



Colac Otway  
SHIRE

**COUNCIL MEETING**

**MINUTES**

**Wednesday 29 March 2023**

**at 4:00 PM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**Next Council Meeting: 26 April 2023**



# COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 29 March 2023

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## COLAC OTWAY SHIRE COUNCIL MEETING

MINUTES of the *COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL* held at COPACC on  
Wednesday 29 March 2023 at 4:00 PM.

### MINUTES

#### **1 DECLARATION OF OPENING OF MEETING**

##### **OPENING PRAYER**

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

AMEN

#### **2 PRESENT**

Cr Chris Potter (Mayor)  
Cr Max Arnott  
Cr Graham Costin  
Cr Tosh-Jake Finnigan  
Cr Kate Hanson  
Cr Stephen Hart  
Cr Margaret White

Anne Howard, Chief Executive Officer  
Andrew Tenni, General Manager Corporate Services  
Heath Chasemore, General Manager Infrastructure and Operations  
Ian Seuren, General Manager Community and Economy  
Marlo Emmitt, Manager Governance and Communications  
Lyndal McLean, Coordinator Council Business

#### **3 APOLOGIES AND LEAVE OF ABSENCE**

Nil

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

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

## **RECORDING AND PUBLICATION OF MEETINGS**

Please note: All Council meetings are live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

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).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Audio recordings are also taken to facilitate the preparation of the minutes of open Council meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

This meeting was livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at [www.youtube.com](http://www.youtube.com)).

## **OATH OF OFFICE**

I would like to acknowledge that Councillor Max Arnott took the Oath of Office, before the Chief Executive Officer in the Colac Otway Performing Arts and Cultural Centre, Colac, on Wednesday 1 March 2023. A copy of the Oath will be attached to the minutes of this meeting in accordance with the requirements of sections 30(2)(c) of the *Local Government Act 2020*. Welcome aboard Max. It is good to have seven Councillors in the room and I look forward to you working with us as part of the team.

### **Statement from Cr Arnott**

Thank you Mayor. I would like to acknowledge the welcome that I have received from all of the staff and executives of Colac Otway Shire Council and all of the Councillors. They have been more than exemplary in allowing me to have some preparedness for this meeting.

## **5 QUESTION TIME**

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

#### **Statement from the Mayor**

I note that all seven Councillors are present at this meeting.

Moving onto question time. Colac Otway Shire Council encourages community input and integral to this is the opportunity provided to ask questions at Council meetings. A maximum of 30 minutes is allowed for question time at Council meetings. Community members wishing to ask questions of Council by videoconference were requested to register their intention before 5:00pm on Monday 27 March 2023. No requests to do so were received.

I have received questions in writing from James Judd, Tim Cobb, Jason Schram, and Marina Lewis.

These questions will be read out and a response will be provided by the relevant member of the Executive Management Team. In accordance with sub-rule 56.6.3 of Council's Governance Rules, a written response will only be provided to questions that have not been read out at the Council meeting. Written responses will be available in the minutes on the Colac Otway Shire Website once confirmed at the following Council meeting.

Before we move to the written questions submitted, can I have a show of hands from those in the gallery who might want to ask a question tonight? Thank you.

Councillors and officers welcome and encourage questions from our community at our Council meetings. The majority of questions tonight will be read out without omission. In a small number of cases, I will read the relevant part of the question, but I will not repeat unreasonable statements or allegations, nor will they be published in our minutes. I believe that this approach is consistent with what our community should expect of the Mayor and Councillors.

#### **James Judd**

1. **When will Council find money to fix the Colac Meeting Chamber [COPACC] in Colac has been in since its construction when this facility is used 12 months of the year? Since:**

a) **No sound proofing between the ceiling and the roof above the meeting rooms, when we have a bad storm, it is impossible to hear over the noise that enters via the roof with community groups complaining about meeting destroyed due to the noise, for long over a decade.**

#### ***Response from General Manager Community and Economy***

At minimal times where there is heavy rain, there is some minor inconvenience when using the COPACC meetings. However, there are no plans at this point in time to redevelop the ceiling and/or roof of these spaces.

b) **Plus increase its allowance it makes to upgrade drainage in this Shire so it is capable of moving water after a big storm. Since very little has been done since the last major floods at least a decade ago and Council continues to reduce its spends on drainage upgrades.**

#### ***Response from General Manager Infrastructure and Operations***

Council is on track to deliver its infrastructure renewal program for the 2022-23 financial year. Council expenditure on renewing assets is guided by Council's stormwater asset management plan and Council's long-term financial plan.

Stormwater systems are designed and built to relevant engineering standards, which are subject to review as new information becomes available.

2. **Did the Colac Otway Shire Council do any investigation into how long it would take for any benefits to the Shire to accrue from users of the Lake Colac Holiday Caravan Park to at least equal the amount this Council proposes to make available to the Park Operators to upgrade facilities at the Park?**

**Do not forget this land is not even owned by Council or the Operators, so whose property would any improvements put on this land be, if the lease was terminated, that Council financed?**

**Plus, until a government department issues a lease that allows Council to charge any fees to the Operator, this land remains free of any Council rates or charges rendered by Council.**

***Response from General Manager Community and Economy***

The Lake Colac Holiday Park is located on Crown land for which Council is the Committee of Management. Council has committed up to \$500,000 towards the development of long-term infrastructure at Lake Colac Holiday Park, subject to a new tenant matching this investment.

Whilst Council has not undertaken a specific study on the return on investment of its financial commitment to the Lake Colac Holiday Park, Great Ocean Road Regional Tourism has undertaken a number of strategic reviews that recognise the importance of visitor accommodation across the region including holiday parks.

