



## **COUNCIL MEETING**

# **AGENDA**

**Wednesday 22 May 2024**

**at 4:00 PM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**Next Council Meeting: 26 June 2024**



# COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 22 May 2024

## TABLE OF CONTENTS

1	Declaration of Opening of Meeting .....	4
2	Present.....	4
3	Apologies and Leave of Absence .....	4
4	Welcome and Acknowledgement of Country.....	4
5	Question Time .....	5
6	Petitions / Joint Letters.....	5
7	Declarations of Interest .....	5
8	Confirmation of Minutes .....	5
9	Officer Reports.....	6
9.1	Project Budget Adjustments and Cash Reserve Transfers - May 2024 .....	6
9.2	Draft Nature Strip Planting Policy and Guidelines for exhibition.....	14
9.3	Review of Complaints Policy for exhibition .....	43
9.4	Review of Procurement Policy for exhibition .....	76
9.5	Review of Governance Rules for exhibition.....	129
9.6	Adoption of Flag Policy .....	227
9.7	Update on Implementation of the Cat Curfew .....	248
9.8	Apollo Bay Aquatic Centre Funding Agreement Review .....	253
9.9	Quarter 3 Performance Report against 2023-24 Annual Plan .....	257
9.10	Birregurra Structure Plan - Community Reference Group Appointment.....	310
9.11	Appointment of Acting Mayor .....	322
9.12	Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - Peter Jones .....	325
9.13	Instruments of Delegation - Port of Apollo Bay .....	329



9.14 Report of Informal Meeting of Councillors .....	356
10 Delegate Reports and Notices of Motion .....	373
10.1 Notice of Motion - Great Ocean Road Regional Tourism .....	373
10.2 Recission Motion relating to the Future Commitment to G21 .....	375
11 Urgent Business .....	377
12 Closed Session .....	377
13 Close of meeting .....	377

## COLAC OTWAY SHIRE COUNCIL MEETING

NOTICE is hereby given that the next **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 22 May 2024 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 LEAVE 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.

##### **RECORDING AND PUBLICATION OF MEETINGS**

Please note: All Council meetings will be 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 will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at [www.youtube.com](https://www.youtube.com)).

## **5 QUESTION TIME**

A maximum of 30 minutes is allowed for question time. Any person wishing to participate in public question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 20 May 2024. To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. You must ask a question. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting. Written questions must be received by 5pm on Monday 20 May 2024.
2. Questions via videoconference by prior arrangement.
3. Questions from the floor.

## **6 PETITIONS / JOINT LETTERS**

Nil

## **7 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.

## **8 CONFIRMATION OF MINUTES**

- Council Meeting held on 24 April 2024.

### **RECOMMENDATION**

***That Council confirm the minutes of the Council Meeting held on 24 April 2024.***

Item: 9.1

## Project Budget Adjustments and Cash Reserve Transfers - May 2024

<b>OFFICER</b>	Paula Gardiner
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To present the project budget adjustments and cash reserve transfers for Council ratification and approval. These budgets are for 2023-24 Capital Works and Operational projects.

### 2. EXECUTIVE SUMMARY

The project budget adjustments presented in this report relate to the 2023-24 financial year. It seeks formal approval to adjust project budgets, create new projects where needed, or recognise that some projects are complete and can be formally closed. The report demonstrates good governance and project management practice and provides improved transparency to the community about matters that occur outside of the annual budget cycle.

### 3. RECOMMENDATION

***That Council:***

- 1. Approves the new projects as presented in Tables 1 and 2 of this report, at a total net cost to Council of \$0, as the projects are externally funded.***
- 2. Approves the project budget adjustments in Table 3a.***
- 3. Approves the project budget adjustments in Table 3b.***
- 4. Ratifies the project budget and funding adjustments for Phase 3 Local Roads and Community Infrastructure work schedule as set out in Table 6.***

## 4. KEY INFORMATION

The following project budget transfers are presented for Council consideration and transparency to the community. Amounts are presented as exclusive of GST as per Council's adopted budget and financial reporting as follows:

- Increases in the project expense budget are presented without brackets.
- Decreases in the project expense budget are presented with brackets.

Council allocates funding to projects through its annual budget or by specific resolution. Where matters arise that require urgent action to address compliance or safety concerns, and the service delivery cannot be reasonably stopped, the Chief Executive Officer may need to approve establishment of a project to address the issue. In these instances, the Chief Executive Officer will advise all Councillors as soon as possible, and the project will be ratified by Council at the next practical meeting through Table 1.

The opening balances, at the time of writing this report, before any transfers recommended in this report are considered, are:

- Unallocated Renewal Funds: \$1,035,116
- Unallocated Discretionary Funds: \$37,394

The above balances reflect the balances at the time that this report was prepared and may have been adjusted if Council has considered matters earlier in the meeting agenda.

**Table 1 – New projects for Council ratification**

Project name	Funding source	Basis for variation	Project allocation (exc. GST)	
			Exp	Income
Municipal Emergency Resourcing Program (MERP)	State Government Grant	Funds received from State Government via Surf Coast Shire for shared emergency management support program.	\$14,700	(\$14,700)

Where an opportunity or need arises outside of the annual budget development process, it should be approved by Council before work on the project commences. This enables Council to confirm any financial commitment it makes to the project in a manner that is transparent to the community. Projects presented for Council approval are presented in Table 2.

**Table 2 – Newly initiated projects for Council approval**

Project name	Funding source	Basis for variation	Project allocation (exc. GST)	
			Exp	Income
Nil to Report				

From time to time, situations arise whereby initial budgets need to be reconsidered to achieve their planned objectives and project scope. It is important that Council's decisions to adjust project budgets

are open and transparent to the community. Therefore, any changes to project budgets or cash reserves are reported in Tables 3a and 3b of this report to demonstrate the diligence and transparency of the organisation's financial management principles.

**Table 3a – Project budgets requiring adjustment (Capital Projects)**

Project Name	Transfers <u>from</u> project account	Transfers <u>to</u> project account	Basis for variation	Project budget adjustment (exc. GST) Note increases are without brackets	
				Expenditure	Income
Western Reserve Netball Court Resurfacing	WO 00037917 - 2022 - 2023 Capital Works - Western Reserve Netball Court Resurfacing	WO 00031845 Unallocated Renewal Funds	Project complete at a final cost of \$56,989 with savings to be returned to Council.	(\$17,911)	\$0
Netball court resurfacing, Alvie Recreation Reserve Colac	WO 00037983 - 2023 - 2024 Capital Works Active Reserve Renewals - Netball court resurfacing, Alvie Recreation Reserve Colac	Community Grants  Reduction in income from sporting club contribution.	Project complete at a final cost of \$46,873 with savings to be returned to the Community Grants (\$6,563) and reduction in sporting club contribution.	(\$13,127)	(\$6,563)
Bluewater Toddler Pool Tile Replacement	WO 00031845 Unallocated Renewal Funds	WO 00037728 - 2022 -2023 Capital Works - Building Renewal Program – Bluewater Toddler Pool Tile Replacement	Additional budget allocation required for project contingency.	\$13,500	\$0

Project Name	Transfers <u>from</u> project account	Transfers <u>to</u> project account	Basis for variation	Project budget adjustment (exc. GST) Note increases are without brackets	
				Expenditure	Income
Wydinia Kindergarten roof replacement	WO 00037951 - 2023 - 2024 Capital Works Buildings Renewal Program - Wydinia Kindergarten roof replacement	WO 00031845 Unallocated Renewal Funds	Project complete at a final cost of \$58,610 with savings to be returned to Council.	(\$32,390)	\$0
Saleyards Septic System	WO 00037944 - 2023 - 2024 Capital Works Buildings Renewal Program - Emergency Building renewal/compliance Works	WO 00037948 - 2023 - 2024 Capital Works Buildings Renewal Program - Sale Yards Septic system	Internal sewer pipe work required to replace the existing non-compliant pipe (non-compliant due to grade). Internal plumbing works is required to be added to the scope of this project.	\$8,500	\$0

**Table 3b – Project budgets requiring adjustment (Operational Projects)**

Project name	Transfers from project account	Transfers to project account	Basis for variation	Project allocation (exc. GST)	
				Expenditure	Income
Colac Library Return Room Safety	WO 00037872 - 2023-24 Operating Project - Colac Library Return Room Safety	WO 00037918 - Operating Projects – Unallocated Discretionary Funds	Project completed by the GRLC, with Council providing a contribution. Project was delivered with a total cost to Council of \$11,300.	(\$18,700)	\$0

Project name	Transfers from project account	Transfers to project account	Basis for variation	Project allocation (exc. GST)	
				Expenditure	Income
Fit out of Apollo Bay Kindergarten	WO 00037002 - 2021-22 Operating Projects - Fit out of Apollo Bay Kindergarten	WO 00037918 - Operating Projects – Unallocated Discretionary Funds	The Apollo Bay Kindergarten project was completed last financial year. There were minor egress requirements to be finalised thus the remaining project budget was carried forward. Egress option at 1 metre is now operational, and no further works required. No costs were incurred to finalise this matter and project can be closed out.	(\$3,130)	\$0
Community Grants	Reimbursement of grant received.	WO 00038098 - 2023-2024 Operating Projects - Community Grants	Grant funding reimbursed.	\$528	(\$528)
Consolidated Community Grants Carried Forward	Reimbursement of grant received.	WO 00038141 - 2022 - 2023 Grants Program - Consolidated Community Grants Carried Forward	Grant funding reimbursed.	\$102	(\$102)

Closure of projects is another important process for maintaining a well-managed program and involves financial review, asset management, and project review activities. Closed projects are presented in Table 4 for Council's ratification and to provide transparency to the community that these projects are deemed to be complete.

