902 [<b>10.15.3</b> - 2 pages]</li> <li>4. Old Beechy Rail Trail Committee - Meeting Minutes with attachments - 2020 28 July - Confirmed [<b>10.15.4</b> - 20 pages]</li> <li>5. Old Beechy Rail Trail Committee - Meeting Minutes with attachments - 2020 20 August - Unconfirmed [<b>10.15.5</b> - 17 pages]</li> </ol>
<b>PURPOSE</b>	To report the minutes of the Old Beechy Rail Trail and report the Assemblies of Councillors.

## 1. EXECUTIVE SUMMARY

### ASSEMBLIES OF COUNCILLORS

The *Local Government Act 1989* requires that records of meetings which constitute an Assembly of Councillors be reported at the next practicable meeting of Council and incorporated in the minutes of the Council meeting. All relevant meetings have been recorded, documented and will be kept by Council for 4 years. The attached documents provide details of those meetings held that are defined as an Assembly of Councillors.

### OLD BEECHY RAIL TRAIL COMMITTEE MINUTES

Colac Otway Shire formed the Old Beechy Rail Trail Committee (OBRTC) on 26 September 2001. The OBRTC was conferred as a Section 86 Committee under the *Local Government Act 1989* and delegated the functions, duties and powers set forth in the schedule titled Old Beechy Rail Trail Committee Charter. The Charter was developed as the basis of the Instrument of Delegation to be used by the Old Beechy Rail Trail Committee.

In accordance with the Old Beechy Rail Trail Committee Charter:

- “Minutes of the Old Beechy Rail Trail Committee should be included in the Council agenda once any confidential items have been identified and the minutes have been confirmed by the Committee” (Item 6.1.1).
- “Confidential minutes of the Old Beechy Rail Trail Committee are to be included in an In-Committee agenda of Council” (Item 6.1.2).

## 2. REPORTING

1. *The Assemblies of Councillors are reported herewith.*
2. *The Minutes of the Old Beechy Rail Trail Committee Meeting of 28 July 2020 and 20 August 2020 are reported herewith. The Minutes of the 20 August 2020 meeting are unconfirmed due to that meeting being their final official meeting as the delegated Section 86 Committee.*

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

## 3. KEY INFORMATION

- The Central Reserve Advisory Committee Meetings have not recommenced.
- The Roads Advisory Committee Meetings have not recommenced.
- The Lake Colac Advisory Committee Meetings have not recommenced.
- The Friends of the Colac Botanic Gardens Advisory Committee Meetings have been cancelled for the remainder of this calendar year.
- The next meeting of the Colac Livestock Selling Centre Advisory Committee will be held on 18 September 2020.

The following assemblies of Councillors have been held and are attached to this report:

- |  |                  |
|--|------------------|
| • Ordinary Council Meeting preparation         | 26 August 2020   |
| • Colac Municipal Aerodrome Advisory Committee | 31 August 2020   |
| • Councillor Briefing                          | 2 September 2020 |

The following Minutes of the Old Beechy Rail Trail Committee are attached to this report:

- |                                   |                |
|-----------------------------------|----------------|
| • Old Beechy Rail Trail Committee | 28 July 2020   |
| • Old Beechy Rail Trail Committee | 20 August 2020 |

The minutes of this meeting are unconfirmed due to the meeting being their final official meeting as the delegated Committee. Members of the committee have reviewed the minutes and confirmed that they are an accurate reflection of the meeting.

## 4. OFFICER DIRECT OR INDIRECT INTEREST

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



## Pre-Council Meeting Preparation

Meeting Rooms 1 and 2, COPACC and by videoconference

Wednesday 26 August 2020

2:00pm

## Assembly of Councillors

**INVITEES:**

Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Cr Crook, Cr Smith, Peter Brown, Tony McGann, Errol Lawrence, Ian Seuren, Sarah McKew, Lyndal McLean

**ATTENDEES:**

PHYSICAL ATTENDANCE: Cr Hanson, Cr Schram, Cr Potter, Cr Crook, Peter Brown, Errol Lawrence, Ian Seuren, Tony McGann, Sarah McKew, Lyndal McLean

BY VIDEOCONFERENCE: Cr Hart, Cr McCracken, Simon Clarke, Doug McNeill, Madeleine Bisits, Frank Castles, Simon McBeth, Nicole Frampton

**EXTERNAL ATTENDEES:**

Nil

**APOLOGIES:**

Nil

**ABSENT:**

Cr Smith

Meeting commenced at 2:02pm

Declarations of Interest		Item	Reason
Nil			
Time	Item		Attendees
2:02pm – 3:34pm	Ordinary Council Meeting Preparation  Cr Hanson attended the meeting at 2:59pm. Cr Schram attended the meeting at 3:09pm.		Simon Clarke Doug McNeill Madeleine Bisits Frank Castles Simon McBeth
3:34pm	Meeting closed		



## Assembly of Councillors Record

This form must be completed by the attending Council Officer and saved in the current Assembly of Council Records folder in Content Manager. A copy of the completed form must be provided to Governance for reporting at the next Ordinary Council Meeting. (Please refer to Assembly of Councillors Record - Explanation / Guide Notes.)

### Assembly Details

Advisory committee name: ...Colac Municipal Aerodrome Advisory Committee.....

Date: ...31..... / .....08... / ...20.....

Time: ...11 am

Assembly Location: ...Via Vidyo Conference .....

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

### In Attendance

Councillors: ...Cr Smith..... / ..... / ..... / .....  
..... / ..... / ..... / .....

Officer/s: Tamzin McLennan.... / James Myatt..... / Eliza Withall ..... / .....  
..... / ..... / ..... / .....

Matter/s Discussed: ..General Aerodrome Operations, Changes to operations Due to covid-19 circumstances, OH&S Matters, Hangar Precinct .....

(eg. Discussions with property owners and/or residents; Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay; Council Plan steering committee with Councillors and officers.)

### Conflict of Interest Disclosures: (refer to page 5 of Assembly of Councillors Record – Explanation / Guide Notes)

Councillors: .....nil..... / ..... / ..... / .....  
..... / ..... / ..... / .....

Officer/s: .....nil..... / ..... / ..... / .....  
..... / ..... / ..... / .....

.....left meeting at: ..... am / pm; returned to meeting at ..... am / pm.

Completed by: .....Eliza Withall .....



## Councillor Briefing

Meeting Room 1, COPACC and by Videoconference

Wednesday, 2 September 2020

1:45pm

## Assembly of Councillors

**INVITEES:**

Cr Crook, Cr Hanson, Cr Hart, Cr McCracken, Cr Potter, Cr Schram, Cr Smith, Peter Brown, Errol Lawrence, Tony McGann, Ian Seuren

**ATTENDEES:**

PHYSICAL ATTENDANCE: Cr Crook, Cr Schram, Peter Brown, Ian Seuren

BY VIDEOCONFERENCE: Cr Hanson, Cr Hart, Cr McCracken, Cr Potter, Errol Lawrence, Tony McGann, Jason Clissold, Frank Castles, Doug McNeill

**EXTERNAL ATTENDEES:**

BY VIDEOCONFERENCE: Patti Manolis (Chief Executive Officer, Geelong Regional Library Corporation), Marie O'Dell (Executive Manager, People and Business Operations, Geelong Regional Library Corporation)

**APOLOGIES:**

Nil

**ABSENT:**

Cr Smith

Meeting commenced at 1:45pm

Declarations of Interest		Item	Reason
Nil			
Councillor Briefing			
Time	Item		Attendees
1:45pm – 2:15pm	Library Services - Transition to the Geelong Regional Library Corporation		Patti Manolis Marie O'Dell  Ian Seuren





Councillor Briefing (continued)		
Time	Item	Attendees
2:15pm – 2:25pm	Policy Review - 16.4 Guarantee of Community Loans	Jason Clissold
2:25pm – 2:37pm	Contract 2020 - Provision of Traffic Management Services	Tony McGann
2:37pm – 2:41pm	Break	
2:41pm – 3:02pm	City Deal Projects Update Cr Schram left the meeting at 3:01pm	Frank Castles
3:02pm – 3:13pm	Contract 1954-2 – Contract for Building Surveying & Inspection Services Cr Schram returned to the meeting at 3:25pm	Doug McNeill
3:13pm – 3:51pm	General business: <ul style="list-style-type: none"> <li>• Heritage Plan</li> <li>• Elliminyt Recreation Reserve and Velodrome</li> <li>• COVID-19 update</li> </ul>	
3:51pm	Meeting closed	





**OLD BEECHY RAIL TRAIL COMMITTEE  
MEETING MINUTES  
TUESDAY 28 JULY 2020  
10:00am – 12:17pm  
COS RAE ST CONFERENCE ROOM & VIDEOCONFERENCE**

## OLD BEECHY RAIL TRAIL COMMITTEE MINUTES

### Update: Committee Members:

✓	Cr Chris Smith (Chair)	COS Councillor	✓	Tricia Jukes	Land Owner representative
✓	Sue Thomas	Community representative	✓	Philippa Bailey	Community representative
✓	Andrew Daffy	Community representative	Apology	Cyril Marriner	Community representative
✓	Noel Barry	Friends of the Old Beechy Rail Trail representative	✓	Linda Laurie (proxy) Left meeting at 11:45am	Department of Environment, Land, Water and Planning representative (DELWP)
✓	Nicole Frampton (minutes)	COS Recreation and Open Space Coordinator	✓	Videoconference attendance via Vidyo platform	
			✓	Rae Street Conference Room	

### Non-voting invitees:

Due to COVID restrictions – meeting attendance limited to Committee Members and COS Staff.

- ✓ Tony Addinsall – for maintenance items only via phone (COS Services and Operations),
- ✓ Ian Seuren (COS General Manager Development and Community Services),
- ✓ Tony McGann (COS General Manager Infrastructure and Leisure Services),
- ✓ Sarah McKew (COS Manager Governance),

1. OBRT Committee transition to a new governance structure (10-10:30am)	
<ul style="list-style-type: none"> <li>Update on LG Act 2020 requirements</li> <li>OBRT Committee transition to a new Governance Structure</li> <li>Councillor Briefing and August OCM report</li> </ul> <p>Introduction NF: The future of the current OBRT Committee as a Section 86 Committee needs to be reviewed under the new <i>Local Government Act 2020</i>. The current committee will lapse from 1 September 2020 under the implementation of <i>Local Government Act 2020</i>. Suggestions for a future governance structure were provided to Committee members in the email sent on 23 July 2020. Options for consideration to ensure continued community input into Council's management and maintenance of the trail were:</p> <ul style="list-style-type: none"> <li>Community Asset Committee – not a suitable structure for this Committee based on how it currently operates.</li> <li>Advisory Committee.</li> <li>Development of a Memorandum of Understanding agreement with the Friends of the OBRT.</li> </ul> <p>S McKew provided an update and clarification for implementing the <i>Local Government Act 2020</i>.</p> <ul style="list-style-type: none"> <li>The new Act is required to be implemented at different stages (ie new sections of the Act come in at different times). The timeframe for transitioning existing Council Section 86 delegated committees is 1</li> </ul>	Nicole Frampton Tony McGann Ian Seuren Sarah McKew Committee members



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September 2020 when the instrument of delegation for the OBRT Committee expires, requiring a new governance structure for the OBRT Committee.

The Committee members expressed their disappointment as to why nothing has been done sooner. Whilst discussions were held with the committee in December 2018 and again in February 2020, the Committee didn't realise that the timeframe for transitioning to a new governance structure was so imminent. The Committee would like to remain as a delegated committee of Council.

Response: Given how the OBRT Committee operates, it is not possible for this group to transition to a Community Asset Committee as is outlined in the new Act. This is also the structure other Council delegated Section 86 Committees will be transitioning to.

Question: TJ "I have spent time reading the new version of the Act and ask why we are not considering Section 11 of the Act (*Local Gov't Act 2020- Division 1 – 11 Power of Delegation (Pages 30-32)*) which appears to be capable of covering our committee".

Officer Response: Section 11 of the LG Act 2020 is for formal delegated committees of Council ie Planning Committee – they are a formal committee of Council and operate just like a Council meeting, with 2 or more councillors appointed to the Committee. A committee being established under Section 11 of the Act is not appropriate for the OBRT Committee.

Committee Question: Timeframe for transitioning to a new committee. Why does this Committee structure lapse 1 September 2020? Members of the committee thought that implementation of the new Act gave Council 18 months to undertake the changes required by the new law.

Officer Response: The 1989 LG Act repealed section 86 of the Act on 1 May 2020 and provided Council's with a deadline of 1 September 2020 to transition existing committees to a new structure – Community Asset Committee (under Section 47 of new Act – CEO delegation). The OBRT Committee does not operate as a traditional Section 86 Committee that manages and maintains an asset on behalf of Council. By way of the OBRT Committee charter, it operates more as an advisory committee. As of 1 September 2020 the existing Section 86 OBRT Committee Instrument of Delegation and Charter will lapse. In the officers' opinion, transitioning the OBRT Committee to a Community Asset Committee is not appropriate (Community Asset Committees manage and maintain an asset on behalf of Council). Another factor to consider is that Council has Landowner Licence Agreements with 12 private landowners along the trail, and those agreements are between Council and landowners, therefore it is not appropriate for a Community Asset Committee to manage and maintain the asset. The committee has also previously advised officers that it does not want to become an advisory committee.

Committee Discussion: Can the committee request an extension of time to transition to another governance structure?

Officer Response: Recent correspondence and direction from the Minister is that current Council delegated Section 86 Committees need to transition and be implemented to Community Asset Committees by 1 September 2020.