- 3. Has the Colac Otway Shire Council done anything to make certain it will be able to actually obtain funds from land holders or developers on land that is rezoned by Council for other uses?**

**This is urgent in view of the Victorian State Government's introduction of a tax on valuation increases when Council rezones land. Plus, the State has call on funds prior to Council getting anything. As well, you need to make sure how the State will treat land in multiple ownerships that is to be developed at one time as a total lot, when if revalued as a total lot, it risks having the super increase in valuations tax charged as well. In this case, Council is at risk of obtaining nothing.**

**Plus, Council could also carry the obligation to provide all needed services to and in these developments out of its own funds. Do not forget that any laws passed that allows Council to claim funds when land is rezoned does not remove the authority that the Commonwealth and State claims against the land must receive priority settlement before any other is paid.**

***Response from General Manager Community and Economy***

Council is currently developing a Precinct Structure Plan for the major residential growth area of Colac, including the preparation of a Development Contribution Plan. When land is rezoned, there will be mandatory requirements for payment of contributions for infrastructure that will be implemented through planning permit conditions as subdivision is approved. Development will not be able to occur in these areas unless contributions are paid to Council as stipulated, regardless of fees and charges applied by other levels of Government.

A similar principle is also being applied to the two re-zonings proposed at Irrewillipe Road and Colac Lavers Hill Road in Elliminyt. Council will do all things necessary at the planning stage to ensure Council is appropriately protected from risk associated with funding shortfalls for infrastructure.

- 4. Is the Bluewater complex in Colac still running at a cost that requires about 5% of rate income to cover the operating deficit as was claimed when the 2022-2023 budget was set? If not has it gone up or reduced?**

***Response from General Manager Community and Economy***

Council's adopted budget 2022-23 indicates a net cost for operating Bluewater Leisure Centre in the order of \$680,000, which is subsidised by general rates, which is in the order of \$30 million. Our expenditure is generally on track however, our revenue is down.

5. **When setting the Council's 2023-2024 rate notices, will the Colac Otway Shire Council make certain all valuations for the 2022-2023 rate notices are adjusted for any revision to the valuations at 31 January 2023 is added?**

**This is critical as 20% increase on the original valuation is far more than 20% on a valuation of about 75% of the original valuation used for the 2022-2023 rate charges. When at that rate it would still be well below a valuation that was queried.**

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

All properties are valued at a base date of 1 January 2023 for the 2023-24 rating year. If any properties were revalued as a result of an objection or a Supplementary Valuation during the year, the new valuation will be used as a base to calculate the valuation for the 2023-24 year.

All Objections have since been finalised and ratepayers advised.

**Tim Cobb**

1. **The Skenes Creek community notes the Apollo Bay Skenes Creek trail project is not progressing and looks for ongoing support of a solution to the lack of walking options in Skenes Creek and the road safety challenges our Apollo Bay/Skenes Creek/Marengo community faces getting between Apollo Bay and Skenes Creek.**

Councillors may recall that some years back Council set aside \$100-200k towards the completion of the Apollo Bay Skenes Creek Trail. Also when Small Town Improvement Program grants were scrapped Councillors resolved to ensure that each Council budget specifically included an allocation to projects in small towns to ensure spending on improvements was not solely in the larger centres.

We have been waiting for two years now for Council to commit to a small link path to complete the Hickey's cutting loop walk in Skenes Creek or even provide an estimate of the cost. We are not looking for anything grand - just a rough path to avoid the section of Skenes Creek Road which is now unsafe for walkers due to the crash barriers erected by Regional Roads.

Will Council Officers ensure that providing a short path from top of Old Coach Road, Skenes Creek to Hickey's Cutting is included in the 2023/4 small town project budget options to be considered by Councillors?

***Response from General Manager General Manager Infrastructure and Operations***

Council will consider all projects as part of the 2023-24 budget process.

### Jason Schram

1. Did the COS pay a management fee to lessee of the Lake Caravan Park while they leased the park?

#### *Response from General Manager Community and Economy*

The short-term lease arrangement between Council and BelgraviaPRO for the Lake Colac Holiday Park included the provision of a management fee to be paid to the lessee. The income received was greater than the total expenditure for the month, inclusive of the management fee.

2. As the Football Umpires have record low numbers and want to use the Youth Club as a new home to have better facilities and attract more umpires but can't use the facilities because a commercial business uses the facilities full time, does the rent of the public facility go to the Council and what is the amount of the rent?
3. If the rent goes somewhere else from the Youth Club hall did Council set the rent as per the policies and did Council allow the rent to go to another party?

#### *Response from General Manager Community and Economy*

The Colac Youth and Recreation Centre is managed by a not-for-profit organisation, Colac Youth and Recreation Centre Inc., in accordance with a Management Agreement with Council to manage and operate the facility, as resolved by Council in May 2019.

As per the Management Agreement, the Colac Youth and Recreation Centre Inc. set the venue hire fees. The Colac Youth and Recreation Centre Inc. retains all hire fees, which are used to maintain the asset as per the schedule of responsibilities.

4. What other Council buildings are leased commercially but no rent goes to the Council?

#### *Response from General Manager Corporate Services*

Council receives all rent from buildings that are subject to commercial leases.

### **Statement from the Mayor**

Mr Schram submitted a further question that was aimed at embarrassing Councillors and the Chief Executive Officer and no response will be provided.

### Marina Lewis

1. In the light of last month's Inter-governmental Panel on Climate Change report warning that we are close to catastrophic run-away climate impacts, what action is Council taking to support the community to be safe on 'Extreme/Catastrophic' code days? Specifically, will Council undertake an urgent review and upgrade of away-from-home refuge options, e.g. COPACC, the library, in the event of Extreme/Catastrophic code days such as for rural people outside Colac required to evacuate their homes and older people requiring air conditioning?