**Table 4 – Project closures for ratification**

Project name	Funding source for return of unexpended budget funds	Project Allocation (Expenditure)	Actual YTD
Sun Shade Project (Insurance Claim) - Colac East Kindergarten *Income only – works completed last financial year.	Insurance	\$0	\$0



Project name	Funding source for return of unexpended budget funds	Project Allocation (Expenditure)	Actual YTD
Reseal Program	Reseal Program	\$910,847	\$910,847

#### Local Roads and Community Infrastructure program

All projects identified and approved for funding contribution within Phase 3 of the Local Roads and Community Infrastructure (LRCI) Commonwealth funding are required to be completed by 30 June 2024.

Due to unavoidable delays with the Elliminyt Wetland Development project, the LRCI funding contribution allocation of \$1,212,000 towards the total cost of the project will not be able to be claimed as the project will not be complete by 30 June 2024. To ensure Council claims the full allocation of the Phase 3 LRCI funding, being \$3,406,400, a variation to the project schedule is required. Funds can be reallocated so that there is no financial impact to Council.

The original works program provided funding allocation as per Table 5 below.

**Table 5 – Original LRCI Phase 3**

Project name	Total Project Cost	LRCI Funding Contribution	Council Contribution	Other Funding Contribution
Elliminyt Wetlands Development	\$4,212,000	\$1,212,000	\$0	\$3,000,000
Cororooke Masterplan Implementation – New Picnic Area	\$120,000	\$120,000	\$0	\$0
Beeac Playspace Renewal	\$220,000	\$220,000	\$0	\$0
Western Oval Drainage Oval Improvements	\$350,000	\$350,000	\$0	\$0
Forest Street Road Reconstruction	\$1,200,000	\$292,400	\$907,600	\$0
Memorial Square Public Toilet Redevelopment	\$1,170,000	\$1,120,000	\$50,000	\$0
COPACC Civic Hall Floor Renewal	\$240,000	\$92,000	\$148,000	\$0
<b>Total</b>	<b>\$7,512,000</b>	<b>\$3,406,400</b>	<b>\$1,212,600</b>	<b>\$3,000,000</b>

The table above represents the submitted and approved Works Schedule to the LRCI program. Some projects have had budget adjustments approved during delivery. The Elliminyt Wetlands Development project has been removed from the LRCI Works Program, and the \$1,212,000 project contribution that was to be provided via LRCI will now be provided by Council. This allocation will be available via the release of Council contributions previously required across other LRCI Phase 3 projects as identified above, which will now be funded by LRCI. This results in no additional Council funds required for the Elliminyt Wetlands Development project.

**Table 6 – Phase 3 Local Roads and Community Infrastructure Project Budget Adjustments for Ratification**

Project name	Total Project Cost	LRCI Funding Contribution	Council Contribution	Other Funding Contribution
Cororooke Masterplan Implementation – New Picnic Area	\$87,000	\$87,000	\$0	\$0
Beeac Playspace Renewal	\$215,000	\$215,000	\$0	\$0
Western Oval Drainage Oval Improvements	\$315,000	\$315,000	\$0	\$0
Forest Street Road Reconstruction	\$1,255,000	\$1,255,000	\$0	\$0
Memorial Square Public Toilet Redevelopment	\$1,345,000	\$1,165,000	\$0	\$180,000
COPACC Civic Hall Floor Renewal	\$370,000	\$369,400	\$600	\$0
<b>Sub-Total (as submitted to Federal Govt)</b>	<b>\$3,586,400</b>	<b>\$3,406,400</b>	<b>\$600</b>	<b>\$180,000</b>
Elliminyt Wetlands Development	\$4,212,000	\$0	\$1,212,000	\$3,000,000
<b>Total Adjustments</b>	<b>\$7,798,400</b>	<b>\$3,406,400</b>	<b>\$1,212,600</b>	<b>\$3,180,000</b>

The Other Funding Contribution listed for Memorial Square Public Toilets Redevelopment project is from the State Government 'Changing Places' funding program.

## 5. CONSIDERATIONS

### **Overarching Governance Principles** (s(9)(2) LGA 2020)

This report contributes to financial viability by ensuring Council approves and is well informed about the allocation and movement of project funds to achieve the best outcomes for the municipal community.

### **Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

Not applicable.

### **Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

Not applicable.

### **Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

Not applicable.

### **Public Transparency** (s58 LGA 2020)

This report contributes to public transparency by ensuring that the allocation and movement of project funds is made available to the community.

## **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Objective 2: We are a financially robust organisation.

## **Financial Management** (s101 *Local Government Act 2020*)

This report contributes to financial management principles by recording the allocation and movement of project funds that may impact on the budget, current and future.

## **Service Performance** (s106 *Local Government Act 2020*)

This report contributes to service performance for project delivery by considering the allocation and movement of project funds for successful project outcomes.

## **Risk Assessment**

There are no identified Workplace Health and Safety implications or identified risks associated with this report.

## **Communication/Implementation**

Implementation of Council's decision will be undertaken by the responsible officers within Council. Project partners and stakeholders will be notified of Council's decision where relevant by the Project Sponsor or Project Manager.

## **Human Rights Charter**

There are no matters identified with this report that impact on human rights as defined in the charter.

## **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

## **Options**

### Option 1 – Approve transfers as per the recommendation.

This option is recommended as the project budgets and cash reserve transfers supports implementation of Council's strategies.

### Option 2 – Not approve transfers as recommended.

This option is not recommended as transfers are necessary to allow ongoing delivery and closure of projects, which have been through a series of governance checks.

Item: 9.2

## Draft Nature Strip Planting Policy and Guidelines for exhibition

<b>OFFICER</b>	Dora Novak
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Nature Strip Planting Policy - DRAFT for Public Exhibition [9.2.1 - 5 pages]</li><li>2. Nature Strip Planting Guidelines 2024 - Draft for Public Exhibition [9.2.2 - 18 pages]</li></ol>

### 1. PURPOSE

To seek endorsement of the Draft Nature Strip Planting Policy and Guidelines for the purpose of public exhibition.

### 2. EXECUTIVE SUMMARY

Nature strips play an important role in enhancing our towns and creating more sustainable and liveable environments. A draft policy and guidelines for planting of nature strips have been developed to facilitate the safe, consistent, and orderly greening of nature strips that balances positive urban biodiversity and climate resilience outcomes with other important functions of the road reserve. The draft Policy and Guidelines would apply to Council managed streets and roads within urban and residential areas within the 60km or less speed limit areas. It is proposed that Council seek community feedback over a four week exhibition period before the documents are finalised for Council adoption.

### 3. RECOMMENDATION

***That Council:***

1. ***Endorses the draft Nature Strip Planting Policy and draft Nature Strip Planting Guidelines for the purpose of seeking community feedback over a four-week public consultation period.***

2. ***Provides the opportunity for any person wishing to speak to their written submission to be heard, or a nominated representative to speak to their submission on behalf of the person, at a Submissions Committee meeting.***
3. ***Notes that a final Nature Strip Planting Policy and Nature Strip Planting Guidelines will be presented to a future Council meeting for endorsement which will consider any feedback received through the public exhibition process.***

## 4. KEY INFORMATION

The issue of nature strip planting, lack of clear policy and associated guidelines and concerns about the permit application process and associated fees are often raised by the community. These issues were regularly raised during the community and stakeholder consultation process for the development of Council's Environmental Sustainability Strategy 2023-2033 and Climate Change Action Plan in relation to barriers to urban greening and improvements to urban biodiversity.

The benefits of urban greening efforts such as nature strip plantings include improving air quality, reducing urban heat island effect, enhancing biodiversity, improving recreational spaces, and promoting overall health and well-being among urban residents. Urban greening initiatives also improve the visual appeal of streetscapes and filter pollutants from stormwater runoff.

Council's adopted Environmental Sustainability Strategy prioritises urban greening initiatives to build resilience to climate change. Also, the Climate Change Action Plan (CCAP) includes an action directly related to this issue and states Built Environment - Action 1.10 "*Develop Nature Strip Planting Guidelines to encourage neighbourhood and street-scale urban greening and urban gardening.*" The implementation timeframe for this action was short term.

Enabling, encouraging, and facilitating nature strip planting continues to be raised by the community as an important action for Council to address and facilitate. Fees associated with Nature Strip Planting permits, which were seen as a barrier to nature strip planting improvements by residents, was removed from the 2023-24 Council Fees and Charges.

Council's new local law, Colac Otway Shire Local Law no. 1 – General Local Law 2023, was adopted in August 2023 and included wording that gives weight to any future Nature Strip Policy and/or Guidelines adopted by Council:

### "7.5 Vegetation on Road and Council Owned/Managed Land

#### (a) A person:

(1) must not, without a permit, plant or allow to be planted any seedling or vegetation on a road other than:

- (i) plants that are consistent with an adopted Council policy that is published on Council's website;
- (ii) plantings specified in an adopted precinct specific plan published on Council's website; and
- (iii) grass; or

(2) must not, without a permit, use mechanical plant or equipment for excavation when planting or removing plants on a road or Council land; and

(3) who is the owner or occupier of land adjoining land owned or managed by Council, must ensure that environmental weeds prescribed by Council are contained to their land and not encroaching on Council land."

The purpose of the draft Nature Strip Planting Policy (Attachment 1) is to create a framework for residents to plant nature strips adjoining their properties in city and township areas within Colac Otway Shire and enable and empower them to contribute to urban greening efforts, improve urban biodiversity and habitat connectivity. This is in recognition of the environmental, social and amenity values of nature strips and the benefits of diverse nature strip plantings that replace the traditional exotic lawn treatment.