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Committee Discussion: Does the OBRT Committee want to investigate this further? The facts, as stated by the Chair, are that the current OBRT Committee will be no more from 1 September 2020; and nothing will be in place by 1 September 2020.

- In the opinion of the Chair and other committee members, transitioning to an advisory group would not a good outcome.
- An agreement with the 'Friends' group has some possibility however would not be in place by 1 September 2020.

Officer Response: Officers acknowledged that formal discussions have yet to be held with the Friends group to see if this is what they want or that they have the capacity to play that role in ensuring community input into Council's management/maintenance/future development of the OBRT.

Officers were seeking Committee direction as to whether this might be a suitable transition in ensuring future input, however the Committee members did not provide officers with any direction at the meeting for the following reasons:

- that the committee had not been able to meet due to the pandemic (last meeting was on 18 February 2020);
- that the committee members had no knowledge that this would be their last meeting;
- that the committee had no time to consider suitable future options and were unprepared; and
- that the committee wanted to further investigate options to continue as they currently operate.

Future governance options for the OBRT committee have been workshopped with staff to determine what the best option for a future governance structure could be. Through this process, continuing the valuable work and further developing the relationship it has with the Friends group was deemed to be the best solution for transitioning the current OBRT committee to.

Due to the timeframes for implementing this and the discussions that need to occur between Council officers and the 'Friends' group, it will mean there will be a lapse between the OBRT Committee and the establishment of a future governance arrangement which ensures continued community input into the OBRT.

Committee members asked if they could contact the Minister to seek an extension for transitioning to a new governance structure.

Officer Response: yes they could.

**Action: Philippa Bailey to contact the Ministers office on behalf of the committee to discuss the request for an extension.**

**Action: Sarah McKew to contact Local Government Victoria (LGV) to see if it's possible to get an extension for the OBRT Committee to transition to a new governance structure after the 1 September 2020.**

Committee Discussion: If the current OBRT Committee lapses on 1 September 2020, what happens to the funds in the OBRT Committee account. There would need to be a formal OBRT Committee resolution to transfer this money to

PB

S. McKew



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<p>another organisation. Suggestion was to transfer the funds to the 'Friends of the OBRT' and also ensure that this money is available for former OBRT Committee activities and events such as the OBRT Brochure and Hunt for the Golden Gumboot.</p> <p>Chair's suggestion is that a meeting be held in 2-3 weeks time to finalise outstanding committee activities including the OBRT Committee bank account. Meeting date to be confirmed later in the meeting.</p> <p>NF informed the Committee that a report relating to the OBRT Committee would be presented to the August OCM.</p> <p>The Chair asked what was happening to the Licence Agreements – when will landowners see the revised agreement. NF provided update – See General Business item for response.</p> <p>Ian Seuren, Tony McGann and Sarah McKew left the meeting.</p>	
<b>2. Welcome, apologies</b>	
Apologies: Cyril Marriner, Craig Clifford (DELWP), Jessica Reid (Parks Victoria)	
<b>3. Confirmation of previous minutes – 18 February 2020</b>	
<p><b>Committee Comment:</b> <i>Whilst the meeting minutes are accurate, the committee expresses their concerns that the level of feeling and committee frustrations have not been fully reflected in the minutes.</i></p> <p><b>Moved:</b> Tricia Jukes  <b>Seconded:</b> Sue Thomas  <b>Carried.</b></p>	
<b>4. Business Arising from Previous Minutes (<a href="#">see link</a>)</b>	
<p>Item 3 Discussion:</p> <p>Outstanding Actions will be covered in General Business and will be updated on linked spreadsheet – (<a href="#">see attached or link</a>) for update.</p>	
<b>5. Correspondence</b>	
In	
<ul style="list-style-type: none"> <li>Various re: landowner insurance, licence agreements and property risk assessments. NF: Formal responses regarding the review of the licence agreements was received from all landowners.</li> </ul>	
<ul style="list-style-type: none"> <li>3/04/2020 – Correspondence from Ford film shoot producer – donation to OBRT Committee. NF: details of donation forwarded to OBRT Committee to arrange payment.</li> </ul>	
<ul style="list-style-type: none"> <li>12/05/2020 – Email from DELWP (Tim O'Neil) explaining land deviation process for Mr Humphris land swap. NF: meeting held with Mr Humphris to explain steps of land deviation process.</li> </ul>	
<ul style="list-style-type: none"> <li>22/06/2020 – letter from members of the OBRT Committee raising concerns about Council's lack of vision and commitment to the trail.</li> </ul>	



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NF: meeting held with Sue Thomas, Tricia Jukes and Peter Brown to discuss concerns.	
Out	
<ul style="list-style-type: none"> <li>Various correspondence re: landowner insurance and licence agreements.</li> </ul> <p>NF: various emails to insurer, risk assessments, legal review of licence agreement and landowner discussion when required.</p>	
<b>6. Council Report/Update</b>	
<p>Item 5 Discussion:</p> <p>The July 2020 Monthly Report was presented to the Committee for discussion – see attached. Due to meeting via videoconference, the report was emailed to committee members prior to meeting on 27/07/2020.</p> <p>Note: trail pedestrian readings were not requested to be collected prior to the meeting due to COVID-19.</p> <p>Committee report discussion:</p> <ul style="list-style-type: none"> <li>Maintenance – whilst the trail has been kept tidy, the committee is disappointed with the lack of significant maintenance being completed along the trail ie culverts and drainage works/cleaning.</li> </ul> <p>Maintenance Update (Gellibrand to Ferguson) – Tony Addinsall (<i>via Phone</i>).</p> <ul style="list-style-type: none"> <li>The south crew continue to maintain the trail along the Gellibrand to Ferguson sections of the trail. The closed steep section (Ditchley gully) is difficult for vehicles/staff to access at this time of year, so they have not recently been completing inspections/maintenance in this section.</li> </ul> <p>Maintenance Update (Colac to Gellibrand) – provided by Team Leader prior to meeting.</p> <ul style="list-style-type: none"> <li>The north crew have completed 4 inspections of the trail since the last meeting (14/5, 28/5, 4/6 and 18/6) due to COVID-19 vehicle and staff restrictions. Discussions have been held with the south crew TL to complete these inspections in the interim whilst COVID-19 workplace restrictions remain.</li> <li>Works complete during the inspections include: <ul style="list-style-type: none"> <li>Clearing of any tree limbs/debris</li> <li>Whipper snipping growth where required along the trail.</li> </ul> </li> </ul> <p><u>Committee Maintenance Requests:</u></p> <ul style="list-style-type: none"> <li>Committee requested for staff to inspect the main Gellibrand bridge – concerns with timber rotting.</li> <li>Gellibrand to Wimba section – the Committee asked what maintenance has been completed along this section. Response (T. Addinsall): weekly inspection conducted which includes clearing branches weeds, spraying, bobcat to sweep trail, and drainage works (clean out).</li> <li>Cashins Road (Birnam Station) – netting has been installed at the gate. Why is this here. Hard to get horses through for this section (this is the only section where horse riders are able to use the trail).</li> </ul>	<p>NF</p> <p>T. Addinsall to arrange for an inspection of the bridges.</p>





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<p>Officer Response: staff fixed existing fence where motorbikes had damaged. Works completed were not new fencing, but reinstating an existing fence. Horse riders should be able to guide horses through the chicane.</p> <ul style="list-style-type: none"> <li>Timber bridge closest to Gellibrand – near Wonga Road – is slippery. Committee asked that all bridges be inspected for slipperiness.</li> <li>Birnam Station (Cashins Road) to Gellibrand – reports of horses using this section – Committee asked if Council can install additional 'no horses' signage along this section.</li> </ul>	<p>T. Addinsall</p> <p>T. Addinsall</p> <p>T. Addinsall</p>
<b>7. Friends Report – Noel Barry</b>	
<p>Update/Discussion:</p> <ul style="list-style-type: none"> <li>Nothing much to report – due to COVID-19 restrictions no works have been able to be completed.</li> </ul>	
<b>8. Treasurers Report – Tricia Jukes</b>	
<p>Treasurer provided a verbal balance of the account: As at 28/07/2020, the OBRT Committee Cheque Account has a balance of \$6,609.59.</p> <p>Invoice was received from CPS for the Honour Board writing. As previously agreed, this was paid by the Friends of the OBRT.</p>	
<b>9. Working Group Updates</b>	
<b>• Marketing / Governance / Promotions / Events Working Group</b>	
<p><u>New Map/Brochure update</u></p> <ul style="list-style-type: none"> <li>Brochure/Map</li> </ul> <p>Update: Brochure project on hold until licence agreements finalised. This project will be completed by interested committee members.</p>	
<b>• Maintenance and Future Planning Working Group</b>	
No meeting held – nothing to report.	
Cr Smith took the opportunity to thank the members on the working groups for their work over the years.	
<b>10. General Business</b>	
<ul style="list-style-type: none"> <li>Revised Licence Agreements including insurance coverage</li> </ul> <p><u>Licence Agreement Review</u></p> <p>Feedback was received from all landowners. As a result of the feedback, the Licence Agreement was updated/amended and sent for a legal and insurance review. This revised licence agreement will be sent to landowners in the coming week for consideration.</p> <p><u>Licensed land property risk assessment</u></p> <p>All private property risk assessments have now been completed and received by Council. These will be included in the individual landowner licence agreements to be sent out by the end of July 2020.</p> <p><u>Landowner Insurance Policy</u></p> <p>Nine landowners have confirmed to be included on the landowner public liability insurance policy; officers are still awaiting notification from 2 landowners. All necessary documentation was provided to Council's insurance broker as requested. The additional Landowner insurance policy</p>	





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<p>was taken out – effective from 4pm 23/07/2020 to 4pm 30/06/2021. This is included in the Licence Agreement. Certificate of Currency for the policy will be sent to Landowners.</p> <p><u>Next Steps (Nicole Frampton):</u></p> <ul style="list-style-type: none"> <li>○ Send amended revised Licence Agreement to all landowners for consideration.</li> <li>○ Review landowner feedback for the revised Licence Agreement.</li> <li>○ Sign and implement final licence agreements.</li> <li>○ Complete identified property risk assessment works.</li> </ul> <p>Cr Smith expressed his disappointment that the revised Licence Agreements were not sent to landowners for their consideration prior to sending the agreement for a legal and insurance review. In his opinion, the draft licence agreement would need significant work before him and other landowners would sign the document.</p>	NF
<ul style="list-style-type: none"> <li>• Trail Closures             <ul style="list-style-type: none"> <li>○ Temporary Closures Update: Temporary closures still in place from Wimba to Ferguson. These will remain in place until landowners advise otherwise.</li> <li>○ Dinmont to Ditchley closure Update: This section of the trail remains closed. Budget case for safety improvements (trail re-alignment) in this section was unsuccessful. <b>Committee discussion: The committee expresses their disappointment that the Ditchley Gully section has not been rectified and should be fixed by Council at Council's cost as the alignment was constructed incorrectly in the first place and not in accordance with the committee's wishes.</b></li> </ul> </li> </ul>	
<ul style="list-style-type: none"> <li>• Ditchley Gully landswap (Humphris) Update: Council has received correspondence from DELWP outlining how to complete the land deviation (land swap) with Mr Humphris. NF outlined email content for Committee members. This process has also been explained with Mr Humphris, with work continuing to complete the required tasks to finalise the landswap.</li> </ul>	NF
<ul style="list-style-type: none"> <li>• Midway Plantations – signage on gates. <b>Action: Nicole to work with Midway to develop standard OBRT signage for Midway properties.</b> Update: This has been on hold, however now that property risk assessments have been completed, Nicole to work with Midway to develop standard OBRT signage for Midway properties.</li> </ul>	NF
<ul style="list-style-type: none"> <li>• Gellibrand Information Centre Update: inspection completed by COS and builder to determine building condition and works required. This information was sent to committee members on 1/4/2020.  An inspection of this building was completed by Council's Asset Condition Inspection Officer and a registered builder on the 18 March. Due to the identification of significant defects, it is recommended that the building requires total replacement rather than doing any maintenance.</li> </ul>	



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<p>The works needing attention following the onsite visual investigation include:</p> <ol style="list-style-type: none"> <li>1. Wall facing to the North side is heavily deteriorated and approaching rehabilitation and the window has completely rotted.</li> <li>2. Some deterioration can be seen in all the other walls. Replacing panels would be difficult as the frame is not solid.</li> <li>3. The floor is in good condition and it appears there are no water leaks from the roof.</li> <li>4. The verge plates need to be replaced.</li> <li>5. The veranda components such as sleepers are rotten and require replacement; movement can be seen in the columns; the steel nails (star pickets) holding the sleepers in place are unsafe for visitors; and the floor has sunk.</li> </ol> <p>Builder Recommendation: A total replacement of the building rather than doing any maintenance needs to be considered. There is very limited maintenance that can be done due to the condition of the building.</p> <p>NF requested the group to consider how this building's condition will be addressed in the future. Do the committee members have any ideas? Committee discussion:</p> <ul style="list-style-type: none"> <li>○ Cr Smith was disappointed that the recommendation was to demolish. No consideration and acknowledgement of the history of the building has been made.</li> <li>○ TJ investigated the building with a builder, and believes that the condition of the building could be fixed in stages rather than replacing.             <ul style="list-style-type: none"> <li>▪ Stage 1 – north wall and veranda.</li> <li>▪ Stage 2 – fix other walls.</li> </ul> </li> <li>○ AD asked if the building has a historical overlay? Wondered what it would take to rehabilitate the building. Need to find out if the building is going to stay there. Gellibrand Neighbourhood House could investigate options for funding in order to fix the building.</li> <li>○ NB suggested that the building be donated to the Friends group to restore.</li> <li>○ The historical significance of the building needs to be noted, it is not impractical that it be fixed, and that the Gellibrand Community House and Friends group look at working together to preserve the building and seek funding to complete works.</li> <li>○ The building came from the VRI Hall in Colac, and was originally the tea rooms for the Gellibrand Station. The OBRT Committee then re-located the building to Gellibrand.</li> </ul> <p><b>Action: That Nicole discuss with Council's Asset team that the OBRT Committee strongly insist that the building not be demolished. That Council explore options to allow the OBRT Committee/Friends group to investigate funding options to complete improvement works.</b></p>	NF
<ul style="list-style-type: none"> <li>• Honour Board for OBRT contributions. Update: Signwriting invoice has been paid. Committee Discussion around the permanent location for the honour board. Decision: To mount on the chimney. The Committee gave permission for AD to install the honour board in the station building, with it to be unveiled at the final OBRT Committee meeting to be held in a few weeks.</li> </ul> <p><b>Outstanding Action: OBRT Committee to develop the criteria for names to be installed on the Honour Board.</b></p>	AD          All