***Response from General Manager Infrastructure and Operations***

Council in partnership with other members of the Municipal Emergency Management Planning Committee undertake regular reviews of emergency operational plans including places of refuge.

These reviews consider the trigger and escalation levels required to assist the community make safer decisions and actions. Council in partnership with other agencies also participates in programs to build community resilience with all residents be it in townships, landowners or high-risk areas of natural emergency incidents.

**QUESTIONS RECEIVED VERBALLY AT THE MEETING**

**Statement from the Mayor**

There are a number of questions from the gallery, although Mr Cracknell had a written question that we did not receive, so I will hear that first.

**David Cracknell**

1. Most residents in my street [Robinson Rd, Barongarook, Vic 3249], have their mail delivered to the nest of mailboxes at the top of the street. Now that there are ten properties we more than qualify for a "to the gate delivery".

I put in a request to Australia Post and was told my road is not safe enough for the postman to drive down.

So what I need from the Shire is a basic inspection of my road by the relevant staff and a brief written report as to the safety of my road. It doesn't need to be technical and fancy, either the road is considered trafficable to motor vehicles or it isn't.

***Response from General Manager Infrastructure and Operations***

We will take that one on notice and provide a response to that question.

***Response from the Mayor***

We will provide a response in writing to that question after an inspection of the road.

**Statement from the Mayor**

We will take questions from the gallery but I just want to remind everyone that you must ask a question and question time is not for public debate or statements, but we're happy to take questions so can I have a show of hands again, thank you.

**Alan Billing**

1. Late last year Council received expressions of interest from private interests prepared to take on the provision of tourist information in the Shire, either independently or as a joint venture with Council. Has Council made any contact with those interested persons?

***Response from General Manager Community and Economy***

Council officers have commenced a review as per the resolution of Council at that time. In terms of having contact with those people, yes we've certainly spoken to those people in recent times.

2. Just one other question. Can Council inform the community on the annual cost to ratepayers of providing a free camping service or pre-camping sites at Meredith Park?

***Response from the Chief Executive Officer***

We'll take that on notice as it's not information we have at hand here.

**Bill Sgro**

1. Thank you very much for hearing our questions. A few weeks ago we attended a barbecue in the square and we had some questions to ask the local politicians. We did ask some and we were replied, but there was insufficient reply really, so we thought to make this more public. So, the question I'd like to ask is; what is the agenda for Colac for the 20-minute neighbourhoods or Smart Cities as they're known, as well?

***Response from Manager Planning and Strategic Focus***

Thanks for the question. The 20-minute neighbourhood is a planning principle that's embedded in [Victorian] State Government policy and it's a principle that Council will be looking to apply when it's doing its planning for the Dean's Creek growth area through the precinct structure plan. It's a principle that's generally applied through strategic planning for new residential areas.

**Andrew Beale**

1. I've sort of got the same question for you. Has the Colac Otway Shire engaged or agreed to engage in a Smart City agenda and if so can the Colac Otway Shire please provide a written copy of our Shire's Smart City agenda?

***Response from Manager Planning and Strategic Focus***

I'm not aware of Council signing up to any Smart City initiative.

I'm probably talking about the same thing that Mr Sgro was talking about, so whatever you name it, some people said it can be named 'Smart City' some the '20 minute neighbourhood', same thing.

***Response from Manager Planning and Strategic Focus***

So the Smart City initiative is certainly an initiative that other councils or organisations in Australia participate in, but I'm not aware that our Council does. The 20-minute neighbourhood concept is one that was first put forward I think through the Planning for Melbourne Strategic Plan and it is now reflected in State Government policy. Its aim is to try and encourage facilities for commercial and community recreational facilities to be located within close proximity of housing that the majority of people are able to work and commute to places close to where they live, so that reduces the demand on transport and vehicles, which minimises traffic impacts in cities. So that's

a principle that we apply within our planning as does every other Council in Victoria, but we're not specifically signed up to any Smart Cities initiative.

**Can you supply us with a copy of that or direct us to a spot on your website that gives us more detail on that agenda?**

*Response from Manager Planning and Strategic Focus*

I'm happy to get in contact after tonight and have a talk about where that information might be sought.

Leigh Barrett

1. **Mr Mayor written answers to written questions submitted to Council meetings by members of the community who request their questions to be read out at Council meeting will no longer be provided with the answers in writing. Perhaps the Chief Executive Officer could explain the reasoning behind this and how this decision came to be made.**

*Response from the Chief Executive Officer*

Questions that are submitted or from the floor where there is a response provided at the meeting are recorded in the minutes of the meeting because that occurs here. If there are responses we can't provide here or questions we don't get to in the meeting, then we provide written responses to those separately and that's consistent with Council's Governance Rules.

**That's not the question. The question is that the questions submitted in writing and requested to be read out at the Council meeting, you no longer provide a written response. Now I've been here in Colac for ten years and this is the first time this has happened. There's not that many written questions. I'm just asking what's the reasoning behind not responding with a written response to a written question?**

*Response from the Chief Executive Officer*

The way that responses are recorded in the minutes or alternatively provided separately to the minutes outlined in the Governance Rules that Council has adopted. Council's Governance Rules have been reviewed a number of times in those ten years. I would say that there would not appear to be a need to duplicate responses in multiple forms. We're just following what the Governance Rules say.

**Last meeting a General Manager gave a complex answer to a number of written questions and how can someone write down the detail of his answer? In our case when I went to our ratepayers meeting I didn't have a written answer. We had submitted a written question and I think it's reasonable to expect a written answer, especially the involving some legal details.**

*Response from the Chief Executive Officer*

If a question is submitted to Council in writing but not to the Council meeting then you would have all of the responses in writing. Questions that are read out at the meeting and responded to at the meeting are captured in writing in the minutes - that's where you find the response.