This policy affirms Council's commitment to best practice management of land under its authority and commitment to environmental sustainability and climate change action. It also implements Council's strategic priorities, objectives, and actions in relation to greening of streets and public spaces as articulated in the Council Plan 2021-2025, Council's Environmental Sustainability Strategy and Climate Change Action Plan.

Nature Strip Planting Guidelines (Attachment 2) have also been developed in conjunction with the Policy to provide a practical reference which give Colac Otway Shire property owners clear and specific nature strip planting guidance, information, and advice. The policy and associated guidelines will facilitate the safe, consistent, and orderly greening of nature strips that balances positive biodiversity outcomes with other important functions of the road reserve (e.g. pedestrian and road safety, accessibility, and asset protection).

Council currently has an effective process for issuing Nature Strip Planting permits for local Council streets. Applications are considered and reviewed on a case-by-case basis to check species and works proposed to ensure that plantings proposed do not compromise road safety or damage services. Council has been and continues to receive, process and issue nature strip planting permits.

However, the Policy and associated Guidelines will bring together all the key information and requirements about nature strip plantings on Council nature strips into one framework that will be easily accessible, easy to share and promote and will provide consistent information to residents that want to plant out their nature strips.

The policy and associated guidelines together provide a strong framework and instrument to facilitate the safe, consistent, and orderly greening of nature strips that balances positive biodiversity outcomes with other important functions of the road reserve (e.g. pedestrian and road safety, accessibility, and asset protection).

The development of Nature Strip Planting Policy and Guidelines included research into other council's policies and guidelines with input from all relevant units of Council to ensure that they align with Council's other policies and programs including the Street Tree Planting Program, road safety requirements and Council's Local Laws.

The Policy and Guidelines would apply to Council managed streets and roads within urban and residential areas within the 60km or less speed limit areas. Main arterial roads would continue to require a permit from Department of Transport and Planning even within townships. Street trees are excluded from the Guidelines as street trees are dealt with through a different Council program administered by Council's Services and Operations team.

Once the Nature Strip Planting Policy and Guidelines are adopted by Council and published on Council's website, residents who plant their nature strips in accordance with the policy and guidelines

will no longer be required to apply for a permit from Council, removing the often- perceived administrative barrier to wider uptake of nature strip plantings and community urban greening efforts.

However, notification about nature strip plantings will be strongly encouraged (via an online notification e-form on Council's website), to allow Council to track and report on this aspect of urban greening and habitat creation as well as for record keeping purposes to ensure that plantings are compliant with the guidelines and maintained for amenity and road safety.

It would also allow Council to follow up queries and complaints when properties change hands and enable appropriate and timely Council intervention if required due to lack of maintenance or compliance with the guidelines (e.g. endangering public and road safety or impacting accessibility).

It is now proposed to seek endorsement for the documents to be publicly exhibited to seek community feedback before finalisation.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The draft Nature Strip Planting Policy and Guidelines have been prepared in accordance with governance principles outlined in section 9 of the Local Government Act 2020. In particular, they support long term action by residents to address climate change and create a more environmentally sustainable landscape.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

The draft Nature Strip Planting Policy and Guidelines align with and complement the Council Plan and do not exceed Council's legislative power. They are consistent with State policy and relevant strategies and plans of Council such as Council's Environmental Sustainability Policy, framework and Strategy and Council's Climate Change Action Plan.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

This draft Policy and Guidelines demonstrate Council's commitment to mitigate and plan for climate impacts, with consideration for the economic, social and environmental sustainability of the municipality.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

It is proposed that Council exhibit the draft Policy and Guidelines to seek community feedback before finalisation (see discussion below).

### **Public Transparency (s58 LGA 2020)**

The draft Nature Strip Planting Policy and Guidelines will be available on the Council website and at Council's Customer Service centres as part of the public exhibition and community consultation process once endorsed by Council and will be publicly available through council's website.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 2 - Valuing the Natural and Built Environment

Objective 1: We mitigate impacts to people and property arising from climate change

Objective 3: Protect and enhance the natural environment

Objective 5: Provide and maintain an attractive and safe built environment

Theme 3 – Healthy and Inclusive Community

Objective 2: People are active and socially connected through engaging quality spaces and places

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

As noted earlier, the preparation of a draft policy and guidelines for Nature strip Planting is a specific action in Council's adopted Climate Change Action Plan (see earlier background discussion).

#### **Financial Management** (s101 *Local Government Act 2020*)

The draft Policy and Guidelines have been developed in-house by Council within its operational budget and adoption of the Nature Strip Planting Policy and Guidelines will have no financial management impacts.

#### **Service Performance** (s106 *Local Government Act 2020*)

The policy and guidelines are an instrument to facilitate the safe, equitable and orderly greening of nature strips that balances positive urban biodiversity and climate resilience outcomes with other important functions of the road reserve such as pedestrian and road safety, accessibility, and asset protection.

#### **Risk Assessment**

The adoption and adherence to the Policy and Guidelines will help to minimise risks associated with nature strip plantings in terms of pedestrian and road safety, asset protection and adverse environmental impacts.

#### **Communication/Implementation**

The draft Policy and Guidelines will be promoted on the 'Have Your Say' section of Council's website, via the Colac Herald and other local publications, community newsletters and Council's social media platforms. Following a minimum four-week consultation period, any written and verbal submissions will be considered at a Submissions Committee meeting.

#### **Human Rights Charter**

No impact.

#### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

#### **Options**

##### Option 1 – Support public exhibition of the draft documents (four week consultation period)

This option is recommended by officers as there is considerable interest from the community for the documents to be delivered with the objective of achieving further progress in combatting climate change. It is proposed that the draft documents be released for a four-week public consultation period.



#### Option 2 – Support public exhibition of the draft documents (six week consultation period)

Council could choose to extend the exhibition period to six weeks. This would be in line with the Community Engagement Policy guidance but has greater risk that the submissions may not be considered formally before the Council election.

#### Option 3 – Defer the item until further work is conducted on the draft documents

This option is not recommended by officers as extensive work has occurred to develop the draft documents and there is strong interest in delivery of the work. Deferral to require additional work on the two documents will substantially delay their delivery. Further refinements can be made following feedback from the broader community if required.

#### Option 3 – Do not support the draft Nature Strip Planting Policy and Guidelines and cease work on the project

This option is not recommended by officers as Council has committed to undertake this work in Council's Climate Change Action Plan and there is considerable community interest in Council taking strong climate change action. It is considered that the documents are ready for comment by the public.



## Council Policy

### NATURE STRIP PLANTING POLICY

#### PURPOSE

The purpose of this policy is to create a framework for residents to plant nature strips adjoining properties in city and township areas within Colac Otway Shire and enable and empower them to contribute to urban greening, urban biodiversity and climate resilience. This is in recognition of the environmental, social and amenity values of nature strips and the benefits of diverse nature strip plantings that replace the traditional exotic lawn treatment. This policy also affirms Council's commitment to best practice management of land under its authority and commitment to environmental sustainability.

#### SCOPE

This policy applies to nature strips within the road reserve in city and township boundaries of Colac Otway Shire where Council is the managing authority. This policy must be read in conjunction with the requirements applying to a particular use or activity under Colac Otway Shire Local Law no. 1 – General Local Law 2023.

This policy does not apply to, nor does it permit works to be carried out in:

- Nature strips outside township boundaries (e.g. on arterial roads, including high-capacity roads or main roads, and roadsides in rural areas)
- Areas covered by a heritage planning overlay;
- The median or other areas of the road reserve;
- Nature strips containing existing native vegetation; and
- Areas in which, because of the local conditions (e.g. terrain), it is not safe or feasible to modify the nature strip.

Council acknowledges that in some instances it may not be possible for the policy objectives and associated guidelines to be implemented due to factors such as specific streetscaping or nature strips incorporating principles of water sensitive urban design that are required to be maintained in accordance with the design intent (e.g. rain gardens).

#### DEFINITIONS

**Biodiversity** - The variety of all life forms: the different plants, animals and micro-organisms, the genes they contain and the ecosystems they form. It is a concept that emphasises the inter-relatedness of the biological world. It is often considered at three levels: genetic diversity, species diversity and ecosystem diversity.

**Environmental sustainability** - Acting in a way that ensures future generations have the natural resources available to live an equal, if not better, way of life as current generations.

**Nature strip** - The nature strip is the area of public land between the property boundary and the road kerb. It does not include the footpath, kerb or driveway.

**Street tree** - Trees situated within, or selected and planted by Council within, the road reserve. Street trees are under the management of Council.



**Water Sensitive Urban Design** - A land planning approach based on scientific analysis and engineering design which integrates the urban water cycle (including the management of stormwater, groundwater, wastewater and drinking (potable) water supply into urban design to minimise environmental degradation and improve aesthetic and recreational appeal.

## REFERENCES

- Colac Otway Shire Local Law no. 1 – General Local Law 2023
- Colac Otway Shire Council Environmental Sustainability Strategy 2023-2033
- Colac Otway Shire Council Climate Change Action Plan
- Colac Otway Shire Council Climate Adaptation Plan 2017-2027

## STATEMENT OF POLICY

Council is committed to demonstrating environmental and socially beneficial best practice, and is highly supportive of appropriate nature strip planting that adheres to the requirements of this policy and its associated guidelines. The policy and guidelines are an instrument to facilitate the safe, consistent and orderly greening of nature strips that balances positive biodiversity outcomes with other important functions of the road reserve (e.g. pedestrian and road safety, accessibility and asset protection).