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<ul style="list-style-type: none"> <li>OBRT Strategic Vision/Statement <ul style="list-style-type: none"> <li>Trail re-alignments</li> <li>Barongarook Road off-road possibilities</li> </ul> </li> </ul> <p>Cr Smith acknowledged the work that PB and ST had completed so far. No further work will be undertaken due to OBRT Committee lapsing on 1 September 2020.</p>	PB
<ul style="list-style-type: none"> <li>Golden Gumboot Event 2020</li> </ul> <p>No application was submitted due to COVID-19.</p> <p>Committee discussion around the promotion of the trail for the September school holidays. Propose to take out an advertisement in the paper acknowledging that this would have been the 10<sup>th</sup> year for the Hunt for the Golden Gumboot event, and acknowledging the sponsors who have supported the event over the years.</p> <p>The following proposal to be discussed further at the next OBRT Committee meeting (end August): <i>“That the OBRT Committee bank account funds are transferred with the expressed desire that \$1,500 be used for organising an event/activity for the September 2020 school holidays”.</i></p>	PB
<ul style="list-style-type: none"> <li>Donation of railway line to the Committee/Friends</li> </ul> <p>NB informed the committee that a local resident has some pieces of the former Beechy Railway line that he will donate to the committee/Friends for future use.</p> <p><b>Action: Noel Barry to inform local resident that the Friends group will gladly take possession of the railway line on behalf of the OBRT Committee for future use.</b></p>	NB
<ul style="list-style-type: none"> <li>Future Meeting Dates – Chair proposed to have one last formal OBRT Committee meeting prior to the 1 September 2020.</li> </ul> <p>Next Meeting: Thursday 20 August 2020 at 10am at the Gellibrand Hall. Nicole to review COVID-19 restriction requirements prior to the meeting.</p> <ul style="list-style-type: none"> <li>10am – Formal meeting to discuss committee finances and concluding statement from the Committee to Council.</li> <li>11am unveiling of honour board – invite honour board recipients to attend. This is proposed to be an outdoor activity – not to be held in the Gellibrand OBRT Information Centre building.</li> </ul>	NF
<b>11. Meeting Dates &amp; Times</b>	
Meeting Closed 12:17pm	
<p><u>Next meeting:</u></p> <ul style="list-style-type: none"> <li><b>Thursday 20 August 2020 at 10am at the Gellibrand Hall.</b> <ul style="list-style-type: none"> <li>10am – last formal Committee Meeting at the Gellibrand Hall.</li> <li>11am – unveiling of Honour Board at Rex Norman Park.</li> </ul> </li> </ul> <p>Venue: Gellibrand Hall and Rex Norman Park.</p>	

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2020 - 28 July	Community member donation of railway line to the Committee/Friends group  <b>Action: NB to inform local resident that the Friends group will gladly take possession of the railway line on behalf of the OBRT Committee for future use.</b>	Noel Barry		
2020 - 28 July 2020 - 18 February	OBRT Committee transition to new Governance Structure  <b>Action 28/7/20: Sarah McKew to contact Local Government Victoria (LGV) to see if it's possible to get an extension for the OBRT Committee to transition to a new governance structure after 1 September 2020.</b> <b>Action 28/7/20: Philippa Bailey to contact the Ministers office on behalf of the committee to discuss the request for an extension.</b>  <b>Action 18/2/20: Nicole to circulate policy to committee members following meeting - Committee encouraged to read 5.2 - this is the one that best fits your purpose and objectives and how the committee currently operates.</b> <b>Action 18/2/20: Nicole to send policy, example of current Advisory Committee Terms of Reference, and current OBRT Section 86 Committee instrument of delegation and charter.</b> <b>Action 18/2/20: Committee to list their idea of the roles and responsibilities of the current Section 86 Committee so this can be compared to an Advisory Committee and 'Friend of OBRT' incorporated committee functions.</b>	Committee	In Progress	Update 20/8/20: Report regarding the OBRT Governance structure will be presented to the 28 August OCM for consideration.  After the 1 September 2020, the OBRT Committee will still be a committee per se – it just won't have an Instrument of Delegation or any governance structure informing its status or relationship with Council from 1 September 2020 under the Local Government Act 2020. The OBRT Committee can still organise informal meetings after 1 September 2020, however the meetings will not require Council officer attendance and the meeting minutes will not be reported to Ordinary Council Meetings.  Update 18/8/20: S McKew contacted LGV - no response has been received prior to the 20/8/20 OBRT Committee Meeting.  Update 1/4/20: Nicole sent policy, advisory committee terms of reference example and OBRT Committee Section 86 IoD and Charter to committee members on 1/4/20.
2020 - 18 February	2020 Hunt for the Golden Gumboot Event  <b>Motion: "That the OBRT Committee apply under Council's Grant Program to run the Golden Gumboot in 2020".</b> Carried	Philippa Bailey	Completed	Update 28/7/20 - Application was not submitted due to COVID-19.

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2020 - 28 July 2020 - 18 February	Gellibrand Information Centre  <b>Action 28/7/20: That NF discuss with Council's Asset Team that the OBRT Committee strongly insist that the building not be demolished. That Council explore options to allow the OBRT Committee/Friends group to investigate funding options to complete improvement works.</b>  <b>Action: AD to work on getting a quote for ant infestation.</b> <b>Action: need to get some no smoking signs installed for the building.</b> <b>Action: Building condition needs to be assessed - Completed.</b>	Nicole Frampton/COS	In Progress	Update: 18/8/20 - Email sent to Council's asset team providing them with the Committee's concerns raised at the 28/7/20 OBRT Committee meeting.  Update 1/4/20 - An inspection of this building was completed by Council's Asset Condition Inspection Officer and a registered builder on the 18 March. Due to the identification of significant defects, it is recommended that the building requires total replacement rather than doing any maintenance. The works needing attention following the onsite visual investigation include: 1. Wall facing to the North side is heavily deteriorated and approaching rehabilitation and the window has completely rotted. 2. Some deterioration can be seen in all the other walls. Replacing panels would be difficult as the frame is not solid. 3. The floor is in good condition and it appears there are no water leaks from the roof. 4. The verge plates need to be replaced. 5. The veranda components such as sleepers are rotten and require replacement; movement can be seen in the columns; the steel nails (star pickets) holding the sleepers in place are unsafe for visitors; and the floor has sunk. Recommendation: A total replacement of the building rather than doing any maintenance needs to be considered. There is very limited maintenance that can be done due to the condition of the building. <b>As a group, we need to determine how this building's condition will be addressed in the future. Do the committee members have any ideas?</b>
2020 - 18 February	Gellibrand to Wimba section of OBRT <b>Action: Nicole to organise signage so that this section of the trail can be re-opened.</b>	Nicole Frampton	Completed	Signage installed - this section of trail re-opened.
2020 - 18 February	Request to complete commercial film shoot along the Birnam Station section of the OBRT. <b>Motion: "That the OBRT Committee provide support for the trail to be used for this request and that the applicant consider making a donation to the committee for use of the trail".</b> Carried.	Nicole Frampton	Completed	Film shoot completed and donation made to the OBRT Committee. Commercial sent to Committee for viewing.  Motion and request for donation provided to applicant.
2019 - 28 November	2020 Otway Trail Run <b>Motion: "That they OBRT Committee approves the 2020 Otway Trail Run event to take place as per their application and the event permit conditions from previous years' events; and that the Committee request a donation be made by the event organisers towards the use of the trail to the 'Friends of the OBRT' or the 'OBRT Committee of Management'".</b> Carried.	Nicole Frampton	Completed	Motion and event conditions forwarded to COS Events Department.
2019 - 28 November 2019 - 22 October	<b>Action: That Council Officers report back to the Committee about what would be required to get an off-road section along Barongarook Road. The committee need to develop an advocacy document highlighting trail strategic directions/priorities for investment. This would add to the vision for the trail.</b>	Nicole Frampton	Not Commenced	Update: maintenance clauses provide to Committee for discussion at 28/11/2019 meeting.
2019 - 22 October	Revised Licence Agreements  <b>Action: COS to bring draft maintenance clauses to the next committee meeting for discussion.</b>	Nicole Frampton / Ma	Completed	

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 28 November 2019 - 22 October 2019 - 4 June	Honour Board for OBRT contributions at the Gellibrand Information Centre  <b>Action: The OBRT Committee to develop the criteria for names to be installed on the Honour Board.</b>  <b>Action 22/10: AD to take sign to a sign writer and get a quote for the signwriting to be completed.</b>  <b>Action: Nicole to send Andrew Daffy information about Buchanan Station opening – members - Completed - Details sent 19/11/19</b>	Andrew Daffy	In Progress	Update 28/7/2020: AD to install sign now that location has been determined.  Update 28/11/19: Sign is with the signwriter to get a price to put the names on the board. Names to be initially included on the sign - 10 year names will be included on the board (using Buchanan Station as a start).  Update 22/10/19: The board has been made. Andrew brought the board to the meeting for the committee to view. Need to now get the lettering done. The Friends of the OBRT is in a position to finance the signwriting for the Honour Board.
2019 - 22 October 2019 - 6 August	Midway logging works  <b>Action: Nicole to contact Midway for any upcoming works which may affect the trail.</b>	Nicole Frampton	In Progress	Update 22/10/19 - Midway has again been contacted however no return response received.  Update 26/8/19 - Email sent to Midway requesting an update of proposed works.
2019 - 22 October 2019 - 6 August 2019 - 7 May 2019 - 5 February	Insurance cover for farmers/landowners which licence the land to Council for OBRT purposes. (Private Property Risk Assessments/ Insurance cover for landowners which licence the land to Council for OBRT purposes).  <b>22/10/19 - Action: COS to send out a letter to the landowners providing an update to the landowners of what is going on with the insurance information.</b>  <b>6/8/19 - Action: Nicole to send meeting invites to landowners and committee members once report has been received and meeting date has been confirmed.</b>  <b>Action: Nicole to seek clarification on the public liability coverage provided under the licence for landowners of the OBRT.</b>  <b>Action: Nicole to seek further clarification on the public liability coverage provided under the current and future licence agreements for landowners of the OBRT. Timeframe: to be resolved in the next month.</b>  <b>Motion: "That the Old Beechy Rail Trail Committee requests that Colac Otway Shire commit resources to resolving the licence agreement insurance issue as the top priority and a matter of urgency as the continued use of the trail is in jeopardy, and requests that Council provide a report back to the committee regarding the progress of this resolution".</b> Carried.	Nicole Frampton	In Progress	Letter sent to Landowners on 6/11/2019 providing them with an update.  Update: 22/10/19 - Since the Landowner meeting held 10/9, the insurers are still working on what a group policy might look like. Council doesn't have any further information to provide to the Committee at this moment. <u>Insurance and Licence Agreements – Next Steps</u> 1. Finalise what the insurance policy looks like – wording and costs. 2. Once COS has the detail around an appropriate insurance policy, officers will go back to the landowners. 3. Once there is an agreed insurance policy, COS will update the licence agreement and send to landowners for review. 4. Once licence agreement is finalised, get all parties to sign agreement. 5. Update trail signage and brochure based on risk assessment and agreed wording.  Update: 10/9/19 - Risk Assessment/Insurance Landowner meeting held on 10/9/19.  Update 26/8/19 - Individual property risk assessments report received by COS.  Update 6/8/19 - Update: landowner risk assessments have been completed (29/7/19). Council waiting landowner risk assessment report, which is expected to be received the week beginning 19/8/19.  Preliminary advice received. Further advice has been sought. Letters sent to landowners on 30/05/2019.



Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 6 August	Temporary rail closure signage  <b>Action: There has been a landowner request to remove a sign from their property. Nicole to discuss further with the landowner and advise Services and Operations to remove requested sign.</b>	Nicole Frampton	Completed	Update 8/8/19 - Requested signage removed.
2019 - 6 August	Coram – gate locks need to be looked at again. Padlock completely gone. Fencing has been damaged.  <b>Action: Nicole to discuss with COS Services and Operations.</b>	Nicole Frampton	Completed	New lock installed.
2019 - 6 August 2019 - 4 June 2019 - 2 April 2019 - 5 March 2019 - 5 February  2018	Humphris Land Titles - Humphris property/land transfer	Nicole Frampton/COS	In Progress	Update 22/10/19 - Email sent to DELWP on 14/10/2019 seeking steps required to progress the Humphris land swap. Update 10/9/19: Meeting scheduled with landowner on 12/9/19. Update 26/8/19: Revised survey work received 29/7/19. Meeting to be scheduled with landowner in coming weeks. Update 4/6/19 - meeting held with Mr Humphris on 3/6/19. Update 7/5/19 - meetin held onsite with Mr Humphris on 15/4/19. Update 2/4/19 - documentation has been received. A meeting with the landowner now needs to be organised. Waiting on the completion of the final survey to enable land transfer. Discussions and updates have been provided to the landowner (Humphris). Nicole and the property department will continue to work with the landowner to get the land transfer completed. Update 5/2/19 - Need to organise an onsite meeting to discuss exactly where the trail goes (Rick, Andrew, Chris, Nicole, Mark and surveyor).
2019 - 6 August 2019 - 4 June 2019 - 5 March  2018	Colac Station section of the OBRT  <b>Action: Nicole to send a copy of the submitted application to OBRT Committee members - Sent.</b>  <b>Action: Interested OBRT committee members to meet and discuss ideas for the Colac Station section of the OBRT.</b>  A grant opportunity exists to address CPTED issues and improve the aesthetics of this section of the trail through a State Government grant program – Public Safety Infrastructure Fund. In recent months the existing fence has been extensively damaged again. The project proposes a better style of fencing and will also improve the amenity of area via a range of treatments (signage, maps, planting, opening up site lines) to address the perception of being unsafe.	Nicole Frampton	Completed	Update 18/2/20 - application unsuccessful. Update 22/10/19 & 28/11/19 - No notification has been received for the submitted application: Department of Justice, Public Safety Infrastructure Fund 2019-20 – Trail Revival (Colac Station section safety improvements). Update 6/8/19 - Application submitted to Department of Justice. Update 4/6/19 - an application will be submitted under the program for works to be completed to address the CPTED issues. Update 2/4/19 - put on hold until the brochure and Golden Gumboot funding application is completed. Nicole to organise a meeting with Chris, Tricia, Sue and Philippa once the OBRT Audit and Management Plan have been completed. To be discussed at the Committee level once a meeting has occurred.
2019 - 6 August 2019 - 4 June	Midway property gate signage  <b>Action: Nicole to work with Midway to develop standard and consistent signage for the OBRT to be displayed on Midway property gates.</b>	Nicole Frampton	Not Commenced	Update: onhold until risk assessments and Licence Agreement finalised.



Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 4 June	Former Play Equipment which was in Rex Norman Park to be repurposed as a wayfinding sign with OBRT directional signage installed.  <b>Motion: "That the OBRT Committee agree to provide in principle support for "Happy Jack" to be installed with directional signage on the southern side of the Otway Tourist Park on the intersection of the Gellibrand community garden walk and OBRT subject to Council approval".</b> Carried.	Andrew Daffy	In Progress	Gellibrand Community House Project - need to seek Council approval for location of the wayfinding sign and the OBRT signage to be included.
2019 - 7 May	Acknowledgement/Token of Appreciation for Tony Grogan  <b>Motion: "That the OBRT Committee approves Andrew Daffy to create a small token of appreciation for Tony Grogan as a founder of the OBRT."</b> Carried.	Andrew Daffy	In Progress	Update 4/6/19: Morning tea was held for Tony Grogan on 21/5/19 at the Gelli Store. Gift is nearly finished being made.
2019 - 22 October 2019 - 7 May	Committee identified items: • Start of the OBRT in Colac – directional signage required to show where the trail starts at the Colac Station. Committee identified some confusion as to where the trail starts when you get off the train in Colac. • Committee maintenance – Maggio's Road sign DELWP sign – Nicole to contact Craig Clifford to see if this can be fixed or removed - IN PROGRESS (see update) • Some of the signs are weathered and faded – need to check asset condition audit and order new signs where replacement signs have been identified. • Colac Station section of trail – fences have been damaged again and rubbish dumped in the area.	Nicole Frampton	In Progress	Update 22/10/19 from DELWP (Linda): the new replacement sign has been made and needs to be installed. Nicole to send photo of location for the sign to be installed to DELWP (Linda/Craig). Photo sent.  Email sent to DELWP for follow up of sign replacement - Update: Forest Fire Management staff plan to remove the old sign on Maggio's Road and replace with a new sign. The plan is to complete this job over the next few months.
2019 - 2 April	New Friends of OBRT members  <b>Action: That the 'Friends of OBRT' advertise September/October for new members.</b> <b>Action: Noel Barry to develop a list of maintenance works/tasks which members of the 'Friends of OBRT' could complete.</b>	Noel Barry	Ongoing	
2019 - 5 March	Hunt for the Golden Gumboot - 2019 Event Philippa Bailey will coordinate this years event.  <b>Motion: "That the Old Beechy Rail Trail Committee applies for funding for the Hunt for the Golden Gumboot 2019 event."</b> Carried.	Philippa Bailey	Completed	2019 event ran Saturday 21 September to Saturday 5 October - successful event.  Application submitted. Awaiting notification following June OCM.
2019- 7 May 2019 - 5 March	<b>Action: Sign at the Maggio's Road/103 Mile post location has been damaged.</b> Nicole to get Services and Operations to fix. On investigation, this sign is not COS responsibility.  <b>Maggio's Road sign DELWP sign – Nicole to contact Craig Clifford to see if this can be fixed or removed - IN PROGRESS (see update)</b>	DELWP	Completed	Email sent to Services and Operations - this is not a COS sign responsibility - DELWP  Update 4/6/19: Email sent to DELWP for follow up of sign replacement - Update: Forest Fire Management staff plan to remove the old sign on Maggio's Road and replace with a new sign. The plan is to complete this job over the next few months.
2019 - 5 February 2019 - 5 March	Midway Plantations – upcoming harvesting and establishment activities – dates for scheduled works.  <b>Action: Nicole to contact Midway to confirm the dates for scheduled works.</b>  <b>Action: Nicole to inform the committee members once dates for the scheduled works are provided to COS.</b>	Nicole Frampton	Completed	Update: No scheduled works planned will impact on trail users.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 6 August 2019 - 2 April 2019 - 5 February	OBRT Map/Brochure  <b>Action: Meeting to be organised with sub-committee (Tricia, Sue, Philippa). Tricia will organise a meeting with Adrian and the sub-committee re new brochures and format.</b>  <b>Motion: "That the OBRT Committee approves the spending of up to \$500 from the OBRT Committee account to use for professional photos."</b> Carried.	Tricia Jukes / Philippa Bailey	Ongoing	Update 6/8/19 - Brochure project on hold until landowner risk assessment report and brochure wording is finalised. Extension to complete brochure until 30/06/20 has been received. Update 5/3/19 - Sue spoke to Adrian re new brochure format and web page. Update: 2/04/2019 - Working group has met a few times about setting up a website and the new brochure for the trail. Update: Meeting scheduled for 4 June prior to Committee
2019- 5 February	<b>Action: Letters of thanks to be sent to Nathan Swain and Bernard Jordan following their recent resignations.</b>  <b>Action: Add outgoing members to the list of letters to be sent.</b>	Nicole Frampton	In Progress	Letter/Certificate to be provided to all recent resignations and outgoing committee members.
2019 - 5 February	Committee identified maintenance works:  * Colac Station - broken yellow marker * Coram - pedestrian and vehicle gate on Forrest St South - a chain has been installed around the vehicle and pedestrian gate restricting access. * Larsons gate - chicane pedestrian gate - committee has requested that this be removed. * Drains and surface of the trail between Gellibrand and Ferguson appears to not been touched. (Frank provided an update of the works completed along the trail) * Many sections with long grass on either side of the trail. * Drains in Fairyland section are clogged/blocked with leaf litter. * Fairyland section fern fronds are too low - low height. * Section between Maxwells Road and Birnam Station needs attention.  <b>Action: Nicole to email committee identified maintenance works to COS Services and Operations</b>	COS Service and Op	Ongoing	Coram - chain has been removed. Larson's Gate Chicane Pedestrian Gate has been removed. Services and Operations are conducting weekly inspections of the trail - during these inspections trees are trimmed, vegetation cleared where required.
2018 - 4 December	Donation from Events to go towards OBRT maintenance - Trail preparation for event Committee discussion – perhaps the committee needs to consider that event organisers consider giving a donation to the committee for the use of the trail for events. The donation would be used by the committee for ongoing maintenance of the trail.  <b>Action: Committee notes this discussion and will consider requesting a donation for future requests to use the OBRT for events.</b>	Committee	Ongoing	
2018 - 4 December	Friends of OBRT Newsletter Send through any news or project updates to Philip Dandy to be included in the Friends of the OBRT Newsletter. <b>Action: Tricia and Sue to provide updates to be included in the newsletter; eg. market exhibitions, grants, events, etc.</b>	Committee	Ongoing	

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 7 May 2019 - 2 April 2019 - 5 March 2018 - 4 December	<p>Committee Appointments/Membership</p> <p><b>Motion:</b> "That the Old Beechy Rail Trail Committee request that Council officers work towards, as soon as possible, seeking Council approval to amend the Old Beechy Rail Trail Committee Charter by changing the committee membership to reflect the Committee's proposal of: two (2) Council representatives (one Councillor and one member of Council staff); five (5) Community representatives; one (1) DELWP representative (Department of Environment, Land, Water and Planning); one (1) Landowner representative; and one (1) Friends of the Old Beechy Rail Trail representative; and amend Section 3.3 of the current charter to include "more often as required as called by the chair". Carried</p> <p><b>Action:</b> <i>That Nicole send letters/emails to the current OBRT Committee representatives and representative organisations informing them of the changes to the Committee membership and inviting interested persons to apply for one of the community representative positions.</i></p> <p><b>Motion:</b> "That Tony Grogan, if available, is involved in the OBRT Committee community representative selection process". Carried.</p> <p><b>Motion:</b> "That the outgoing Old Beechy Rail Trail Committee formally recommends to put forward to Council for endorsement the four nominations received for the community representative OBRT Committee positions." Carried.</p>	Nicole Frampton	Completed	<p>Report presented to 30 January 2019 OCM for consideration - Council endorsed the changes to the OBRT Committee Instrument of Delegation and Charter.</p> <p>Update 5/03/2019: Advertisement placed in Colac Herald (1 March), and requested to be placed in the Apollo Bay News, Birregurra Mail, Apollo Bay website, Otway Light, and Forrest Post.</p> <p>Action Completed - Letters sent to representatives and representative organisations</p> <p>Tony Grogan will be invited to attend selection panel meetings. Motion not required - only 4 community position nominations were received.</p> <p>Report presented to 24 April 2019 OCM for consideration - Council appointed the following nominated members Andrew Daffy, Philippa Bailey, Sue Thomas, Cyril Marriner, Craig Clifford (Proxy Linda Laurie), Tricia Jukes and Noel Barry to the Old Beechy Rail Trail Committee'.</p>
2018 - 4 December	<p>OBRT Risk Assessment Report - Dinmont to Ditchley Closure</p> <p><b>Motion:</b> "That the Old Beechy Rail Trail Committee reinforces its position that the rail trail section through Humphris (Dinmont to Ditchley) remain closed due to risk factors and until such time as the steep section and the cattle crossing section are rectified in line with the committees expectations, and that the committee request that Council do the appropriate work on the road section to mitigate our risks as identified in the MAV Insurance Risk Assessment Report." Carried.</p>	Nicole Frampton	In Progress	<p>Whilst maintenance works are being completed in this section of the trail, the trail remains closed to users.</p> <p>Council officers are developing a traffic management plan to ensure the Old Beech Forest Road is signposted accordingly during trail closures and diversion to the road.</p> <p>Council has commissioned works to survey a proposed re-alignment of the existing trail to eliminate one of the very steep sections of trail, to improve the gate crossing, and two other steep sections of trail within the Ditchley gully area.</p>
2018 - 4 December	OBRT Audit - Trail Management Plan	Nicole Frampton/COS Assets Department	In Progress	<p>This is still being completed.</p> <p>Update 28/11/19 - Trail mapping completed. Condition assessment completed. Asset Management Plan/Trail Management Plan needs to be completed - project unable to progress without funding and resource allocation.</p>