**And how long does it take for the minutes to come out, about two months?**

*Response from the Chief Executive Officer*

At the next meeting.

2. My second question, this is required to give the question some context; it's a quote from ABC online article by the Minister for Local Government over the sacking of the Moira Shire Corporation. This is the quote:

“Councils must properly represent the communities they serve. In this case Moira residents deserve to have a Council that puts their interest first.”

So, in our case Colac Otway Shire residents deserve to have a Council that puts its interests first. By making this decision to deny written replies to questions and writing that, members of the community consider in the public interest, how have you demonstrated that you put the interests of the community first?

*Response from the Chief Executive Officer*

Sorry, I did not capture the question.

Well if I submit it to you in writing would you give me a written response? Not at this meeting but if I sent it by email, will you give me a written response?

*Response from the Chief Executive Officer*

Yes, if you write to Council you should receive a written response.

Catherine Ford

1. I represent a large group in this community that is really concerned about the safety of the 5G Tower. The increase of surveillance on our privacy, the talk of building Smart Cities, and the 2030 Climate Agenda, governments Paris Agreement and the lack of consent by the people. All the above are using great amounts of taxpayers funds not to mention precious resources which could be directed elsewhere. Will the Councillors present today be prepared to meet with us so we can all understand future plans around Council projects, Smart Cities et cetera and perhaps together we can better shape our Shire for every person that lives here with input from all residents, not just Council members.

*Response from Manager Planning and Strategic Focus*

I am not quite sure who in Council is best place to answer that question because Council, as I said before, hasn't shown any interest in participating in a Smart Cities initiative. If the question is, can someone in Council meet with the community to talk about issues that are of concern to the community? Then yes, we can arrange that. We would have to understand a bit more specifically the best person to do that.

Well, you keep saying that you're not connected with the Smart Cities agenda but can I ask you, are the 5G Connect Towers connected to the surveillance cameras up Murray Street in Colac also connected to the 20-minute neighbourhoods?

*Response from the Mayor*

I can take that because I have direct knowledge of those cameras down the main street and they are not.

Okay so back to the first question, can we meet Councillors and some of the public and discuss some of these things?

*Response from the Mayor*

I am happy to look at that and take advice from the Chief Executive Officer, but yes, we will be in contact about that.

*Response from the Chief Executive Officer*

Did you have your questions written down there?

Yes, I have a lot of questions.

*Response from the Chief Executive Officer*

Are you able to provide a copy so we can consider the topics?

Well I have sent questions into the Shire before but I wasn't able to come to the meeting so I didn't know if those questions got answered and I don't know how to find them.

*Response from the Chief Executive Officer*

Okay we will be in touch then thanks.

**Simon Arundell**

1. I learn what I can about the Shire through the pages of the Colac Herald and I read recently that you sold land and had quite a windfall of money. Reading the articles in the Colac Herald I was greatly dismayed because the Councillors seemed to act like a bunch of kids with a bag of lollies.

Seeing as it is such a windfall, how about we make a major move for something that might progress Colac and Apollo Bay? Apollo Bay has a problem that the day will come when it will need a ring road. Perhaps that could be looked into.

The Botanical Gardens were opened here in about 1880. It's high time we did something else here and as I've said in past meetings, why don't you put into plan, it could be a 50-year plan, for a road around Lake Colac where thousands of campers could gather? You can have all your races out of the road of the rest of the public and it would bring absolutely a torrent of people into Colac. Melbourne's growing. They've got fewer and fewer areas to go through. A body of water, like Lake Colac, might entice them to come this way. I just ask you to give those two projects thought; the bypass, and a road around Lake Colac. It could be Colac's version of Lake Wendouree. Wouldn't that be great? Thank you.

*Response from the Mayor*

Thank you Mr Arundell. Your views are noted.

**6 PETITIONS / JOINT LETTERS**

Nil

**7 DECLARATIONS OF INTEREST**

Cr Tosh-Jake Finnigan	Item 9.1 Planning Scheme Amendments - Colac West and J Barrys Road
Nature of Disclosure	General conflict of interest.
Nature of interest	My Uncle owns a property on Rifle Butts Rd, which is within the area impacted by this item.

Cr Tosh-Jake Finnigan	Item 9.6 Approval to Undertake the Company Directors Course™ - Councillor Tosh-Jake Finnigan
Nature of Disclosure	Material conflict of interest.
Nature of interest	I would derive direct personal benefit from this item being approved.

**8 CONFIRMATION OF MINUTES**

- Council Meeting held on 22 February 2023.

**RESOLUTION**

**MOVED** Cr Stephen Hart, **SECONDED** Cr Graham Costin

**That Council confirm the minutes of the Council Meeting held on 22 February 2023.**

**CARRIED 7 : 0**

Item: 9.1

## Planning Scheme Amendments – Colac West and J Barrys Road

OFFICER	Simon Clarke
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"> <li>1. Proposed Changes to Clause 43.04 Development Plan Overlay - Schedule 2 - Colac West Development Plan Area [9.1.1 - 2 pages]</li> <li>2. Existing Clause 43.04 Development Plan Overlay - J Barrys Road Industrial Area (DPO7) [9.1.2 - 4 pages]</li> <li>3. Proposed Changes to Planning Provisions - J Barrys Road Development Plan Area [9.1.3 - 3 pages]</li> </ol>

Cr Tosh-Jake Finnigan declared a general conflict of interest pursuant to section 127 of the *Local Government Act 2020* and left the meeting at 4.36pm prior to discussion taking place on this item.