## POLICY PRINCIPLES

The following policy principles are endorsed by Council:

- Nature strips relevant to this policy are Council-managed public space that contribute to a sense of place and community;
- It is essential that nature strips are safe and accessible spaces;
- Nature strips contribute to a healthy environment for people, plants and animals;
- Nature strips play an active role in supporting Council's response to climate change, including the minimisation of risk to community and infrastructure.
- Nature strips perform a role in housing essential services to the community, including water mains, gas and power.

## OBJECTIVES

The objectives of the Nature Strip Planting Policy are:

- To provide a framework for implementation of Council's Nature Strip Planting Guidelines;
- To provide clear process and direction to the community on what can and cannot be planted in nature strips;
- To support improvement measures and targets identified in Council's Environmental Sustainability Strategy 2023-2033 and Climate Change Action Plan;
- To demonstrate Council's commitment to establishing, promoting and maintaining a culture of sustainability and environmental responsibility;
- To protect and enhance the amenity and aesthetic values of streetscapes within Colac Otway Shire;
- To foster the protection and enhancement of the environment, biodiversity, the conservation of water resources, and to contribute to reducing our greenhouse footprint; and
- To raise awareness of environmental sustainability and increase community participation.



## OUTCOMES

The expected outcomes of the implementation of the associated guidelines under this policy are:

- An empowered community actively contributing to urban greening and climate resilience;
- Increased biodiversity in streets within city and township boundaries in Colac Otway Shire;
- Improved amenity and aesthetic character of streets;
- Safe, consistent and orderly greening of nature strips that balances positive biodiversity outcomes with other important functions of the road reserve; and
- Increased community participation, collaboration and understanding of environmental practice.

## NATURE STRIP GUIDELINES

Council has developed this policy as an instrument to implement the Colac Otway Shire Nature Strip Guidelines. The guidelines will give practical effect to these policy principles and Colac Otway Shire Local Law no. 1 – General Local Law 2023.

The guidelines provide clear guidance for property owners and residents by outlining what landscaping works may be undertaken and what acceptable standard treatments may be applied to nature strips within the shire.

If a property owner wishes to undertake works on a nature strip that varies from the acceptable standard works and/or treatments outlined within the guidelines, a permit under the Local Law will need to be obtained. As part of this permit application process, officers will need to individually assess any proposed works against the guidelines, these policy principles and any other requirements of Council.

## STREET TREES

Planting and maintaining street trees is solely the responsibility of Council. Property owners or residents are not permitted to remove or prune existing trees or plant new trees. Property owners and residents are not permitted to undertake any form of alteration to street trees, including boxing around the tree base or placing a planter box, as this can have a detrimental effect on the health of the tree.

## NATURE STRIP MAINTENANCE

Council does not carry out maintenance or renovation of modified nature strips. Property owners and residents who undertake nature strip planting must maintain the nature strip abutting their property. This includes regular weeding, edging, removal of potential trip hazards, and litter collection to the standards specified in the associated guidelines.

## ESSENTIAL SERVICES WITH NATURE STRIPS

Council and service authorities that supply gas, water, electricity and telecommunications may require access to nature strips to undertake maintenance work. These service authorities are required to reinstate the nature strip following maintenance work, but are not required to reinstate nature strips that have been modified or landscaped in any treatment other than grass. Land owners and residents must consider possible impact of works by service authorities when planning nature strip landscaping works, as outlined in the associated guidelines.

## RISK

Property owners and residents are responsible for the cost of maintaining and carrying out works in nature strips, including all materials, labour, watering and any incidental damage to public infrastructure. Property owners and



residents entering the nature strip to carry out maintenance and other works must take reasonable care for their own safety and for the safety of other persons in the immediate vicinity.

When planning works, property owners and residents must check the location of underground services using “Before You Dig” and Council should be notified of any hazards in the nature strip.

#### CHANGE OF PROPERTY OWNERSHIP

In the event that the nature strip adjoining a property changes ownership, it is the responsibility of the previous property owner to share and communicate the requirements of the nature strip garden guidelines to the new owner. It then becomes the new landowner’s responsibility to maintain the nature strip in line with the guidelines.

The owners have two options:

- The new owner takes on the nature strip garden as part of the change of ownership; or
- The previous owner needs to remove the garden and reinstate the standard grassed nature strip.

If the property is rented, it becomes the responsibility of the tenant to maintain the nature strip. It is the landowner or rental agent’s responsibility to communicate this to the tenants.

#### RESPONSIBILITIES

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive	Ensure overall corporate compliance with the policy.
Manager Assets & Engineering	Overall responsibility for the policy implementation.
Managers	Ensure compliance with the policy by all Council Officers under their supervision.
Coordinator Local Laws	Compliance with guidelines and the issuing of permits.
Coordinator Environment	Responsible for reviewing, updating and implementing policy and associated guidelines.

#### POLICY IMPLEMENTATION

All Council staff are required to consider environment, economic and social outcomes and impacts in their work. It is the responsibility of all Councillors, staff, contractors and volunteers to understand the objectives outlined in this policy and to assist community members with their implementation of the associated guidelines.

#### RELATED DOCUMENTS

- Colac Otway Shire Local Law no. 1 – General Local Law 2023
- Colac Otway Shire Council Environmental Sustainability Strategy 2023-2033
- Colac Otway Shire Council Climate Change Action Plan
- Colac Otway Shire Council Climate Adaptation Plan 2017-2027



#### DOCUMENT CONTROL

Policy owner	Manager Assets & Engineering	Division	Executive
Adopted by council		Policy Number	
File Number		Review date	

DRAFT



Colac Otway Shire

# Nature Strip Planting Guidelines



Colac Otway  
SHIRE



### Acknowledgement of Traditional Custodians

The Colac Otway Shire Council respectfully acknowledges the Gulidjan and Gadubanud peoples as the traditional owners of the Colac Otway region, the land upon which the activities of the Colac Otway Shire Council are conducted.

We pay our respects to their ancestors and elders, past, present and emerging. We recognise and respect their unique cultural heritage, beliefs and uphold their continuing relationship to this land.





# Contents

Acknowledgement of Traditional Custodians	1
Nature strip guideline objectives	3
Background	4
Understanding responsibilities of nature strip management	5
Nature Strip Modification Guidelines for Residents	6
How to begin	
Planning	
Essential services	
Permits and notifications	
Essential specifications	7
Planting requirements within the nature strip	8
What is not allowed	10
Maintenance	11
Failure to comply with these guidelines or maintain the nature strip	11
Change of property ownership	13
Safety and liability	13
Nature Strip Planting Suggested Species List	13
Tips to help with your nature strip planting	16

## Nature Strip Guideline Objectives

Nature strips in urban and township environments have an important role to play in contributing to the environmental, social and aesthetic health of our shared community spaces.

Nature strips can enhance our streets by providing green zones; healthy and connected corridors; and improved street character.

They are also essential in providing a safe buffer between pedestrians and vehicular traffic, as well as space to support waste management and the maintenance of essential services.

Colac Otway Shire Council has developed these guidelines in order to support our community's endeavours to improve and beautify nature strips outside their property boundaries in urban and township settings.

# Background

## WHAT IS A NATURE STRIP?

The nature strip is the area of public land between the property boundary and the road kerb. It does not include the footpath, kerb or driveway.

Nature strips have many essential functions, such as:

- Providing a buffer between each private residence and the road;
- Providing a range of essential services, including telephone, gas, water, NBN, sewerage, electricity and street lighting;
- Being the primary location for kerbside household waste disposal service access;
- Providing safe access for service maintenance staff and postal services;
- Providing safe access for passengers, including wheelchairs and prams, to parked vehicles;
- Being the location of public bus stops.

Important social and environmental values of well planted and maintained nature strips include:

- Increasing biodiversity;
- Providing shelter and food for local wildlife;
- Establishing green corridors that link natural reserves to help wildlife move across the landscape;
- Providing canopy cover that cools the urban environment or township during the warmer months;
- Enhancing community connectedness and beautiful streetscapes;
- Enabling better water quality and flow into the soil to help with stormwater management and decrease flooding risk.



### Road reserves in rural areas

A rural road reserve is the narrow strip of land between a property boundary and the road in areas outside the urban area designated by the beginning of the 80 km zone.

This public land houses utilities and is important for traffic safety, as well as being a place where indigenous or native plants can thrive and provide opportunities to improve the local environment. Modification of rural road reserves is not permitted.



# Understanding responsibilities of nature strip management

## STREET TREES

Council plants, prunes and maintains all street trees. Residents are not permitted to plant, prune or remove these trees.

As the responsible authority for street trees, Council selects species appropriate to the area, plants and then maintains them. This is due to the complexities of ensuring all aspects of safety are maintained, as well as necessary access to services, both above and below ground.

Community members are welcome to apply for a street tree adjacent to their property where there is not already a street tree. For further information and street tree request forms, please see [\[LINK\]](#).

## NATURE STRIPS OUTSIDE PROPERTY BOUNDARIES

While the nature strip is publicly owned, as land manager Council supports residents in conducting plantings that comply with these guidelines and the permit and notification requirements outlined below.

Mown grass nature strips are currently the most common in Colac Otway Shire urban and township areas. They are low maintenance, and are compatible with some of the other regular requirements of nature strips, including accessibility and access to services.

A potentially highly beneficial alternative to grass is a planted and mulched nature strip, particularly where it is planted with low-growing indigenous plants. To achieve these benefits, it must be:

- Carefully planned,
- Consider public safety and access to the road reserve,
- Ensure safe and easy access to essential services,
- Be well maintained.