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2018 - 4 December	<p>Old Beechy "Train" rides (by C &amp; M Smith) along the OBRT for the 2018/19 season</p> <p>A Risk Assessment must be provided to Council and reviewed prior to conducting any train rides along the trail on behalf of the committee. The train will be required to operate in accordance with the completed Risk Assessment.</p> <p>The dates of use must be provided to Council prior to using the train along the trail. All bookings will be entered into the OBRT calendar bookings system. This is required to ensure maintenance works can be scheduled around the train's use of the trail.</p> <p>A report will need to be provided to the committee at the conclusion of the trains operating season.</p> <p><b>Motion: "That the Old Beechy Rail Trail Committee members agree to C &amp; M Smith operating the "train" on behalf of the Old Beechy Rail Trail Committee from December 2018 until the end of May 2019 as detailed above and as per the Risk Assessment and dates of use being provided to Colac Otway Shire prior to the "trains" use of the trail".</b> <b>Carried.</b></p>	Chris Smith	Completed.	<p>Update: Train will not operate for 2019/20 season due to trail closures.</p> <p>Update: Feb 2019 - COS has not yet received a completed risk assessment for review. COS has not yet received any dates for the train along the trail.</p>
2018 - 4 December	<p>Crowes Buffer Stop</p> <p>Works will need to be completed to fix the Crowes Buffer Stop.</p>	Committee	Not Commenced	Committee to determine the works required to be completed.
2019 - 2 April 2018 - 4 December	<p>Timber trolley/OBRT information building at Rex Norman Park, Gellibrand</p> <p>Works will be required in the future on both the trolley and the building. If Council is going to undertake any works on this building, the Committee would like to know what is going to happen prior to any works occurring. Noted.</p> <p>Works are required - needs a good clean and some boards need to be replaced. Some signs need fixing, promotional material and old photos need to be protected. Fireplace is being used for rubbish. The building needs a working bee to spruce it up. The Committee is responsible for the upkeep and maintenance of the building. Council would possibly be responsible for the structural elements of the building.</p> <p>The comments book - there are great comments that need to be captured - comments should be photocopied at regular intervals.</p>	Nicole Frampton	Not Commenced	Committee will be updated if works are to be undertaken
2018	Beech Forest to Ferguson maintenance/condition update	Nicole Frampton	Ongoing	Maintenance is being completed to improve this section of trail. Works completed include spraying, vegetation clearance, surface
2018	Outstanding maintenance items	Nicole Frampton	Ongoing	An audit has been completed for the full length of the trail. Maintenance is being completed as per identified works.
2018	Broken trail sign - Gellibrand	Nicole Frampton	Not Commenced	This still needs to be completed. Works will commence once the Coram sign is replaced.
2018	List of land owners (including map) & Licence Renewal update	Nicole Frampton	In Progress	Update 5/2/19 - Letter sent to land owners re Licence Renewal on 21/12/2018. Current Licence Agreement is being reviewed at the moment.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 22 October 2019 - 4 June 2019 - 7 May 2019 - 2 April 2019 - 5 March 2019 - 5 February 2017	Coram Station Sign Replacement	Noel Barry	In Progress	Works are progressing to complete the replacement sign. Update 7/5/19 - Board finished with letters needing painting Update 2/4/19 - Still progressing but slowly. Update 5/3/19 - Sign was attempted to be painted. Due to the hot weather, the paint job isn't very good and will need redoing. The fascia panel will also now need replacing. Update 5/2/19 - Sign needs painting and will then be finished.



# July 2020

## Monthly Report

### Summary

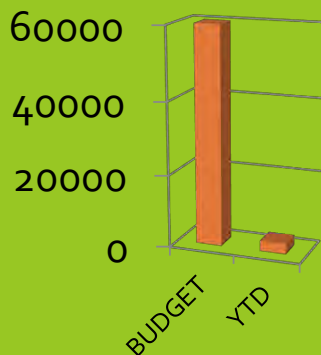
The trail remains closed from Wimba to Ferguson.

Usage of the trail has been impacted by COVID-19 restrictions (Colac community and visitors to our region).

Colac Otway Shire Council vehicle and staff COVID-19 restrictions have impacted on maintenance of the trail.



### Budget Status 2020/21



Average Pedestrians per  
day – Fry's Road

February: 10

July: 10

1

0

Trail Count

Merits Received

Media Posts

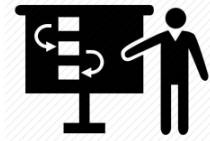


### Works Completed

Inspections of the trail, including sections of the trail temporarily closed, are carried out regularly and include clearing of low hanging branches, whipper snipping, removal of fallen logs, clearing drainage and inspection of signage.

South crew – weekly inspections.

North crew – regular inspections.



### Works Planned

Regular Inspections of the trail to continue.

Works to address property risk assessments – gates, signage.

### Events along the OBRT

Event applications received:

- Nil.

Recent Events:

- Ford commercial film shoot – 27/2 (Cashins Road: Birnam Station end of trail).

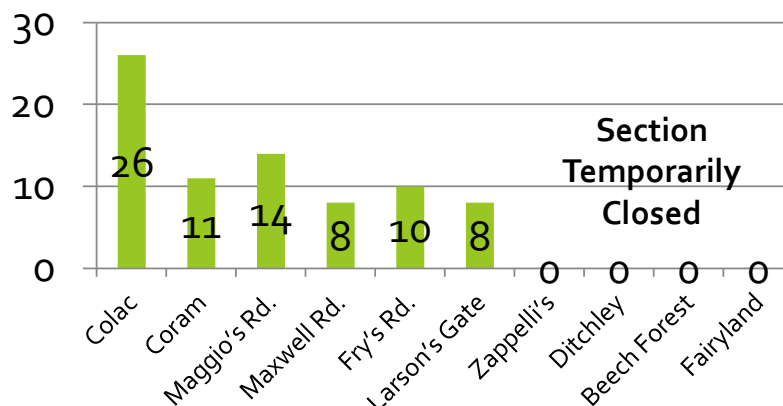
Upcoming Events:

- Nil

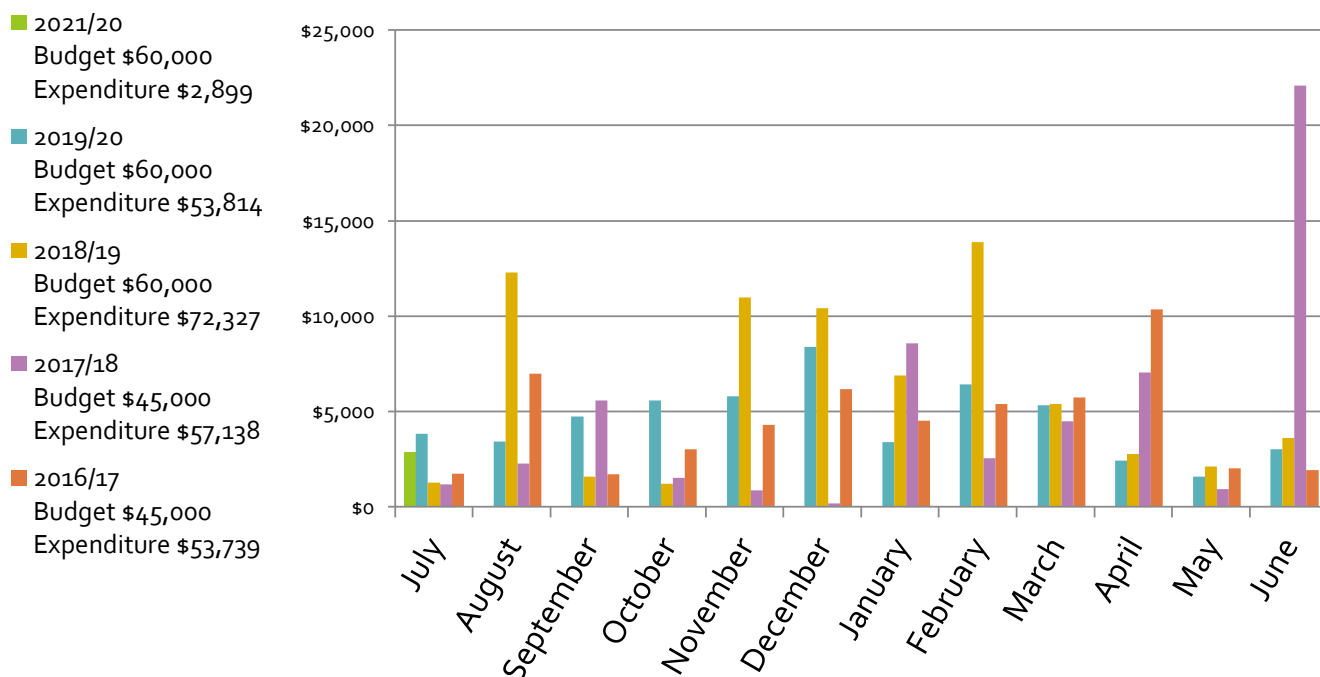




## OBRT Average Pedestrians Per Day



## OBRT Maintenance Budget – Monthly Expenditure



## Licence / Landowner Agreements

- Licence Agreement Review – draft final revised licence agreement has had a legal and insurance review. Changes have been included in the revised licence agreement which will be sent to landowners in the coming week for final consideration prior to signing.
- Licensed land property risk assessment – all private property risk assessments have now been completed and received by Council. These will be included in the individual landowner licence agreements.
- Landowner Public Liability Insurance Policy – 9 landowners have confirmed to be included on the landowner public liability insurance policy; officers are still awaiting notification from 2 landowners. All necessary documentation has been provided to Council's insurance broker. Landowner insurance policy taken out – effective from 4pm 23/07/2020 to 4pm 30/06/2021.





**OLD BEECHY RAIL TRAIL COMMITTEE  
UNCONFIRMED MEETING MINUTES  
THURSDAY 20 AUGUST 2020  
10:00am – 11:57am  
VIDEOCONFERENCE**

## OLD BEECHY RAIL TRAIL COMMITTEE MINUTES

### Update: Committee Members:

V	Cr Chris Smith (Chair)	COS Councillor	V	Tricia Jukes	Land Owner representative
V	Sue Thomas	Community representative	V	Philippa Bailey	Community representative
V	Andrew Daffy	Community representative	Apology	Cyril Marriner	Community representative
Apology	Noel Barry	Friends of the Old Beechy Rail Trail representative	V	Craig Clifford	Department of Environment, Land, Water and Planning representative (DELWP)
V	Nicole Frampton (minutes)	COS Recreation and Open Space Coordinator	V	Videoconference attendance via Vidyo platform	

### Non-voting invitees:

Due to COVID restrictions – meeting attendance limited to Committee Members and COS Staff.

1. Welcome, apologies	
Apologies: Noel Barry, Cyril Marriner	
We as a committee acknowledge and send our condolences to Noel Barry on the passing of his mother.	
2. Confirmation of previous minutes – 28 July 2020	
<p>The Committee members requested that the following amendment be made to Item 1 – OBRT Committee transition to a new governance structure.</p> <p><i>“Council officers were seeking Committee direction as to whether this might be a suitable transition in ensuring future input, however the Committee members did not provide officers with any direction at the meeting for the following reasons:</i></p> <ul style="list-style-type: none"> <li><i>that the committee had not been able to meet due to the pandemic (last meeting was on 18 February 2020);</i></li> <li><i>that the committee members had no knowledge that this would be their last meeting;</i></li> <li><i>that the committee had no time to consider suitable future options and were unprepared; and</i></li> <li><i>that the committee wanted to further investigate options to continue as they currently operate.”</i></li> </ul> <p>The 28 July 2020 meeting minutes have been amended to include the above.</p> <p><b>Moved: Tricia Jukes</b> Seconded: Sue Thomas Carried.</p>	



**OLD BEECHY RAIL TRAIL COMMITTEE  
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<b>3. Business Arising from Previous Minutes (<a href="#">see link</a>)</b>	
Item 3 Discussion: Outstanding Actions will be covered in General Business and will be updated on linked spreadsheet – ( <a href="#">see attached or link</a> ) for update.	
<b>4. Correspondence</b>	
In	
<ul style="list-style-type: none"> <li>14/8/2020 – Email from T Jukes re installation of reflective tape on property gates. Update NF: Response provided to Landowner – as per property risk assessment recommendations, all gates which open onto the trail were recommended to have high visibility/reflective tape installed. This landowner's risk assessment however did not state that recommendation even though there are 5 gates which open onto the trail. Whilst this landowner's gates open onto the trail, they are never open without supervision. The landowner was most upset and removed the tape – the use of products still needs to be within the aesthetics of the rail trail; and highlighted that landowners must be notified prior to any works being completed on private land sections of the trail.</li> </ul>	NF
Out	
<ul style="list-style-type: none"> <li>31 July 2020 – correspondence sent to all landowners regarding the amended licence agreement for consideration and included confirmation of the new landowner insurance policy being taken out. Update NF: landowners were sent a copy of the amended licence agreement for consideration. Correspondence included covering letter, amended licence agreement, property risk assessment, landowner insurance policy certificate of currency and instructions as to the next steps. Landowners were asked to provide Council with a response by 31 August 2020 as to their intention to sign the agreement.</li> </ul>	
<b>5. Treasurers Report – Tricia Jukes</b>	
<ul style="list-style-type: none"> <li>Treasurer provided a balance of the account: As at 19/08/2020, the OBRT Committee Cheque Account has a balance of \$6,609.59.</li> </ul>	TJ
<ul style="list-style-type: none"> <li>OBRT Committee Bank Account As this is the last formal meeting of the Council delegated Section 86 OBRT Committee before 1 September 2020, a resolution to approve the spending and/or transfer of OBRT Committee funds after 1 September 2020 is required.  <b>Motion:</b> <i>"That the Old Beechy Rail Trail Committee bank account funds be spent or transferred with the expressed desire that the funds be used for the following purposes:</i> <ul style="list-style-type: none"> <li><i>\$1,500 to be used for organising a Hunt for the Golden Gumboot event/activity for the September 2020 and/or 2021 school holidays;</i></li> <li><i>\$3,000 to go to the Friends of the Old Beechy Rail Trail group to be used for restoration works on the Gellibrand Old Beechy Rail Trail Information Centre;</i></li> <li><i>\$1,000 be used for the Old Beechy Rail Trail Brochure; and</i></li> </ul> </li> </ul>	



**OLD BEECHY RAIL TRAIL COMMITTEE  
UNCONFIRMED MEETING MINUTES  
THURSDAY 20 AUGUST 2020  
10:00am – 11:57am  
VIDEOCONFERENCE**