Cr Tosh-Jake Finnigan	Item 9.1 Planning Scheme Amendments - Colac West and J Barrys Road
Nature of Disclosure	General conflict of interest
Nature of interest	My Uncle owns a property on Rifle Butts Rd, which is within the area impacted by this item.

## RESOLUTION

**MOVED** Cr Margaret White, **SECONDED** Cr Kate Hanson

**That Council:**

1. Resolves to seek authorisation from the Minister for Planning to prepare and exhibit a proposed Planning Scheme Amendment as follows:
  - a) Amend the Development Plan Overlay DPO2 – Future Residential Areas to include specific requirements for the Colac West Development Plan Area, including the need for a Shared Infrastructure Funding Plan.

*b) Amend the Development Plan Overlay DPO7 – ‘J Barrys Road, Colac Industrial Area’ and Design and Development Overlay DDO1 to remove the five hectare minimum lot size subdivision requirement and amend the policy references for industrial development at Clause 17.03.1.*

*2. Authorises Council officers, in consultation with landowners and/or representatives, to make minor changes to the Amendment documentation prior to exhibition.*

**CARRIED 6 : 0**

Cr Tosh-Jake Finnigan returned to the meeting at 4.43pm after the vote had taken place.

Item: 9.2

**Affordable Housing Provision –  
Areas being rezoned Residential in Colac**

OFFICER	Simon Clarke
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

**RECOMMENDATION**

*That Council:*

- 1. Notes the resolution of 15 June 2022 (agenda item 7.1), which requested that the Planning Minister, through the Department of Environment, Land, Water and Planning negotiates the provision of social housing within new residential development facilitated by Amendments C120cola and C122cola, in accordance with the Colac Otway Shire Social Housing Plan and that social housing outcomes agreed with the proponents are incorporated prior to finalisation of the Amendments.*
- 2. Acknowledges that affordable key worker housing and/or similar low-cost community housing can form part of negotiations with the proponents of current residential planning scheme amendments in Colac, alongside efforts to seek the provision of social housing, in meeting the outcomes sought by Council's resolution in June 2022.*
- 3. Authorises the Chief Executive Officer to negotiate appropriate outcomes for social and/or affordable housing in the planning scheme amendment processes.*

The officer recommendation was revised as outlined below.

## **RESOLUTION**

*MOVED Cr Max Arnott, SECONDED Cr Graham Costin*

*That Council:*

- 1. Notes the resolution of 15 June 2022 (agenda item 7.1), which requested that the Planning Minister, through the Department of Environment, Land, Water and Planning negotiates the provision of social housing within new residential development facilitated by Amendments C120cola and C122cola, in accordance with the Colac Otway Shire Social Housing Plan and that social housing outcomes agreed with the proponents are incorporated prior to finalisation of the Amendments.*
- 2. Acknowledges that affordable key worker housing and/or similar low-cost community housing can form part of negotiations with the proponents of current residential planning scheme amendments in Colac, alongside efforts to seek the provision of social housing, in meeting the outcomes sought by Council's resolution in June 2022.*
- 3. Authorises the Chief Executive Officer to negotiate appropriate outcomes for social and/or affordable housing in the planning scheme amendment processes.*
- 4. Notes that since the inclusion of the officer report in this agenda the key proponent has advised officers that they are currently investigating the provision of social housing within their proposed residential estate at Elliminyt rather than focussing on affordable housing for key workers.*

*CARRIED 7 : 0*

Item: 9.3

## Barwon South West Climate Alliance Membership

OFFICER	Doug McNeill
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"><li>1. Barwon South West Climate Alliance Action Plan 2023 [9.3.1 - 10 pages]</li><li>2. BSWCA Update on Status of Initiatives - March 2023 [9.3.2 - 8 pages]</li></ol>

### RECOMMENDATION

*That Council continues its membership of the Barwon South West Climate Alliance beyond the 2022-23 financial year.*

### MOTION

*MOVED Cr Kate Hanson, SECONDED Cr Tosh-Jake Finnigan*

*That Council discontinues its membership of the Barwon South West Climate Alliance.*

*LOST 2 : 5*

*DIVISION*

*For the Motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan*

*Against the Motion: Cr Max Arnott, Cr Stephen Hart, Cr Margaret White, Cr Graham Costin, Cr Chris Potter*

## **RESOLUTION**

*MOVED Cr Stephen Hart, SECONDED Cr Margaret White*

*That Council continues its membership of the Barwon South West Climate Alliance beyond the 2022-23 financial year.*

*CARRIED 5 : 2*

### *DIVISION*

*For the motion: Cr Max Arnott, Cr Stephen Hart, Cr Margaret White, Cr Graham Costin, Cr Chris Potter*

*Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan*

Item: 9.4

## Appointments to Committees and external organisations

OFFICER	Lyndal McLean
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

### RECOMMENDATION

*That Council:*

1. *Appoints the following representatives to committees established Council:*
  - a. *Central Reserve Advisory Committee representative is Cr ....*
  - b. *Colac Municipal Aerodrome Advisory Committee representative is Cr ....*
  - c. *Colac Regional Saleyards Advisory Committee representative is Cr ....*
  - d. *Friends of the Colac Botanic Gardens Advisory Committee representative is Cr ....*
  - e. *Lake Colac Co-ordinating Committee representative is Cr ....*
  - f. *Mooleric Road Quarry Consultative Committee representative is Cr ...*
  - g. *Ondit Road Quarry Consultative Committee representative is Cr ...*
  - h. *Port of Apollo Bay Consultative Committee representative is Cr ...*
  - i. *Weeds Consultative Committee representative is Cr ...*
2. *Appoints the following representatives to external committees and other bodies:*
  - a. *Colac Road Safety Group representative is Cr ...*
  - b. *Geelong Regional Library Corporation representative is Cr ...*
  - c. *Rural Councils Victoria representative is Cr ...*
  - d. *Rural Financial Counselling Service Vic – Wimmera Southwest (RFC) representative is Cr ...*
  - e. *Timber Towns Victoria Committee representative is Cr ...*