# Nature Strip Modification Guidelines for Residents

COUNCIL HAS DEVELOPED THESE GUIDELINES IN ORDER TO SUPPORT RESIDENTS TO IMPROVE THE QUALITY OF THE NATURE STRIP ADJOINING THEIR PROPERTY BOUNDARY. THE FOLLOWING PAGES OUTLINE WHAT THIS WILL INVOLVE.

## HOW TO BEGIN

### Planning

A well-designed nature strip garden begins at the planning stage. Before starting your nature strip garden project, consider the following:

- Read these guidelines to understand the requirements of planting in public space and to get tips on potential designs and species selection.
- Talk to your neighbours. Let them know what you are planning, talk through ideas and any concerns, and explore whether they would also like to join in.
- Consider what species are most appropriate for the conditions of your nature strip and the character of your streetscape.
- Consider planting indigenous plants to promote biodiversity and improve habitat for local fauna.
- Consider planting drought-tolerant species and grouping plants with similar water needs together to reduce water use.
- Create a design of your proposed nature strip planting - this will help you to ensure it meets the requirements of these guidelines and is in line with your vision of what you want to achieve.
- Consider and plan for what the ongoing maintenance requirements of your planting will be.

### Essential Services

Nature strips play a major role in providing space for essential services to residential properties in our shire. These services include stormwater, power, NBN/telecommunications, gas, sewage, and water. Damaging these services while gardening can be dangerous and costly, so please consider this in your planning.

Council, utility companies, and contractors have the right to remove and disturb the nature strip and its soil as required without notice for the purpose of maintaining and/or improving essential services. Utility companies are required to reinstate level soil and grass on the nature strip following maintenance work, but are not required to reinstate nature strips that have been modified and landscaped with anything other than grass.

### Permits & Notifications

#### Planting the nature strip

Nature strip planting by residents is permitted, provided the proposed modifications meet the specifications outlined in these guidelines. If any proposed landscaping treatment does not comply with these Guidelines, a permit is required.

Colac Otway Shire has a free permit and notification process in place for nature strip gardens. If you are planting your nature strip in accordance with these guidelines, you still need to notify Council. Simply fill out the form available here ([link](#)) with your details, address, a small checklist, and a rough plan for the nature strip you are landscaping. This allows Council to keep track of all the community efforts to improve nature strip gardens and ensure that you have considered all the requirements of planting in a nature strip.

If you wish to implement something in your nature strip that is outside of the guidelines, you are required to submit a permit application, available here ([link](#)). The application will then be reviewed and assessed to determine if the installation is appropriate.

#### Permits for driveways or other minor works within the road reserve

As the road reserve includes roadsides or nature strips, drains, verges, shoulders, and roadways, any treatments not covered within the scope of these guidelines, such as driveway construction, require a Works Within Road Reserve permit to be obtained. The application is available here ([link](#)).





# ESSENTIAL SPECIFICATIONS

## Footpath Safety and Protection

Footpaths play a major role in providing safety and access along roadsides. They must be kept free of obstructions so everyone can use them safely. Vegetation and mulch that encroaches on the footpath can impact the safety and accessibility of the path, especially for people using prams, wheelchairs, scooters, and people who might need assistance with mobility.

Council therefore requires that:

- A minimum 30cm offset is required on the nature strip beside any footpath. No plants or mulch can at any time encroach on the footpath.
- Where there is no sealed or clearly delineated footpath, 1.8m from the property boundary line must be retained to allow for safe access or the future development of a footpath.

## Kerbside Safety and Protection

Nature strip planting can have an impact on road safety, and kerbside and footpath access. Considerations need to be made to ensure everyone can safely enter and exit vehicles and have access to the footpath. Plants growing into kerbs can also detrimentally impact stormwater flows, and present a hazard to people exiting parked cars.

Council therefore requires that:

- There is a 50cm offset beside the kerb, and all plants are trimmed to maintain this buffer.
- You must keep a suitable area for kerbside rubbish collection within the nature strip.
- You can grow grass, a low groundcover, or have mulch in the offset area for access and kerbside rubbish collection.

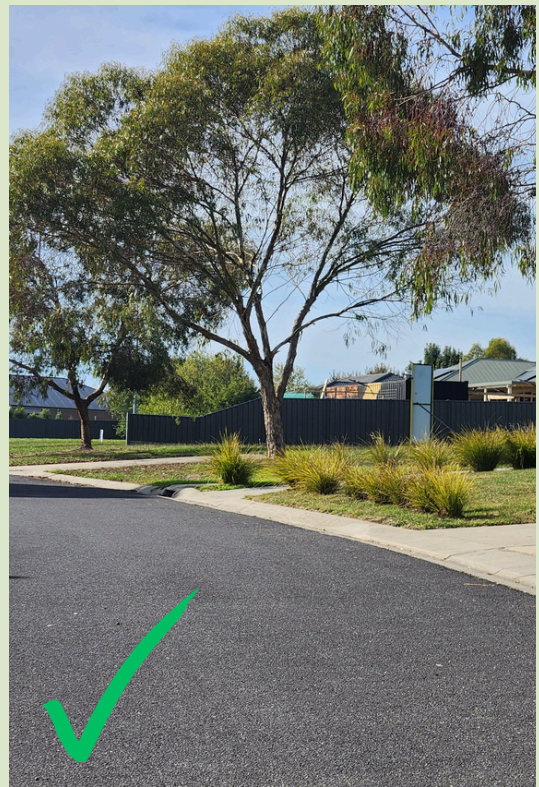


## Emergency Safety Protection - Fire hydrants

Fire hydrants are typically located underground in the nature strip, with a metal cover on top. They are identified by a blue reflector on a marker post or on the road. When landscaping a nature strip it is important to ensure that the fire hydrant is not buried and any marker post remains clearly in place.

## Protection of Street Trees

- No plants can be planted within a 50cm radius buffer around the base of any street tree trunks, use small plants or tube stock to reduce the amount of digging required around the tree.
- Do not mound soil, mulch, or grass clippings against the tree trunk, as this can limit water and air flows and cause disease.
- Be careful when digging anywhere under the canopy of a tree. Use only hand tools. If the soil is hard to dig, you must stop, as this may indicate you are near a tree root.
- If you uncover tree roots, do not cut, scrape, or damage them. Re-bury them with soil and mulch.
- While groundcover plants that grow in a prostrate manner are welcome, climbing plants (such as vines) that may encroach on the trunk of a street tree and climb up it.

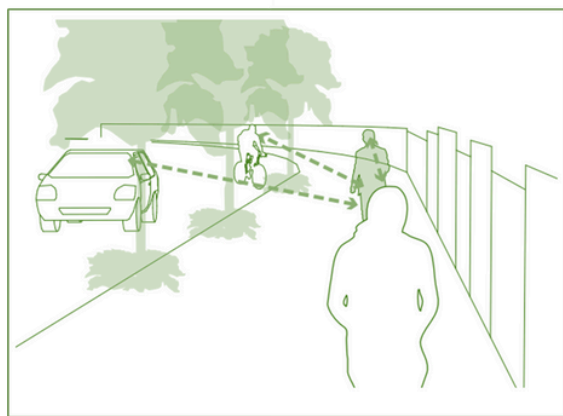


## PLANTING REQUIREMENTS WITHIN THE NATURE STRIP

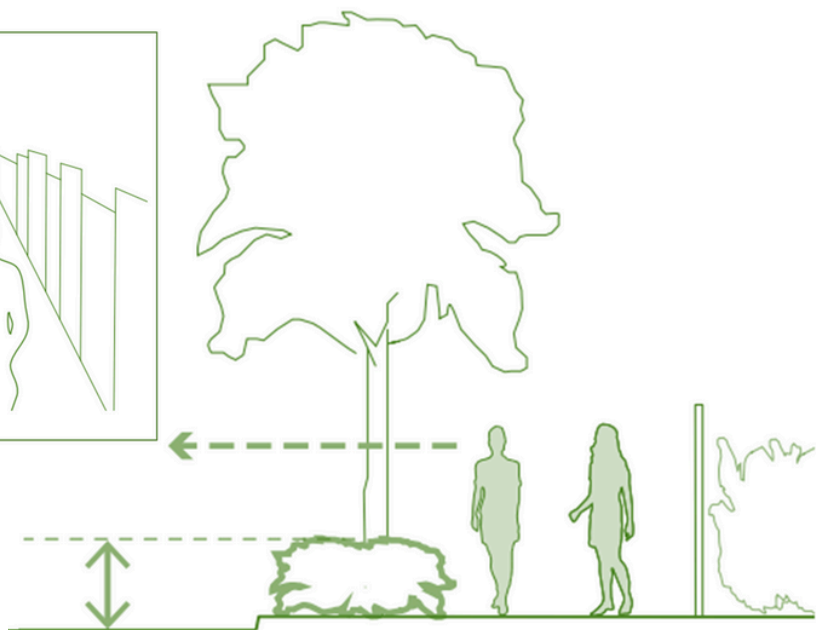
Council has designated the following height and buffer requirements in order to ensure safety and visibility for everyone walking, cycling, and driving, as well as safe access to essential services.