<ul style="list-style-type: none"> <li>○ <i>the balance of funds to be given to the new Friends group with the expressed desire that the funds be used to enhance the trail</i>.</li> </ul> <p><b>Moved: Tricia Jukes</b> Seconded: Andrew Daffy Carried.</p>	
<p><b>6. General Business</b></p>	
<ul style="list-style-type: none"> <li>• <b>OBRT Committee transition to a new governance structure</b> <b>Action: Sarah McKew to contact Local Government Victoria (LGV) to see if it is possible to get an extension for the OBRT Committee to transition to a new governance structure after the 1 September 2020.</b> Update: S. McKew contacted LGV – no response has been received prior to the 20 August 2020 OBRT Committee meeting. <b>Action: Philippa Bailey to contact the Ministers office on behalf of the committee to discuss the request for an extension.</b> Update PB: Contacted a number government departments to discuss request and has been advised that as the new <i>Local Government Act 2020</i> was passed it is a legislative requirement to implement the Act. Advice has been received that it is possible within Council processes that an 'Old Beechy Rail Trail Interim Committee' structure be established, and it is proposed that this group would meet monthly. The establishment of an interim committee would be at the discretion of the CEO.</li> </ul> <p>Comments NF: After the 1 September 2020, the OBRT Committee will still be a committee per se – it just won't have an Instrument of Delegation or any governance structure informing its status or relationship with Council from 1 September 2020 under the <i>Local Government Act 2020</i>. The OBRT Committee can still organise informal meetings after 1 September 2020, however the meetings will not require Council officer attendance and the meeting minutes will not be reported to Ordinary Council Meetings.</p> <p>Committee Discussion: detailed discussion between NF and members of the committee to discuss what might be available in the interim.</p> <p>Committee Direction: OBRT Committee members would like to have an interim committee established which would be made up of OBRT Committee members. This interim Committee would have access to Council's Recreation and Open Space Coordinator and other staff to provide Council updates where required. The interim group would work on providing Council with direction with how future community input can be provided into Council's management, maintenance and development of the Old Beechy Rail Trail. It was decided that PB would send a proposed structure for an interim committee to the CEO for consideration.</p> <p>Whilst the Committee is prepared to pursue this, this is not the Committee's preference – the committee members would still like to see the OBRT Committee continue to operate under Council.</p> <p><b>Motion:</b> <i>"Tricia Jukes to contact the Colac Otway Shire Council's Chief Executive Officer immediately to organise a meeting prior to next Wednesday's 26 August 2020 Ordinary Council Meeting to speak about</i></p>	<p>TJ</p>



**OLD BEECHY RAIL TRAIL COMMITTEE  
UNCONFIRMED MEETING MINUTES  
THURSDAY 20 AUGUST 2020  
10:00am – 11:57am  
VIDEOCONFERENCE**

<p><i>pursuing the idea of establishing an interim Old Beechy Rail Trail Committee.”</i></p> <p><b>Moved: Philippa Bailey</b> Seconded: Sue Thomas Carried.</p>	
<ul style="list-style-type: none"> <li>Revised Licence Agreements including insurance coverage</li> </ul> <p><u>Update NF:</u> All 11 Landowners were sent a copy of the amended licence agreement for consideration. Correspondence included cover letter, amended licence agreement, property risk assessment, landowner insurance certificate of currency and instructions as to the next steps. Landowners were asked to provide Council with a response by 31 August 2020 as to their intention to sign the agreement.</p> <p>Responses have been received from 5 landowners:</p> <ul style="list-style-type: none"> <li>3 landowners have indicated they will sign the new agreement.</li> <li>2 landowners have indicated that they won't be signing and renewing their Licence Agreement.</li> <li>6 of the landowners are yet to respond.</li> </ul> <p><u>Next Steps (NF):</u></p> <ul style="list-style-type: none"> <li>Send amended revised Licence Agreement to all landowners for consideration. Update: Licence agreement and supporting documentation sent 31/7/2020.</li> <li>Landowner feedback expected to be received by 31/8/2020.</li> <li>Review landowner feedback for the amended revised Licence Agreement.</li> <li>Sign and implement final licence agreements.</li> <li>Complete identified property risk assessment works.</li> </ul> <p>Committee Discussion: detailed discussion around the process and the document presented to landowners for consideration</p> <ul style="list-style-type: none"> <li>Gate reflector tape installation. Issues were raised about how Council has installed the tape – this needs to be further investigated as to what options might be available to make the gates visible whilst keeping with the trail's appearance. There needs to be options and consultation with landowners as to what works are being completed on private land and Council officers cannot limit landowner options.</li> </ul> <p>It is the opinion of the Chair that the licence agreements still have a long way to go before landowners will be signing the OBRT Licence Agreement.</p>	<p>NF</p> <p>NF</p>
<ul style="list-style-type: none"> <li>Gellibrand Information Centre</li> </ul> <p><b>Action: That Nicole discuss with Council's Asset team that the OBRT Committee strongly insist that the building not be demolished. That Council explore options to allow the OBRT Committee/Friends group to investigate funding options to complete improvement works.</b></p> <p>Update: Email has been sent to Council's asset team providing them with the committee's concerns raised and discussion at the 28/7/2020 OBRT Committee meeting.</p>	

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<p>Update AD: When installing the Honour Board, AD completed some works internal to the building to tidy the building, displays and completed some general cleaning. AD believes that the building can be rejuvenated with limited funds and listed some works which could be completed by the OBRT Committee volunteers and Friends group.</p> <p>AD raised a concern with the winding up of the Section 86 OBRT Committee. The Friends volunteers and the OBRT Committee members will still want to complete works along the trail and on OBRT infrastructure in the interim until a formal agreement (MOU) with the nominated group has been developed. NF to discuss this concern with Council's risk department to ensure that Council's insurance coverage for the OBRT Committee and Friends volunteers can continue in the interim.</p> <p>Friends assets include: seats, trail stations (buildings/structures and signage) and some interpretive signage.</p> <p>Committee members asked whether the building was required to have hand sanitation and signage installed. Response: NF didn't think so, but would follow up after the meeting.</p>	<p>NF</p> <p>NF</p>
<ul style="list-style-type: none"> <li>Honour Board for OBRT contributions.</li> </ul> <p><b>Outstanding Action: OBRT Committee to develop the criteria for names to be installed on the Honour Board.</b></p> <p>Update: AD has installed the Honour Board.</p> <p>Comments NF: Once the COVID-19 restrictions allow, there is no reason why the OBRT Committee can't organise an onsite unveiling of the honour board at the Gellibrand OBRT Information Centre where honour board recipients would be invited to attend.</p>	<p>AD</p> <p>All</p>
<ul style="list-style-type: none"> <li>OBRT Concluding Statement from the Committee to Council</li> </ul> <p>Committee Discussion:</p> <p>TJ and ST would like to put together a dossier to be presented to Council in the future.</p> <p>The Chair believes that the committee needs to put together a concluding statement to ensure that in the future people know how the demise of the committee came about and what the Committee's purpose was, including but not limited to, ensuring in the future that the trail and its assets are maintained to a suitable standard and meet community expectations.</p> <p><b>OBRT Committee Concluding Statement</b></p> <p><b>Motion:</b> "Community members of the Old Beechy Rail Trail Committee are concerned that with the demise of the Section 86 Committee format, there will be no appropriate structure within the Council to develop and promote the Old Beechy Rail Trail and address issues that arise. The Old Beechy Rail Trail Section 86 Committee has kept the trail in the public arena and has contributed knowledge and vital history to its maintenance and ongoing development. The Committee is extremely disappointed with the way that the committee has been dissolved."</p> <p><b>Moved: Philippa Bailey</b></p> <p>Seconded: Tricia Jukes</p> <p>Carried.</p>	<p>All</p>





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<p><u>Committee Comments</u></p> <p>AD: Acknowledged past and present committee members. Whilst he hasn't been on the committee for that long, AD would like to acknowledge the work that NF has done during her time on the committee as the Committee's appointed Executive Officer (Council appointed role). The OBRT is one of many tasks in her portfolio as Recreation and Open Space Coordinator. Many issues have arisen in the last few years which she has had to contend with. Thank you.</p> <p>Chair: Chris Smith has been on the committee for 16 years and is very disappointed that committee is winding up. Growing up he didn't think the trail would come to fruition and was so pleased to see the trail constructed and be opened for public use.</p> <p>Thank you to my fellow committee members. He thanked past and present committee members. Thank you to the Council staff involved throughout the years.</p> <p>He acknowledged Cyril Marriner and Noel Barry for their contributions, they have been there from day 1 and been a part of this journey all the way.</p> <p>TJ: The committee has been around for 19 years and wanted to acknowledge the positives that came from the work of the committee. It's important to remember those who came before and those who instigated the trail. It has been a marvellous project and hope that into the future we can progress and further develop the trail. Acknowledgement of those who came before.</p> <p>NF: That although Noel Barry wasn't there, wanted to thank him for his passion and contribution throughout the many years on both the OBRT Committee and Friends group.</p>	
<ul style="list-style-type: none"> <li>Ditchley Gully (Humphris land swap) Update</li> </ul> <p>Update NF: Council is still waiting for the appointed surveyor to complete the works to progress to the next step.</p>	
<ul style="list-style-type: none"> <li>OBRT Logo</li> </ul> <p>Council will own the copyright of the OBRT logo. Will the Friends group be able to use the OBRT logo in the future?</p> <p>Response NF: Yes. The Friends use of the logo would be included in the MOU.</p>	
<ul style="list-style-type: none"> <li>Pedestrian Tracker Counters</li> </ul> <p>Question: Will these continue to be collected? Some committee members currently collect the numbers.</p> <p>Response NF: Yes. This is important data that will continue to be collected to track the trails usage.</p>	
<p><b>7. Meeting Dates &amp; Times</b></p>	
<ul style="list-style-type: none"> <li>Future Meeting Dates</li> </ul> <p>Update NF: The OBRT Committee can still organise informal meetings after 1 September 2020, however the meetings will not require Council officer attendance and the meeting minutes will not be reported to Ordinary Council Meetings.</p> <p>No interim Committee meeting dates were provided at the meeting, however the group will organise a time for members to meet in the future.</p>	



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Meeting Closed:11:57am	
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Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2020 - 20 August	<p>OBRT Committee Bank Account As at 19/08/2020, the OBRT Committee Cheque Account has a balance of \$6,609.59.</p> <p><b>Motion 20/8/20: "That the Old Beechy Rail Trail Committee bank account funds be spent or transferred with the expressed desire that the funds be used for the following purposes:</b>  <b>* \$1,500 to be used for organising a Hunt for the Golden Gumboot event/activity for the September 2020 and/or 2021 school holidays;</b>  <b>* \$3,000 to go to the Friends of the Old Beechy Rail Trail group to be used for restoration works on the Gellibrand Old Beechy Rail Trail Information Centre;</b>  <b>* \$1,000 be used for the Old Beechy Rail Trail Brochure; and</b>  <b>* the balance of funds to be given to the new Friends group with the expressed desire that the funds be used to enhance the trail".</b>  <b>Carried.</b></p>	Committee	In Progress	
2020 - 28 July	<p>Community member donation of railway line to the Committee/Friends group</p> <p><b>Action: NB to inform local resident that the Friends group will gladly take possession of the railway line on behalf of the OBRT Committee for future use.</b></p>	Noel Barry	In Progress	
2020 - 20 August 2020 - 28 July 2020 - 18 February	<p>OBRT Committee transition to new Governance Structure</p> <p><b>Motion 20/8/20: "Tricia Jukes to contact the Colac Otway Shire Council's Chief Executive Officer immediately to organise a meeting prior to next Wednesday's 26 August 2020 Ordinary Council Meeting to speak about pursuing the idea of establishing an interim Old Beechy Rail Trail Committee."</b>  <b>Carried.</b></p> <p><b>Action 28/7/20: Sarah McKew to contact Local Government Victoria (LGV) to see if it's possible to get an extension for the OBRT Committee to transition to a new governance structure after 1 September 2020.</b>  <b>Action 28/7/20: Philippa Bailey to contact the Ministers office on behalf of the committee to discuss the request for an extension.</b></p> <p><b>Action 18/2/20: Nicole to circulate policy to committee members following meeting - Committee encouraged to read 5.2 - this is the one that best fits your purpose and objectives and how the committee currently operates.</b>  <b>Action 18/2/20: Nicole to send policy, example of current Advisory Committee Terms of Reference, and current OBRT Section 86 Committee instrument of delegation and charter.</b>  <b>Action 18/2/20: Committee to list their idea of the roles and responsibilities of the current Section 86 Committee so this can be compared to an Advisory Committee and 'Friend of OBRT' incorporated committee functions.</b></p>	Committee	In Progress	<p>Update 20/8/20: Report regarding the OBRT Governance structure will be presented to the 26 August OCM for consideration.  Committee Direction: OBRT Committee members would like to have an interim committee established which would be made up of OBRT Committee members. This interim Committee would have access to Council's Recreation and Open Space Coordinator and other staff to provide Council updates where required. The interim group would work on providing Council with direction with how future community input can be provided into Council's management, maintenance and development of the Old Beechy Rail Trail.  Whilst the Committee is prepared to pursue this, this is not the Committee's preference – the committee members would still like to see the OBRT Committee continue to operate under Council.</p> <p>After the 1 September 2020, the OBRT Committee will still be a committee per se – it just won't have an Instrument of Delegation or any governance structure informing its status or relationship with Council from 1 September 2020 under the Local Government Act 2020. The OBRT Committee can still organise informal meetings after 1 September 2020, however the meetings will not require Council officer attendance and the meeting minutes will not be reported to Ordinary Council Meetings.</p> <p>Update 18/8/20: S McKew contacted LGV - no response has been received prior to the 20/8/20 OBRT Committee Meeting.</p> <p>Update 1/4/20: Nicole sent policy, advisory committee terms of reference example and OBRT Committee Section 86 IoD and Charter to committee members on 1/4/20.</p>