- f. *COPACC Trust representative is Cr ...*
3. *Appoints the following representatives, and substitute representatives, to the State and Commonwealth Local Government associations:*
    - a. *Australian Local Government Association representative is Cr ....*
    - b. *Australian Local Government Association substitute representative is Cr ....*
    - c. *Municipal Association of Victoria representative is Cr ....*
    - d. *Municipal Association of Victoria substitute representative is Cr ....*
  4. *Appoints the following representatives to G21 Region Alliance Pillars:*
    - a. *G21 Culture and Economic Development Pillar representative is Cr ...*
    - b. *G21 Health and Wellbeing Pillar representative is Cr ...*
    - c. *G21 Sustainability Pillar representative is Cr ...*
    - d. *G21 Managing Growth Advisory Group representative is Cr ...*

## RESOLUTION

*MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Kate Hanson*

*That Council:*

1. *Appoints the following representatives to committees established Council:*
  - a. *Central Reserve Advisory Committee representative is Cr Chris Potter*
  - b. *Colac Municipal Aerodrome Advisory Committee representative is Cr Max Arnott*
  - c. *Colac Regional Saleyards Advisory Committee representative is Cr Tosh-Jake Finnigan*
  - d. *Friends of the Colac Botanic Gardens Advisory Committee representative is Cr Margaret White*
  - e. *Lake Colac Co-ordinating Committee representatives are Cr Margaret White and Cr Graham Costin*
  - f. *Mooleric Road Quarry Consultative Committee representative is Cr Max Arnott*
  - g. *Ondit Road Quarry Consultative Committee representative is Cr Max Arnott*
  - h. *Port of Apollo Bay Consultative Committee representative is Cr Graham Costin*
  - i. *Weeds Consultative Committee representative is Cr Stephen Hart.*
2. *Appoints the following representatives to external committees and other bodies:*
  - a. *Colac Road Safety Group representative is Cr Kate Hanson*
  - b. *Geelong Regional Library Corporation representative is Cr Margaret White*
  - c. *Rural Councils Victoria representative is Cr Kate Hanson*
  - d. *Rural Council Victoria substitute representative is Cr Tosh-Jake Finnigan*

- e. Rural Financial Counselling Service Vic – Wimmera Southwest (RFC) representative is Cr Kate Hanson*
  - f. Timber Towns Victoria Committee representative is Cr Tosh-Jake Finnigan*
  - g. COPACC Trust representatives are Cr Stephen Hart and Cr Max Arnott.*
- 3. Appoints the following representatives, and substitute representatives, to the State and Commonwealth Local Government associations:*
- a. Australian Local Government Association representative is Cr Graham Costin*
  - b. Australian Local Government Association substitute representative is Cr Max Arnott*
  - c. Municipal Association of Victoria representative is Cr Stephen Hart*
  - d. Municipal Association of Victoria substitute representative is Cr Kate Hanson.*
- 4. Appoints the following representatives to G21 Region Alliance Pillars:*
- a. G21 Culture and Economic Development Pillar representative is Cr Tosh-Jake Finnigan*
  - b. G21 Health and Wellbeing Pillar representative is Cr Margaret White*
  - c. G21 Sustainability Pillar representative is Cr Stephen Hart*
  - d. G21 Managing Growth Advisory Group representative is Cr Graham Costin.*

**CARRIED 7 : 0**

Item: 9.5

## Project Budget Adjustments and Cash Reserve Transfers

OFFICER Paula Gardiner

CHIEF EXECUTIVE OFFICER Anne Howard

DIVISION Executive

ATTACHMENTS Nil

### RESOLUTION

*MOVED Cr Margaret White, SECONDED Cr Graham Costin*

*That Council:*

- 1. Approves the new projects as presented in Tables 1 and 2 of this report, at a total cost to Council of \$106,000 (exc. GST).*
- 2. Approves the project budget adjustments in Table 3 of this report, with a net result of unallocated funds of \$576,049 (exc. GST).*
- 3. Approves the reallocation of all unallocated Local Roads and Community Infrastructure Phase 2 funding to the Great Ocean Road Footpath Project following the close out of completed Phase 2 projects, as presented in Table 5 of this report.*

*CARRIED 7 : 0*

Item: 9.6

## Approval to Undertake the Company Directors Course™ - Councillor Tosh-Jake Finnigan

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

Cr Tosh-Jake Finnigan declared a material conflict of interest pursuant to section 128 of the *Local Government Act 2020* and left the meeting at 5.30pm prior to discussion taking place on this item.

Cr Tosh-Jake Finnigan	Item 9.6 Approval to Undertake the Company Directors Course™ - Councillor Tosh-Jake Finnigan
Nature of Disclosure	Material conflict of interest
Nature of interest	I would derive direct personal benefit from this item being approved.