- All plants must be small species, kept under 50cm high in the central designated area of the nature strip (i.e 60cm from the surface of the road). This aligns with the Urban Design Guidelines for Victoria (section 6.3), which can be referenced at <https://www.planning.vic.gov.au/guides-and-resources/guides/urban-design-guidelines-for-victoria/objects-in-the-public-realm/trees-and-planting>

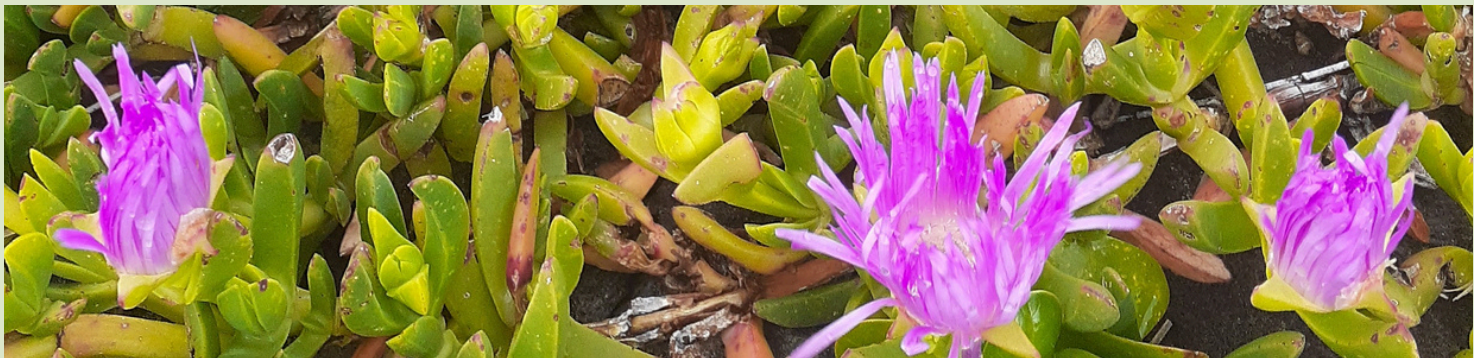
Street plantings must maintain clear sightlines along paths and streets. Landscaping along roads, streets, pedestrian and bicycle paths should not block sightlines for drivers, pedestrians or cyclists.



60 cm from road  
pavement or  
50 cm kerb height



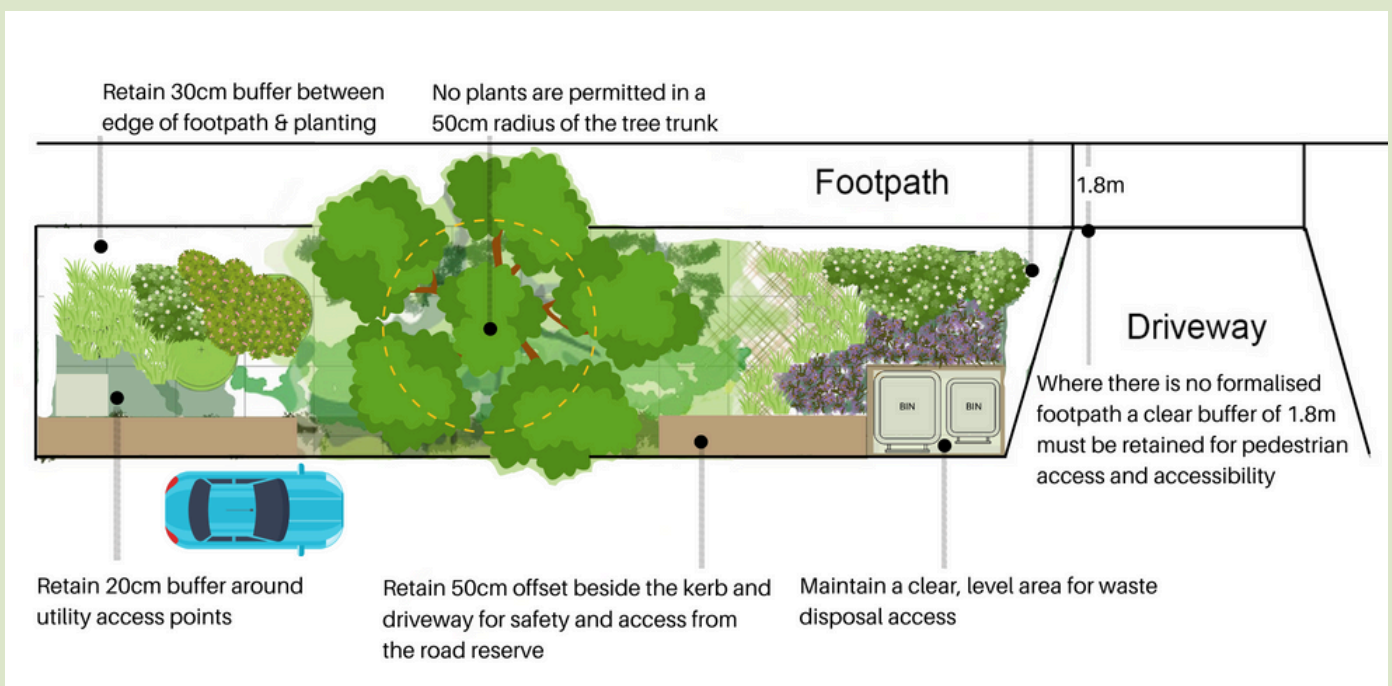
Source: Urban Design Guidelines for Victoria 2017





Council has designated the following height and buffer requirements in order to ensure safety and visibility for everyone walking, cycling, and driving, as well as safe access to essential services.

- All plants must be small species, kept under 50cm high in the central designated area of the nature strip (i.e 60 cm from the road surface). This aligns with the Urban Design Guidelines for Victoria, which can be referenced at <https://www.planning.vic.gov.au/guides-and-resources/guides/urban-design-guidelines-for-victoria/objects-in-the-public-realm/trees-and-planting>
- Plants must be kept under 10cm high within 5 metres from a corner, pedestrian crossing, or intersection.
- For nature strips with trees, you must keep a 50cm radius buffer zone around the base of the tree with no planting to ensure the root system of the tree is not disturbed.
- No plants may be planted in the following areas:
  - Within 50cm of the kerb and driveway
  - Within 30cm of the edge of the footpath
  - Within 20cm of any utility outlet.



Further important restrictions are:

- Plants cannot have spikes, thorns or prickles.
- Plants cannot be noxious or environmental weeds in Colac Otway Shire. Please see the following link for more information: <https://www.colacotway.vic.gov.au/Environment-Sustainability/Weed-management>
- An easily accessible area next to the kerb must be maintained for kerbside bin collections.

Residents must contact **'Before You Dig'** prior to undertaking landscaping works to ensure all underground services and access points are identified. This must inform the design of the nature strip planting. Before you dig can be contacted at: <https://www.byda.com.au/>



# WHAT IS NOT ALLOWED

## Edible Garden Planting

- Edible garden planting is not permitted due to potential soil contamination. Please note that Colac Otway Shire Council will not accept any responsibility or liability for injury or illness caused by food consumed from a nature strip. However, nature strips may add value to habitat corridors and food sources for animals.

## Rocks and other infrastructure

Other infrastructure added to the nature strip can be unsafe and cause injuries. Also, changing the surface can cause harm to water and stormwater flows.

Public safety is paramount when conducting any works in nature strips. Injury may occur if items:

- Become slippery or loose.
- Block sightlines.
- Cause injury if fallen on, for example if they have sharp or pointed edges.
- Become a trip hazard.
- Could be misused or create a risk.

Council wants to ensure that nature strip plantings avoid safety issues and contribute to the greening and cooling of our townships. Therefore Council has designated that nature strip plantings must not include:

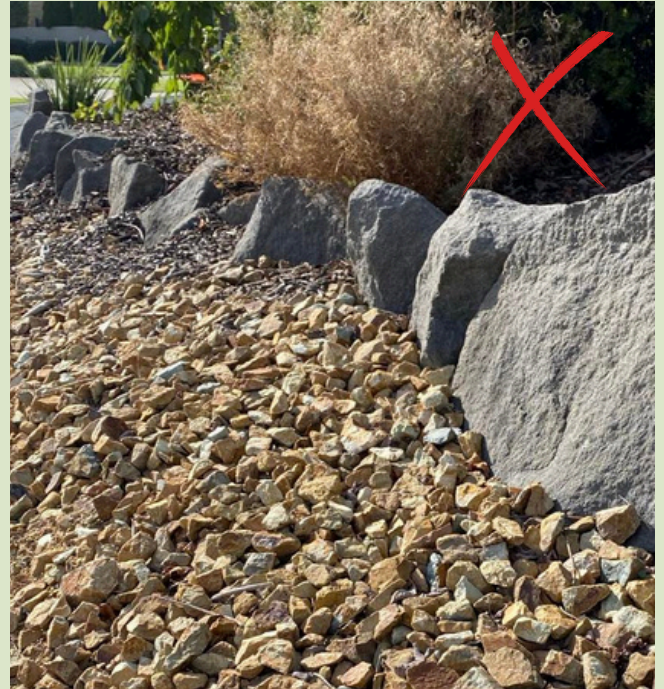
- Anything other than plants and evenly spread fine surface treatments, such as mulch and gravel. Materials and structures that are not permitted include: raised edging, paving, irrigation, garden stakes, fencing, walls, furniture, play equipment, planter boxes, art, signs, rocks and letterboxes.
- Paving of nature strips is not permitted. However, removable stepping stones with a non-slip surface are permitted for access between the roadside and footpath or for kerbside bin placement. If stepping stones are used, they must be maintained at the same level as the mulch/soil to prevent trip hazards.
- Artificial lawn or other synthetic treatments that do not allow water to penetrate into the soil and can cause trip hazards.

## Parking on nature strips

Parking is not permitted on nature strips in Colac Otway Shire, regardless of the surface of the nature strip. The landscaping of a nature strip is not an opportunity to create more parking for residents.

## Other items not permitted to be added to the nature strip:

- Herbicide application to permanently retain a nature strip devoid of grass or vegetation.
- Altering the natural level of the nature strip through mounding of soil or other loose materials.
- Water features such as ponds or fountains.
- Works that create fire hazards.
- Plants that restrict access to utilities, essential services, and street or roadside.
- Plants with aggressive, deep root systems that may damage underground utilities and essential services.
- Fertilizers or garden sprays that may contaminate stormwater.