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2020 - 18 February	2020 Hunt for the Golden Gumboot Event  <b>Motion: "That the OBRT Committee apply under Council's Grant Program to run the Golden Gumboot in 2020".</b> Carried	Philippa Bailey	Completed	Update 20/8/20 - whilst no formal event will be organised for 2020 due to COVID-19 restrictions the OBRT Committee agreed to the following: "\$1,500 to be used for organising a Hunt for the Golden Gumboot event/activity for the September 2020 and/or 2021 school holidays".  Update 28/7/20 - Application was not submitted due to COVID-19.
2020 - 28 July 2020 - 18 February	Gellibrand Information Centre  <b>Action 28/7/20: That NF discuss with Council's Asset Team that the OBRT Committee strongly insist that the building not be demolished. That Council explore options to allow the OBRT Committee/Friends group to investigate funding options to complete improvement works.</b>  <b>Action: AD to work on getting a quote for ant infestation.</b> <b>Action: need to get some no smoking signs installed for the building.</b> <b>Action: Building condition needs to be assessed - Completed.</b>	Nicole Frampton/COS	In Progress	Update: 18/8/20 - Email sent to Council's asset team providing them with the Committee's concerns raised at the 28/7/20 OBRT Committee meeting.  Update 1/4/20 - An inspection of this building was completed by Council's Asset Condition Inspection Officer and a registered builder on the 18 March. Due to the identification of significant defects, it is recommended that the building requires total replacement rather than doing any maintenance. The works needing attention following the onsite visual investigation include: 1. Wall facing to the North side is heavily deteriorated and approaching rehabilitation and the window has completely rotted. 2. Some deterioration can be seen in all the other walls. Replacing panels would be difficult as the frame is not solid. 3. The floor is in good condition and it appears there are no water leaks from the roof. 4. The verge plates need to be replaced. 5. The veranda components such as sleepers are rotten and require replacement; movement can be seen in the columns; the steel nails (star pickets) holding the sleepers in place are unsafe for visitors; and the floor has sunk. Recommendation: A total replacement of the building rather than doing any maintenance needs to be considered. There is very limited maintenance that can be done due to the condition of the building. <b>As a group, we need to determine how this building's condition will be addressed in the future. Do the committee members have any ideas?</b>
2020 - 18 February	Gellibrand to Wimba section of OBRT <b>Action: Nicole to organise signage so that this section of the trail can be re-opened.</b>	Nicole Frampton	Completed	Signage installed - this section of trail re-opened.
2020 - 18 February	Request to complete commercial film shoot along the Birnam Station section of the OBRT. <b>Motion: "That the OBRT Committee provide support for the trail to be used for this request and that the applicant consider making a donation to the committee for use of the trail".</b> Carried.	Nicole Frampton	Completed	Film shoot completed and donation made to the OBRT Committee. Commercial sent to Committee for viewing.  Motion and request for donation provided to applicant.
2019 - 28 November	2020 Otway Trail Run <b>Motion: "That they OBRT Committee approves the 2020 Otway Trail Run event to take place as per their application and the event permit conditions from previous years' events; and that the Committee request a donation be made by the event organisers towards the use of the trail to the 'Friends of the OBRT' or the 'OBRT Committee of Management'".</b> Carried.	Nicole Frampton	Completed	Motion and event conditions forwarded to COS Events Department.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 28 November 2019 - 22 October	<b>Action: That Council Officers report back to the Committee about what would be required to get an off-road section along Barongarook Road. The committee need to develop an advocacy document highlighting trail strategic directions/priorities for investment. This would add to the vision for the trail.</b>	Nicole Frampton	Not Commenced	Update: maintenance clauses provide to Committee for discussion at 28/11/2019 meeting.
2020 - 20 August 2020 - 28 July 2020 - 18 February 2019 - 22 October	Revised Licence Agreements <b>Action: COS to bring draft maintenance clauses to the next committee meeting for discussion.</b>	Nicole Frampton / Ma	In Progress	Update 28/7/20: NF All 11 Landowners were sent a copy of the amended licence agreement for consideration. Correspondence included cover letter, amended licence agreement, property risk assessment, landowner insurance certificate of currency and instructions as to the next steps. Landowners were asked to provide Council with a response by 31 August 2020 as to their intention to sign the agreement.  Responses have been received from 5 landowners: * 3 landowners have indicated they will sign the new agreement. * 2 landowners have indicated that they won't be signing and renewing their Licence Agreement. * 6 of the landowners are yet to respond.  Next Steps (NF): * Send amended revised Licence Agreement to all landowners for consideration. Update: Licence agreement and supporting documentation sent 31/7/2020. * Landowner feedback expected to be received by 31/8/2020. * Review landowner feedback for the amended revised Licence Agreement. * Sign and implement final licence agreements. * Complete identified property risk assessment works.
2020 - 20 August 2020 - 28 July 2020 - 18 February  2019 - 28 November 2019 - 22 October 2019 - 4 June	Honour Board for OBRT contributions at the Gellibrand Information Centre <b>Action: The OBRT Committee to develop the criteria for names to be installed on the Honour Board.</b>  <b>Action 22/10: AD to take sign to a sign writer and get a quote for the signwriting to be completed.</b>  <b>Action: Nicole to send Andrew Daffy information about Buchanan Station opening – members - Completed - Details sent 19/11/19</b>	Andrew Daffy	Completed	Update 29/8/20: Honour Board has been installed. Once the COVID-19 restrictions allow, there is no reason why the OBRT Committee can't organise an onsite unveiling of the honour board at the Gellibrand OBRT Information Centre where honour board recipients would be invited to attend.  Update 28/7/20: AD to install sign now that location has been determined.  Update 28/11/19: Sign is with the signwriter to get a price to put the names on the board. Names to be initially included on the sign - 10 year names will be included on Update 22/10/19 - Midway has again been contacted however no return response received.  Update 26/8/19 - Email sent to Midway requesting an update of proposed works.
2019 - 22 October 2019 - 6 August	Midway logging works <b>Action: Nicole to contact Midway for any upcoming works which may affect the trail.</b>	Nicole Frampton	Completed	

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2020 - 28 July 2020 - 18 February 2019 - 22 October 2019 - 6 August 2019 - 7 May 2019 - 5 February	<p>Insurance cover for farmers/landowners which licence the land to Council for OBRT purposes. (Private Property Risk Assessments/ Insurance cover for landowners which licence the land to Council for OBRT purposes).</p> <p><b>22/10/19 - Action: COS to send out a letter to the landowners providing an update to the landowners of what is going on with the insurance information.</b></p> <p><b>6/8/19 - Action: Nicole to send meeting invites to landowners and committee members once report has been received and meeting date has been confirmed.</b></p> <p><b>Action: Nicole to seek clarification on the public liability coverage provided under the licence for landowners of the OBRT.</b></p> <p><b>Action: Nicole to seek further clarification on the public liability coverage provided under the current and future licence agreements for landowners of the OBRT. Timeframe: to be resolved in the next month.</b></p> <p><b>Motion: "That the Old Beechy Rail Trail Committee requests that Colac Otway Shire commit resources to resolving the licence agreement insurance issue as the top priority and a matter of urgency as the continued use of the trail is in jeopardy, and requests that Council provide a report back to the committee regarding the progress of this resolution".</b> Carried.</p>	Nicole Frampton	Completed	<p>Update 20/08/20 - another landowner has been added to the landowner insurance policy. 10 of the 11 landowners are participating in the landowner insurance policy.</p> <p>Update 28/7/20 - 9 landowners have confirmed to be included on the landowner public liability insurance policy; officers are still waiting notification from 2 landowners. All necessary documentation was provided to Council's insurance broker as requested. The additional landowner insurance policy has been taken out - effective from 4pm 23/07/2020 to 4pm 30/06/2021. Certificate of currency of new policy was sent to landowners with the revised Licence Agreement on 31/7/20. Licence Agreement clauses relating to new landowner insurance policy has been updated to reflect the new policy.</p> <p>Letter sent to Landowners on 6/11/2019 providing them with an update.</p> <p>Update: 22/10/19 - Since the Landowner meeting held 10/9, the insurers are still working on what a group policy might look like. Council doesn't have any further information to provide to the Committee at this moment.</p> <p><u>Insurance and Licence Agreements – Next Steps</u></p> <ol style="list-style-type: none"> <li>1. Finalise what the insurance policy looks like – wording and costs.</li> <li>2. Once COS has the detail around an appropriate insurance policy, officers will go back to the landowners.</li> <li>3. Once there is an agreed insurance policy, COS will update the licence agreement and send to landowners for review.</li> <li>4. Once licence agreement is finalised, get all parties to sign agreement.</li> <li>5. Update trail signage and brochure based on risk assessment and agreed wording.</li> </ol> <p>Update: 10/9/19 - Risk Assessment/Insurance Landowner</p> <p>Update 8/8/19 - Requested signage removed.</p>
2019 - 6 August	<p>Temporary rail closure signage</p> <p><b>Action: There has been a landowner request to remove a sign from their property. Nicole to discuss further with the landowner and advise Services and Operations to remove requested sign.</b></p>	Nicole Frampton	Completed	
2019 - 6 August	<p>Coram – gate locks need to be looked at again. Padlock completely gone. Fencing has been damaged.</p> <p><b>Action: Nicole to discuss with COS Services and Operations.</b></p>	Nicole Frampton	Completed	New lock installed.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2020 - 28 July  2019 - 6 August 2019 - 4 June 2019 - 2 April 2019 - 5 March 2019 - 5 February  2018	Humphris Land Titles - Humphris property/land transfer	Nicole Frampton/COS	In Progress	Update 28/7/20: Council has received correspondence from DELWP outlining how to complete the land deviation (land swap) with Mr Humphris.  Update 22/10/19 - Email sent to DELWP on 14/10/2019 seeking steps required to progress the Humphris land swap. Update 10/9/19: Meeting scheduled with landowner on 12/9/19. Update 26/8/19: Revised survey work received 29/7/19. Meeting to be scheduled with landowner in coming weeks. Update 4/6/19 - meeting held with Mr Humphris on 3/6/19. Update 7/5/19 - meetin held onsite with Mr Humphris on 15/4/19. Update 2/4/19 - documentation has been received. A meeting with the landowner now needs to be organised. Waiting on the completion of the final survey to enable land transfer. Discussions and updates have been provided to the landowner (Humphris). Nicole and the property department will continue to work with the landowner to get the land transfer completed. Update 5/2/19 - Need to organise an onsite meeting to discuss exactly where the trail goes (Rick, Andrew, Chris, Nicole, Mark and surveyor).
2019 - 6 August 2019 - 4 June 2019 - 5 March  2018	Colac Station section of the OBRT  <b>Action: Nicole to send a copy of the submitted application to OBRT Committee members - Sent.</b>  <b>Action: Interested OBRT committee members to meet and discuss ideas for the Colac Station section of the OBRT.</b>  A grant opportunity exists to address CPTED issues and improve the aesthetics of this section of the trail through a State Government grant program – Public Safety Infrastructure Fund. In recent months the existing fence has been extensively damaged again. The project proposes a better style of fencing and will also improve the amenity of area via a range of treatments (signage, maps, planting, opening up site lines) to address the perception of being unsafe.	Nicole Frampton	Completed	Update 18/2/20 - application unsuccessful. Update 22/10/19 & 28/11/19 - No notification has been received for the submitted application: Department of Justice, Public Safety Infrastructure Fund 2019-20 – Trail Revival (Colac Station section safety improvements). Update 6/8/19 - Application submitted to Department of Justice. Update 4/6/19 - an application will be submitted under the program for works to be completed to address the CPTED issues. Update 2/4/19 - put on hold until the brochure and Golden Gumboot funding application is completed. Nicole to organise a meeting with Chris, Tricia, Sue and Philippa once the OBRT Audit and Management Plan have been completed. To be discussed at the Committee level once a meeting has occurred.
2019 - 6 August 2019 - 4 June	Midway property gate signage  <b>Action: Nicole to work with Midway to develop standard and consistent signage for the OBRT to be displayed on Midway property gates.</b>	Nicole Frampton	Not Commenced	Update 28/7/20 NF: with completion of the property risk assessments, Nicole to work with Midway to develop standard signage for Midway properties. Update: onhold until risk assessments and Licence Agreement finalised.
2019 - 4 June	Former Play Equipment which was in Rex Norman Park to be repurposed as a wayfinding sign with OBRT directional signage installed.  <b>Motion: “That the OBRT Committee agree to provide in principle support for “Happy Jack” to be installed with directional signage on the southern side of the Otway Tourist Park on the intersection of the Gellibrand community garden walk and OBRT subject to Council approval”.</b> Carried.	Andrew Daffy	Completed	Gellibrand Community House Project - need to seek Council approval for location of the wayfinding sign and the OBRT signage to be included.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 7 May	Acknowledgement/Token of Appreciation for Tony Grogan  <b>Motion: "That the OBRT Committee approves Andrew Daffy to create a small token of appreciation for Tony Grogan as a founder of the OBRT."</b> <b>Carried.</b>	Andrew Daffy	Completed	Update 4/6/19: Morning tea was held for Tony Grogan on 21/5/19 at the Gelli Store. Gift is nearly finished being made.
2019 - 22 October 2019 - 7 May	Committee identified items: • Start of the OBRT in Colac – directional signage required to show where the trail starts at the Colac Station. Committee identified some confusion as to where the trail starts when you get off the train in Colac. • Committee maintenance – Maggio's Road sign DELWP sign – Nicole to contact Craig Clifford to see if this can be fixed or removed - IN PROGRESS (see update) • Some of the signs are weathered and faded – need to check asset condition audit and order new signs where replacement signs have been identified. • Colac Station section of trail – fences have been damaged again and rubbish dumped in the area.	Nicole Frampton	Completed	Update 22/10/19 from DELWP (Linda): the new replacement sign has been made and needs to be installed. Nicole to send photo of location for the sign to be installed to DELWP (Linda/Craig). Photo sent.  Email sent to DELWP for follow up of sign replacement - Update: Forest Fire Management staff plan to remove the old sign on Maggio's Road and replace with a new sign. The plan is to complete this job over the next few months.
2019 - 2 April	New Friends of OBRT members  <b>Action: That the 'Friends of OBRT' advertise September/October for new members.</b> <b>Action: Noel Barry to develop a list of maintenance works/tasks which members of the 'Friends of OBRT' could complete.</b>	Noel Barry	Completed	
2019 - 5 March	Hunt for the Golden Gumboot - 2019 Event Philippa Bailey will coordinate this years event.  <b>Motion: "That the Old Beechy Rail Trail Committee applies for funding for the Hunt for the Golden Gumboot 2019 event."</b> <b>Carried.</b>	Philippa Bailey	Completed	2019 event ran Saturday 21 September to Saturday 5 October - successful event.  Application submitted. Awaiting notification following June OCM.
2019- 7 May 2019 - 5 March	<b>Action: Sign at the Maggio's Road/103 Mile post location has been damaged.</b> Nicole to get Services and Operations to fix. On investigation, this sign is not COS responsibility.  <b>Maggio's Road sign DELWP sign – Nicole to contact Craig Clifford to see if this can be fixed or removed - IN PROGRESS (see update)</b>	DELWP	Completed	Email sent to Services and Operations - this is not a COS sign responsibility - DELWP  Update 4/6/19: Email sent to DELWP for follow up of sign replacement - Update: Forest Fire Management staff plan to remove the old sign on Maggio's Road and replace with a new sign. The plan is to complete this job over the next few months.
2019 - 5 February 2019 - 5 March	Midway Plantations – upcoming harvesting and establishment activities – dates for scheduled works.  <b>Action: Nicole to contact Midway to confirm the dates for scheduled works.</b>  <b>Action: Nicole to inform the committee members once dates for the scheduled works are provided to COS.</b>	Nicole Frampton	Completed	Update: No scheduled works planned will impact on trail users.
2019 - 6 August 2019 - 2 April 2019 - 5 February	OBRT Map/Brochure  <b>Action: Meeting to be organised with sub-committee (Tricia, Sue, Philippa). Tricia will organise a meeting with Adrian and the sub-committee re new brochures and format.</b>  <b>Motion: "That the OBRT Committee approves the spending of up to \$500 from the OBRT Committee account to use for professional photos."</b> <b>Carried.</b>	Tricia Jukes / Philippa Bailey	Ongoing	Update 6/8/19 - Brochure project on hold until landowner risk assessment report and brochure wording is finalised. Extension to complete brochure until 30/06/20 has been received. Update 5/3/19 - Sue spoke to Adrian re new brochure format and web page. Update: 2/04/2019 - Working group has met a few times about setting up a website and the new brochure for the trail. Update: Meeting scheduled for 4 June prior to Committee