## RECOMMENDATION

*That Council:*

- Approves Councillor Tosh-Jake Finnigan undertaking the online Company Directors Course™, offered by the Australian Institute of Company Directors, in partnership with the Municipal Association of Victoria, at a cost of 7,699 Councillor Credit Points (CCPs), commencing Friday 5 May 2023.*
- Notes the Company Directors Course™ duration runs over five days, one day per week and is delivered fully online.*

## RESOLUTION

*MOVED Cr Stephen Hart, SECONDED Cr Kate Hanson*

*That Council:*

- 1. Notes the current Councillor training budget for 2022-23 is \$10,500.*
- 2. Notes it has accrued a large number of MAV Councillor Credit Points (CCPs) over time, with a balance of 13,002 as at 27 February 2023.*
- 3. Agrees that all Councillors should be treated fairly in terms of the availability of training and that the training should have a reasonable link with the needs of Council.*
- 4. Requests that the Chief Executive Officer arrange a process that assists Councillors to identify potential training needs and the availability of training.*
- 5. Will only re-consider funding any course over the funding limit after the process in point 4 has been undertaken.*
- 6. Notes this resolution isn't intended to restrict access to training that is compulsory for Councillors under the Local Government Act 2020 or any other relevant legislation.*

*CARRIED 6 : 0*

Cr Tosh-Jake Finnigan returned to the meeting at 5.30pm after the vote had taken place.

Item: 9.7

## Contract 2309 Banking and Bill Paying Services

OFFICER	Amanda Barber
GENERAL MANAGER	Andrew Tenni
DIVISION	Corporate Services
ATTACHMENTS	Nil

### RESOLUTION

*MOVED Cr Kate Hanson, SECONDED Cr Max Arnott*

*That Council:*

- 1. Enters into a Short Form Purchase Order Contract (Contract) appended to the State Purchasing Contract for the provision of Banking and Bill Paying services to the Commonwealth Bank of Australia at its schedule of rates contained in the State Purchasing Contract.*
- 2. Reviews the performance of the arrangements in the lead up to the expiration of the first period of the State Purchasing Contract which concludes on 30 September 2026.*
- 3. Authorises the Chief Executive Officer to sign the contract documents.*

*CARRIED 7 : 0*

Item: 9.8

## Progress Update on Community Asset Committees and Future Governance Model

OFFICER	Janine Johnstone
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

### RESOLUTION

*MOVED Cr Max Arnott, SECONDED Cr Margaret White*

*That Council:*

1. *Endorses the following Community Asset Committee governance models:*
  - a) *retains the existing Community Asset Committee model, as defined under s65 and s47 of the Local Government Act 2020, as the primary governance model for Community Asset Committees, until 30 June 2024, or as revised by Council prior to this date.*
  - b) *considers implementing and evaluating a two+ year pilot or trial of leasing a community asset to an Incorporated Association.*
  - c) *considers implementing and evaluating a trial 'cluster' management of a group of assets (that share a close proximity or similar purpose) using the Community Asset Committee model as per s65 and s47 of the Local Government Act 2020.*
2. *Encourages and supports the existing three Community Asset Committees that have registered as Incorporated Associations (Birregurra, Cororooke and Warrion) to change the name and purpose of the Incorporated Association (for example to become a 'Friends of Public Hall') OR develop a partnership with an existing local Incorporated Association that is willing to auspice funding submissions.*

3. *Considers increasing funding in the 2023-24 budget to improve Council's capacity to respond to the asset maintenance and renewal priorities of Community Asset Committees.*

**CARRIED 7 : 0**

The meeting adjourned for a short break at 5.42pm.  
The meeting resumed at 5.51pm.

Item: 9.9

## Councillor Attendance at the Australian Local Government Association's 29th National General Assembly and Regional Forum in Canberra

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

### RECOMMENDATION

*That Council approves the following Councillors attending the Australian Local Government Association's 29<sup>th</sup> National General Assembly and Regional Forum in Canberra during the period 13 to 16 June 2023:*

1. *Mayor, Councillor Chris Potter*
2. *Councillor ...*
3. *Councillor ...*

### RESOLUTION

*MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Margaret White*

*That Council approves the following Councillors attending the Australian Local Government Association's 29<sup>th</sup> National General Assembly and Regional Forum in Canberra during the period 13 to 16 June 2023:*

1. *The Australian Local Government Association representative.*
2. *The Australian Local Government Association substitute representative.*

**CARRIED 7 : 0**

Item: 9.10

## S6 Instrument of Delegation – Council to members of Council staff

OFFICER	Janine Johnstone
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"><li>1. S 6 Instrument of Delegation - Members of Staff Updates - Tracked Changes - final [9.10.1 - 3 pages]</li><li>2. Unsigned S 6 Instrument of Delegation - Members of Staff [9.10.2 - 77 pages]</li></ol>

### RESOLUTION

*MOVED Cr Margaret White, SECONDED Cr Max Arnott*

*That Council:*

- 1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation (Attachment 2), delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.*
- 2. Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.*
- 3. Authorises the use of the common seal in accordance with Colac Otway Shire's Governance Local Law No 4 – 2020.*
- 4. Approves the S6 Instrument of Delegation to come into force immediately upon execution.*
- 5. Approves that coming into force of the S6 Instrument of Delegation, the previous S6 Instrument of Delegation from Council to members of Council staff (dated 29 September 2022) is revoked.*
- 6. Notes the duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.*

**CARRIED 7 : 0**

Item: 9.11

**Audit and Risk Committee Meeting –  
Unconfirmed Minutes - 15 February 2023**

OFFICER	Natasha Skurka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	1. Unconfirmed Minutes - 15 February 2023 ARC meeting - Watermarked [9.11.1 - 19 pages]

**RESOLUTION**

*MOVED Cr Kate Hanson, SECONDED Cr Margaret White*

*That Council receives for information the Colac Otway Shire Audit and Risk Committee unconfirmed minutes, dated 15 February 2023.*

*CARRIED 7 : 0*

Item: 9.12

## Report of Informal Meetings of Councillors

OFFICER	Lyndal McLean
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"> <li>1. Informal Meeting of Councillors - Central Reserve Advisory Committee Meeting - 15 February 2023 [9.12.1 - 1 page]</li> <li>2. Informal Meeting of Councillors - Councillor Briefing - Budget Workshop #2 - 22 February 2023 [9.12.2 - 2 pages]</li> <li>3. Informal Meeting of Councillors - Council Meeting Preparation - 22 February 2023 [9.12.3 - 2 pages]</li> <li>4. Informal Meeting of Councillors - Councillor Briefing - 01 March 2023 [9.12.4 - 2 pages]</li> <li>5. Informal Meeting of Councillors - Councillor Briefing - 08 March 2023 [9.12.5 - 2 pages]</li> <li>6. Informal Meeting of Councillors - Councillor Briefing - 15 March 2023 [9.12.6 - 2 pages]</li> </ol>
PURPOSE	To report the Informal Meetings of Councillors.