## MAINTENANCE

Colac Otway Shire Council is the responsible authority for local roads and nature strips. Alternative plantings and maintenance that adhere with these guidelines must be maintained by the resident.

It is important to note that if you do not wish to modify your nature strips, then it is your responsibility as landowner or resident to maintain it by appropriately mowing your lawn.

Nature strip modification requires a collaboration among Council, essential services and utility providers, and community members who live adjacent to the nature strip to ensure that safe, healthy and beautiful nature strips are maintained for everyone to enjoy.

It is in this spirit that Council strongly supports community nature strip planting, when this adheres to the requirements outlined in this document. Ongoing maintenance is an essential part of this.

### **You can ensure that you maintain a healthy, viable nature strip by:**

- Pruning plants regularly (excluding street trees) to ensure they do not protrude onto the footpath, driveways, kerbs or utility services.
- Keeping all plants pruned within the height guidelines specified in this document.
- Keeping the nature strip free of weeds, rubbish, and hazards.
- Maintaining appropriate access, including to the footpath, roadside and driveways.
- Maintaining utility and essential services nodes and access points in accordance with the guidelines.

## FAILURE TO COMPLY WITH THESE GUIDELINIES OR MAINTAIN A NATURE STRIP

In incidences where public safety risks have been raised, Council will first work with the owner/resident to find an amicable solution to mitigate any safety or environmental issues. Where cooperation is not able to be quickly achieved, Council will require that the owner/resident rectifies these issues; in the case that this does not occur, Council will undertake appropriate remediation works. Colac Otway Shire Council will not take responsibility for any financial or other loss associated with the mitigation of safety issues on nature strips.

Further, if a resident fails to maintain their nature strip in accordance with these guidelines, Council may be left with no alternative other than to take enforcement action. The resident or landowner will be contacted and given a reasonable amount of time to remedy the issues identified, unless the level of risk necessitates immediate action.

In cases of non-compliance with any enforcement action taken by Colac Otway Shire Council (e.g. where a resident becomes uncooperative), Council will arrange for the reinstatement or maintenance of the nature strip. The cost of this management or reinstatement will be charged to the resident and/or landowner.

Some examples of failure to comply that may necessitate enforcement action are:

- Treatments in the nature strip pose a traffic or pedestrian hazard or safety concern.
- Appropriate access for pedestrians and other footpath users is not maintained.
- Treatments in the nature strip potentially pose a fire hazard.
- It interferes with the visibility and safety of road users.
- The nature strip contains noxious or environmental weeds.
- It otherwise does not comply with the requirements outlined in this document.





## CHANGE OF PROPERTY OWNERSHIP

In the event that the nature strips adjoining a property changes ownership, it is the responsibility of the previous property owner to share and communicate the requirements of the nature strip garden guidelines to the new owner. It then becomes the new landowner's responsibility to maintain the nature strip in line with the guidelines.

The owners have two options:

- The new owner takes on the nature strip garden as part of the change of ownership.
- The previous owner needs to remove the garden and reinstate the standard grassy nature strip.
- If the property is rented, it becomes the responsibility of the tenant to maintain the nature strip. It is the landowner or rental agent's responsibility to communicate this to the tenants.

## SAFETY & LIABILITY

During landscaping or maintenance works on the nature strip, the individual conducting the works is obligated to take all reasonable measures to prevent accidents and injuries to both those undertaking the works and the public using the roads and footpaths. Safety measures could include the use of high-visibility temporary fencing, traffic cones, or signage to alert pedestrians, cyclists, and motorists.

Before commencing any digging, the resident must contact **'Before You Dig'** to determine the presence of any underground utilities or essential services at: <https://www.byda.com.au/>. The Colac Otway Shire Council will not be held liable for any financial penalties or injury incurred by the resident due to damage to underground utilities or services.

The resident should confirm with their insurer that they have adequate public liability insurance to cover any claims that may arise. The Colac Otway Shire Council accepts no responsibility for occupational health and safety or public liability related to works being carried out on a nature strip.



# Nature Strip Planting

## Suggested Species List

Colac Otway Shire Council recommends using native species in your nature strip garden to maximise the benefits of planting your nature strip for the environmental and aesthetic wellbeing of our shire. The following is a list of species that can thrive in nature strips and adhere to the nature strip planting guidelines. The below fauna key indicates wildlife that may be attracted to different plant species recommended.



**Butterflies** such as Australian Painted Lady and Sword-grass Brown Butterflies.



**Large birds** such as owls, kookaburras, butcherbirds and magpies.



**Invertebrate pollinators** such as native bees, wasps, hover flies and ants.



**Reptiles** such as skinks, geckos and goannas.



**Small birds** such as wrens, robins and fantails.



**Frogs** such as Pobblebonk and Spotted Marsh Frog.



**Parrots** such as rosellas, lorikeets, grass-parrots and cockatoos.



**Bats** such as microbats and Grey-headed Flying-fox.



**Honeyeaters** such as spinebills, wattlebirds and honeyeaters.

**Please note:** All plant sizes listed in this publication are approximate. Environmental conditions will influence the final height and width of a plant.

### Creepers



**Bower Spinach**  
*Tetragonia implexicoma*



Excellent for stabilising sandy soil. Often scrambles over small shrubs providing shelter for small birds, invertebrates and small lizards.



**Purple Coral-pea**  
*Hardenbergia violacea*



A very showy scrambling creeper with many forms and cultivars.





**Running Postman**  
*Kennedia prostrata*



Trailing, hardy and adaptable plant.



**Kidney-weed**  
*Dichondra repens*



An excellent plant to grow in shady areas of the garden. Can be used as a lawn alternative where traffic is light.

## Groundcovers



**Black-anther Flax-lily**  
*Dianella revoluta*



An attractive, easily maintained clumping plant. Plants sucker and can cover a large area over time.



**Karkalla**  
*Carpobrotus rossii*



Very hardy and long flowering. An excellent soil binder on sandy, exposed locations.

## Grasses and tussocks



**Clustered Everlasting**  
*Chrysocephalum semipapposum*



A long-flowering plant with attractive contrasting foliage and flowers. A variable species with several forms.



**Common Tussock-grass**  
*Poa labillardierei*



An attractive tussock that copes with a wide range of conditions.



**Spiny-headed Mat-rush**  
*Lomandra longifolia*



A graceful tussock for difficult spots, embankments and gardens in general.



**Pink Bells**  
*Tetradlea ciliata*



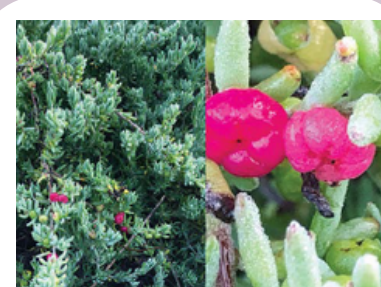
An attractive, delicate plant.



**Weeping Grass**  
*Microlaena stipoides* var. *stipoides*



An excellent native lawn for light traffic areas. Can be mown or left to produce attractive weeping flowerheads.



**Ruby Saltbush**  
*Enchylaena tomentosa*



An attractive and useful spreading plant, especially in dry conditions.

## Small shrubs



**Cushion Bush**  
*Leucophyta brownii*



The grey foliage is able to reflect light at night making this a useful plant for defining pathways.

## Ferns



**Common Maidenhair**  
*Adiantum aethiopicum*



An excellent garden plant for moist protected areas.



# Tips to Help with Your Nature Strip Planting

## Mulching

Spread a 25mm thick layer of mulch around your plants to retain moisture and suppress weeds. You can use materials such as pine bark, wood chips or 'bush mulch' that ranges between 6mm and 25mm in size. This type of mulch is preferred because it is heavy and won't be easily disturbed by wind and rain.

## Planting Technique

Use hand tools to dig a hole slightly larger than the root mass of the plant, loosen the soil at the bottom of the hole, then gently tickle and loosen the base of the plant. Press the plant firmly into the hole, cover the root ball with soil, and apply mulch. Finally, water the plant thoroughly to prevent air pockets in the soil.

## Weed Species

Ensure that the plant species you intend to use in the nature strip aren't environmental weeds. You can look this up in Colac Otway Shire Council's weeds booklets available at Council's customer service counters and online at: [www.colacotway.vic.gov.au/Environment-Sustainability/Weed-management](http://www.colacotway.vic.gov.au/Environment-Sustainability/Weed-management)

## Street Character

When planning your nature strip garden, consider the character of your street. It's always better if nature strips work together harmoniously. The following questions might help prompt thinking about this:

- How is the street used by people?
- What is its shape?
- Has anyone else already created a nature strip garden?
- Would your neighbours be interested in working together?
- Is the nature strip you are planning going to include native or exotic plants?



## Contact us

**PO Box 283, Colac 3250**

**Email:**  
[inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)

**Phone:**  
03 5232 9400

**Colac Customer Service Centre**

2-6 Rae Street, Colac

**Open:**  
Monday - Friday 8:30am - 5pm

**Apollo Bay Customer Service Centre**

100 Great Ocean Road, Apollo Bay

**Open:**  
7-days a week, 9am - 5pm

For callers who have a hearing, speech or communication impairment, and for text telephone or modem callers, use our National Relay Service on 133677



**Colac Otway**  
SHIRE



### Item: 9.3

## Review of Complaints Policy for exhibition

<b>OFFICER</b>	Gwynneth Cowley
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Current Complaints Policy - Adopted 2019 [9.3.1 - 12 pages]</li><li>2. Complaints Policy 2024 - DRAFT [9.3.2 - 17 pages]</li></ol>

### 1. PURPOSE

To seek the endorsement of Council for public exhibition of the draft Complaints Policy following a review of the 2019 policy.