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019- 5 February	<p><b>Action: Letters of thanks to be sent to Nathan Swain and Bernard Jordan following their recent resignations.</b></p> <p><b>Action: Add outgoing members to the list of letters to be sent.</b></p>	Nicole Frampton	In Progress	Letter/Certificate to be provided to all recent resignations and outgoing committee members.
2019 - 5 February	<p>Committee identified maintenance works:</p> <ul style="list-style-type: none"> <li>* Colac Station - broken yellow marker</li> <li>* Coram - pedestrian and vehicle gate on Forrest St South - a chain has been installed around the vehicle and pedestrian gate restricting access.</li> <li>* Larsons gate - chicane pedestrian gate - committee has requested that this be removed.</li> <li>* Drains and surface of the trail between Gellibrand and Ferguson appears to not been touched. (Frank provided an update of the works completed along the trail)</li> <li>* Many sections with long grass on either side of the trail.</li> <li>* Drains in Fairyland section are clogged/blocked with leaf litter.</li> <li>* Fairyland section fern fronds are too low - low height.</li> <li>* Section between Maxwells Road and Birnam Station needs attention.</li> </ul> <p><b>Action: Nicole to email committee identified maintenance works to COS Services and Operations</b></p>	COS Service and Op	Completed	<p>Coram - chain has been removed.</p> <p>Larson's Gate Chicane Pedestrian Gate has been removed.</p> <p>Services and Operations are conducting weekly inspections of the trail - during these inspections trees are trimmed, vegetation cleared where required.</p>
2018 - 4 December	<p>Donation from Events to go towards OBRT maintenance - Trail preparation for event</p> <p>Committee discussion – perhaps the committee needs to consider that event organisers consider giving a donation to the committee for the use of the trail for events. The donation would be used by the committee for ongoing maintenance of the trail.</p> <p><b>Action: Committee notes this discussion and will consider requesting a donation for future requests to use the OBRT for events.</b></p>	Committee	Ongoing	
2018 - 4 December	<p>Friends of OBRT Newsletter</p> <p>Send through any news or project updates to Philip Dandy to be included in the Friends of the OBRT Newsletter.</p> <p><b>Action: Tricia and Sue to provide updates to be included in the newsletter; eg. market exhibitions, grants, events, etc.</b></p>	Committee	Ongoing	



Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 7 May 2019 - 2 April 2019 - 5 March 2018 - 4 December	<p>Committee Appointments/Membership</p> <p><b>Motion:</b> "That the Old Beechy Rail Trail Committee request that Council officers work towards, as soon as possible, seeking Council approval to amend the Old Beechy Rail Trail Committee Charter by changing the committee membership to reflect the Committee's proposal of: two (2) Council representatives (one Councillor and one member of Council staff); five (5) Community representatives; one (1) DELWP representative (Department of Environment, Land, Water and Planning); one (1) Landowner representative; and one (1) Friends of the Old Beechy Rail Trail representative; and amend Section 3.3 of the current charter to include "more often as required as called by the chair". Carried</p> <p><b>Action:</b> <i>That Nicole send letters/emails to the current OBRT Committee representatives and representative organisations informing them of the changes to the Committee membership and inviting interested persons to apply for one of the community representative positions.</i></p> <p><b>Motion:</b> "That Tony Grogan, if available, is involved in the OBRT Committee community representative selection process". Carried.</p> <p><b>Motion:</b> "That the outgoing Old Beechy Rail Trail Committee formally recommends to put forward to Council for endorsement the four nominations received for the community representative OBRT Committee positions." Carried.</p>	Nicole Frampton	Completed	<p>Report presented to 30 January 2019 OCM for consideration - Council endorsed the changes to the OBRT Committee Instrument of Delegation and Charter.</p> <p>Update 5/03/2019: Advertisement placed in Colac Herald (1 March), and requested to be placed in the Apollo Bay News, Birregurra Mail, Apollo Bay website, Otway Light, and Forrest Post.</p> <p>Action Completed - Letters sent to representatives and representative organisations</p> <p>Tony Grogan will be invited to attend selection panel meetings. Motion not required - only 4 community position nominations were received.</p> <p>Report presented to 24 April 2019 OCM for consideration - Council appointed the following nominated members Andrew Daffy, Philippa Bailey, Sue Thomas, Cyril Marriner, Craig Clifford (Proxy Linda Laurie), Tricia Jukes and Noel Barry to the Old Beechy Rail Trail Committee'.</p>
2018 - 4 December	<p>OBRT Risk Assessment Report - Dinmont to Ditchley Closure</p> <p><b>Motion:</b> "That the Old Beechy Rail Trail Committee reinforces its position that the rail trail section through Humphris (Dinmont to Ditchley) remain closed due to risk factors and until such time as the steep section and the cattle crossing section are rectified in line with the committees expectations, and that the committee request that Council do the appropriate work on the road section to mitigate our risks as identified in the MAV Insurance Risk Assessment Report." Carried.</p>	Nicole Frampton	In Progress	<p>Whilst maintenance works are being completed in this section of the trail, the trail remains closed to users.</p> <p>Council officers are developing a traffic management plan to ensure the Old Beech Forest Road is signposted accordingly during trail closures and diversion to the road.</p> <p>Council has commissioned works to survey a proposed re-alignment of the existing trail to eliminate one of the very steep sections of trail, to improve the gate crossing, and two other steep sections of trail within the Ditchley gully area.</p>
2018 - 4 December	OBRT Audit - Trail Management Plan	Nicole Frampton/COS Assets Department	In Progress	<p>This is still being completed.</p> <p>Update 28/11/19 - Trail mapping completed. Condition assessment completed. Asset Management Plan/Trail Management Plan needs to be completed - project unable to progress without funding and resource allocation.</p>

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2018 - 4 December	<p>Old Beechy "Train" rides (by C &amp; M Smith) along the OBRT for the 2018/19 season</p> <p>A Risk Assessment must be provided to Council and reviewed prior to conducting any train rides along the trail on behalf of the committee. The train will be required to operate in accordance with the completed Risk Assessment.</p> <p>The dates of use must be provided to Council prior to using the train along the trail. All bookings will be entered into the OBRT calendar bookings system. This is required to ensure maintenance works can be scheduled around the train's use of the trail.</p> <p>A report will need to be provided to the committee at the conclusion of the trains operating season.</p> <p><b>Motion: "That the Old Beechy Rail Trail Committee members agree to C &amp; M Smith operating the "train" on behalf of the Old Beechy Rail Trail Committee from December 2018 until the end of May 2019 as detailed above and as per the Risk Assessment and dates of use being provided to Colac Otway Shire prior to the "trains" use of the trail".</b> <b>Carried.</b></p>	Chris Smith	Completed.	<p>Update: Train will not operate for 2019/20 season due to trail closures.</p> <p>Update: Feb 2019 - COS has not yet received a completed risk assessment for review.</p> <p>COS has not yet received any dates for the train along the trail.</p>
2018 - 4 December	<p>Crowes Buffer Stop</p> <p>Works will need to be completed to fix the Crowes Buffer Stop.</p>	Committee	Not Commenced	Committee to determine the works required to be completed.
2019 - 2 April 2018 - 4 December	<p>Timber trolley/OBRT information building at Rex Norman Park, Gellibrand</p> <p>Works will be required in the future on both the trolley and the building. If Council is going to undertake any works on this building, the Committee would like to know what is going to happen prior to any works occurring. Noted.</p> <p>Works are required - needs a good clean and some boards need to be replaced. Some signs need fixing, promotional material and old photos need to be protected. Fireplace is being used for rubbish.</p> <p>The building needs a working bee to spruce it up. The Committee is responsible for the upkeep and maintenance of the building. Council would possibly be responsible for the structural elements of the building.</p> <p>The comments book - there are great comments that need to be captured - comments should be photocopied at regular intervals.</p>	Nicole Frampton	Not Commenced	Committee will be updated if works are to be undertaken
2018	Beech Forest to Ferguson maintenance/condition update	Nicole Frampton	Ongoing	Maintenance is being completed to improve this section of trail. Works completed include spraying, vegetation clearance, surface
2018	Outstanding maintenance items	Nicole Frampton	Ongoing	An audit has been completed for the full length of the trail. Maintenance is being completed as per identified works.
2018	Broken trail sign - Gellibrand	Nicole Frampton	Not Commenced	This still needs to be completed. Works will commence once the Coram sign is replaced.
2018	List of land owners (including map) & Licence Renewal update	Nicole Frampton	Completed	Update 5/2/19 - Letter sent to land owners re Licence Renewal on 21/12/2018. Current Licence Agreement is being reviewed at the moment.

Meeting Date	Meeting Action	Responsibility	Status	Update / Comments
2019 - 22 October 2019 - 4 June 2019 - 7 May 2019 - 2 April 2019 - 5 March 2019 - 5 February 2017	Coram Station Sign Replacement	Noel Barry	Completed	Works are progressing to complete the replacement sign. Update 7/5/19 - Board finished with letters needing painting Update 2/4/19 - Still progressing but slowly. Update 5/3/19 - Sign was attempted to be painted. Due to the hot weather, the paint job isn't very good and will need redoing. The fascia panel will also now need replacing. Update 5/2/19 - Sign needs painting and will then be finished.

## CLOSED SESSION

### RECOMMENDATION

*That pursuant to the provisions of Section 66 of the Local Government Act 2020, the meeting be closed to the public and Council move into Closed Session in order to deal with:*

<b>SUBJECT</b>	<b>REASON</b>	<b>SECTION OF ACT</b>
<b><i>Minutes of the Closed Session Council Meeting held on 27 May 2020</i></b>	This matter deals with this matter deals with confidential meeting information, being the records of meetings closed to the public; and personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.	<i>Local Government Act 2020, Section 66 (2) (a); and Section 3 (1) (f)</i>
<b><i>Chief Executive Employment Matters Advisory Committee</i></b>	This matter deals with personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.	<i>Local Government Act 2020, Section 3 (1) (f)</i>
<b><i>CEO Employment Matters Advisory Committee Review of Minutes</i></b>	This matter deals with personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.	<i>Local Government Act 2020, Section 3 (1) (f)</i>