### REPORTING

*The Informal Meetings of Councillors are reported herewith;*

1. *Central Reserve Advisory Committee 15 February 2023*
2. *Councillor Briefing – Budget Workshop #2 22 February 2023*
3. *Council Meeting Preparation 22 February 2023*
4. *Councillor Briefing 1 March 2023*
5. *Councillor Briefing 8 March 2023*
6. *Councillor Briefing 15 March 2023*

The Colac Otway Shire Governance Rules does not require a Council decision.

10.1

**Report from Delegate - Municipal Association of Victoria's  
(MAV) State Council meeting held on Friday 14 October  
2022**

<b>COUNCILLOR</b>	Cr Stephen Hart
<b>ATTACHMENTS</b>	1. MAV State Council Meeting Resolutions 14 October 2022 [10.1.1 - 15 pages]

The purpose of this item was for Cr Hart to report to Council on the most recent Municipal Association of Victoria's State Council meeting and did not require a Council decision.

## 10.2

### Notice of Motion - 69 McLachlan Street sale options

COUNCILLOR	Cr Graham Costin
ATTACHMENTS	Nil

#### **NOTICE OF MOTION**

*That Council instructs the Chief Executive Officer to pause the sale of 69 McLachlan St, Apollo Bay, pending receipt of a report and recommendation to a future Council meeting on conditional or other sale options, such as by expressions of interest, that have potential to increase the stock of affordable housing for key and essential workers and/or social housing in Apollo Bay.*

Cr Graham Costin revised his Notice of Motion as outlined below.

#### **REVISED NOTICE OF MOTION**

*MOVED Cr Graham Costin, SECONDED Cr Stephen Hart*

*That Council instructs the Chief Executive Officer to pause the sale of 69 McLachlan St, Apollo Bay, pending receipt of a report and recommendation to a future Council meeting addressing the Acquisition and Disposal of Land Policy criteria for the disposal of land, and on conditional or other sale options, such as by expressions of interest, that have potential to increase the stock of affordable housing for key and essential workers and/or social housing in Apollo Bay.*

*LOST 2 : 5*

*DIVISION*

*For the motion: Cr Graham Costin, Cr Stephen Hart*

*Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Max Arnott, Cr Margaret White, Cr Chris Potter*

10.3

**Notice of Motion - Skenes Creek to Wild Dog Creek Path**

COUNCILLOR Cr Stephen Hart

ATTACHMENTS Nil

**RESOLUTION**

*MOVED Cr Stephen Hart, SECONDED Cr Tosh-Jake Finnigan*

*That Council:*

- 1. Acknowledges the increasingly urgent need for safe pedestrian and cycling links between Skenes Creek and Wild Dog Creek, Apollo Bay.*
- 2. Notes Federal and State Government have withdrawn any further City Deals funding for the already designed Apollo Bay to Skenes Creek Coastal Trail.*
- 3. Requests the Chief Executive Officer to write to all relevant State and Federal Government Ministers and local Members of Parliament to:*
  - a. Express its disappointment at the lack of consultation with Council and withdrawal of City Deals funding for this Trail, and*
  - b. Advocate for safe pedestrian and cycling links (either shared or separate) to connect Skenes Creek to the existing off-road pathway from Wild Dog Creek to Apollo Bay.*

**CARRIED 7 : 0**

*The meeting was declared closed at 6.29pm.*

**CONFIRMED AND SIGNED** at the meeting held on 26 April 2023.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, sweeping flourish that loops back to the left.

.....MAYOR

Responses to questions taken on notice – 22 February 2023 Council Meeting

Tony Webber

1. The second question is about a property up Tuxion Road (Apollo Bay) that is about 150 acres. The people will not have any stock on the property. It's quite steep. The neighbours have offered to graze it because they're worried about the fire situation with dry lightning and it is a real concern because if we have a westerly blowing it could come down into the town. Can the Council do anything about large properties that will no graze them and leave the grass at waist height?

*Response from General Manager Infrastructure and Operations*

Larger properties (e.g. lifestyle blocks) that do not have any type of agricultural production, i.e. grazing or cropping, and are within a distance where there is an identifiable risk to life or property may have a fire prevention notices issued requiring a specific treatment to mitigate the risk.

A number of these interface properties around Apollo Bay have had fire prevention notices issued, treatments may include slashing grass to a minimum height for a particular width along the boundary with residential properties. There are contractors in and around Apollo Bay who have completed these works over the fire danger period to the satisfaction of Council's Municipal Fire Prevention Officer.



# Colac Otway Shire Council

## COUNCILLOR OATH OF OFFICE

### Maxwell Donald Arnott

Before the Chief Executive Officer,  
Anne Howard, on Wednesday 1 March 2023

I, Max Arnott swear by Almighty God that I will undertake the duties of the office of Councillor in best interests of the municipal community.

I will abide by the Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the functions, powers, authorities and discretions vested in me under the *Local Government Act 2020* and any other Act to the best of my skill and judgement.

Signed

Councillor

Maxwell Donald Arnott

Date: 1/3/2023

Chief Executive Officer

Anne Howard

Date: 1 | 3 | 23