### 2. EXECUTIVE SUMMARY

The current Complaints Policy was endorsed in 2019 and is due for review. It provides overarching guidance on the approach that Council will take to complaints management. A thorough review of the policy has been undertaken by consulting with others in the organisation and investigating local government best practice to identify opportunities for improvement. Attached is a copy of the revised policy for public exhibition. It is recommended that Council seeks community feedback before finalising the review by placing the policy on exhibition for period of six weeks, allowing time for submissions to be reviewed and the final policy to be adopted in coming months.

### 3. RECOMMENDATION

***That Council:***

- 1. Notes that a review has been conducted of the Complaints Policy adopted in 2019 with the aim of reflecting best practice in local government complaints management, and that a draft policy has been developed for Council's consideration.***
- 2. Notes that the Council's Audit and Risk Committee will consider the draft policy and provide feedback to Council before it is further considered for adoption.***

- 3. *Endorses the draft Complaints Policy, as per Attachment 1, to be placed on public exhibition for six weeks for the purpose of inviting submissions.***
- 4. *Provides the opportunity for any person wishing to speak to their written submission to be heard, or a nominated representative to speak to their submission on behalf of the person, at a Submissions Committee meeting prior to Council considering adoption of the final policy.***
- 5. *Notes the final Complaints Policy will be put forward for adoption at the July 2024 meeting of Council.***

## 4. KEY INFORMATION

The current Complaints Policy was endorsed in 2019 and provides overarching guidance on the approach that Council will take to complaints management. The policy establishes key principles for complaint management and identifies at a high level the procedure for investigating and responding to complaints, including the opportunity for a complainant to seek an internal review of any complaint investigation and ways in which situations might be remedied where an error has been identified. The policy describes how complaints and complaint outcomes will be recorded, and how the results of complaint investigations will be reported. A copy of the current policy is attached.

The current policy describes how in responding to a complaint Council learns from it and captures and reports on those learnings which allows it to improve service delivery where opportunities exist to do so. A Complaints Register exists to record complaint information. Complaint analysis and recommendations are reported to Executive Management each month, and within the Colac Otway Shire Annual Report.

A thorough review of the policy has been undertaken, including consultation with others in the organisation and investigation of local government best practice to identify opportunities for improvement. A review has concurrently been undertaken of the Complaints Procedure however this is an operational document that has been considered and endorsed by the Executive. The current report seeks Council consideration of the Policy only.

Whilst there is no significant change in policy direction, the current review has resulted in the development of a more comprehensive policy document that addresses the following:

- Greater clarity of the definition of a complaint, with relevant examples
- Increased definition of complaints that may not be investigated
- Reference to complaints about the conduct of the Chief Executive Officer (which had not previously been identified)
- Updated contact information
- Additional guiding principles of being responsive, customer focussed and anonymity
- Greater detail on unreasonable complaint conduct; and
- Increased emphasis on data capture and it's analysis.

The current Policy has a one sentence definition of 'Complaint', whereas the proposed new policy includes additional guidance defining complaints and differentiating them from service requests (refer pages 4 & 5). A copy of the draft Complaints Policy is attached for consideration.

## 5. CONSIDERATIONS

### **Overarching Governance Principles** (s(9)(2) LGA 2020)

Providing an updated, comprehensive Complaints Policy that outlines what customers should expect from Council's treatment and reporting of complaints is consistent with the governance principles encouraging innovation and continuous improvement and achieving the best outcomes for the community.

### **Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

This Policy meets the requirements of S(107) of the *Local Government Act 2020* that requires a Complaints Policy to be developed and maintained inclusive of prescribed processes for a variety of complaint types.

### **Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

Not applicable.

### **Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

It is proposed to place the draft policy on public exhibition for six weeks prior to consideration of submissions and final Council endorsement.

### **Public Transparency** (s58 LGA 2020)

The draft Policy will be made available to the public during the exhibition period and the community will be invited to provide feedback.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Objective 3: We provide exceptional customer service

The draft policy addresses the responsibility for analysis and reporting of complaints in order to identify opportunities for process improvement that improve customer experience.

### **Financial Management** (s101 Local Government Act 2020)

The policy has been reviewed by staff within the recurrent budget of Council and it does not commit Council to any future expenditure.

### **Service Performance** (s106 Local Government Act 2020)

An effective Complaints policy will contribute to improved service delivery and higher customer satisfaction levels.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The community will be advised on how to access the draft Policy and submit written submissions. It will be publicised in the relevant local publications and social media.

## **Human Rights Charter**

No impact.

## **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

## **Options**

### Option 1 – Endorse the Policy for Public Exhibition (six weeks)

This option is recommended as significant improvements have been made to the current policy, more closely aligning it with current best practice in Local government complaints management. The four week public exhibition period will allow community feedback to inform the final version presented to Council for adoption.

### Option 2 – Require amendments to the draft policy prior to Public Exhibition

This option is not recommended by officers as significant peer review has taken place at each stage of the policy's development. Deferral of consideration of the policy could significantly delay its progression due to the timing of the local government election in October.

### Option – Do not endorse the Policy

This option is not recommended as significant improvements have been made to the policy and the review process has been informed by Councillor feedback.



# Complaints Policy

## COUNCIL POLICY

### PURPOSE

Colac Otway Shire's Complaints Policy sets out for members of the community the way in which this organisation handles complaints.

- Colac Otway Shire acknowledges that members of the public have the right to complain
- Colac Otway Shire is committed to exercising complaint handling as recommended by the Office of the Victorian Ombudsman and to creating a culture that encourages feedback and complaints
- Colac Otway Shire undertakes to learn from complaints to improve its services.

This policy includes:

- The principles by which Colac Otway Shire officers will be guided when complaint handling
- Colac Otway Shire Council's definition of a complaint
- The roles and responsibilities of officers and contractors
- How to make a complaint.

### OBJECTIVES

This policy aims to:

- put in place an open and transparent complaint handling system
- specify the key performance indicators to which we will hold ourselves accountable
- establish our timeframes for resolving complaints
- clarify the roles and responsibilities of agency staff
- ensure staff handle complaints fairly and objectively
- set out how staff record and analyse complaint data to identify where we can improve our services.

### SCOPE

This policy applies to all officers of Colac Otway Shire. It also applies to third party contractors carrying out services on the agency's behalf.



---

## GUIDING PRINCIPLES

This policy is based on seven principles.

### 1. Commitment

We are committed to resolving complaints and have a culture that recognises an individual's right to complain. We value complaints and recognise them as being part of our business of serving our communities and improving service delivery.

### 2. Accessibility

People with a range of needs can easily complain and officers actively assist them to navigate the complaints process.

### 3. Transparency

We make it clear how to complain, where to complain and how the complaint will be handled. The steps taken to respond to a complaint are recorded and will stand up to scrutiny.

### 4. Objectivity and fairness

Complaints are dealt with courteously, impartially, within established timeframes and are assessed on merit.

### 5. Privacy

Complaint information is handled according to privacy laws and other relevant legislation. We provide clear information about how we handle personal information. Complaint data is de-identified if reported on more widely.

### 6. Accountability

We are accountable internally and externally for our decision making and complaint handling performance. We provide explanations and reasons for decisions, and ensure that our decisions are subject to appropriate review processes.

### 7. Continuous improvement

Acting on, learning from and using complaint data helps us identify problems and improve services.

---

## DEFINITIONS

**Complaint:** an expression of dissatisfaction with the quality of an action taken, decision made, or service provided by Colac Otway Shire or its contractor, or a delay or failure in providing a service, taking an action, or making a decision by an agency or its contractor.

**Request for Service:** the initial contact made with Colac Otway Shire requesting access to a service offered by council.

**Comments or feedback:** the expression of one's experience with Colac Otway Shire with no expectation of any follow-up.



---

#### ROLES AND RESPONSIBILITIES OF AGENCY STAFF AND CONTRACTORS

- Frontline staff – Customer Assist and administrative staff who are often the first point of contact when a complaint is made
- Managers and General Managers – Responsible for investigating complaints and responding to complainants and participate in internal reviews when required
- Chief Executive Officer – Responsible for the organisation’s delivery of complaint handling according to policy and procedure; may be required to respond to complainants
- Third party contractors – Responsible for responding to complaints made about contracted goods and services
- Councillors – Refer complainants to the Chief Executive or relevant General Manager
- Volunteers – Refer complainants to a Frontline staff member

---

#### HOW TO MAKE A COMPLAINT

A person can make a complaint in a number of ways.

Mail:	Colac Otway Shire Council  PO Box 283  Colac VIC 3250
Telephone:	03 5232 9400
Email:	<a href="mailto:inq@colacotway.vic.gov.au">inq@colacotway.vic.gov.au</a>
In person:	Colac Customer Assist Centre  2 – 6 Rae Street, Colac  Apollo Bay Customer Assist Centre  69 Nelson Street, Apollo Bay
Internet:	<a href="http://www.colacotway.vic.gov.au">www.colacotway.vic.gov.au</a>



## ACCESSIBILITY

Anyone who has been affected by a decision or action (including a failure to make a decision or take action) can make a complaint. Council has the following services in place to assist people with specific needs:

- Council can be contacted through the Translating and Interpreting Service (TIS National). TIS can be contacted on 131450 24 hours a day, each day of the year to access an immediate phone interpreter.
- Council can be contacted through the National Relay Service (NRS). TTS (Teletypewriter/National Relay Service) users can phone the NRS on 133677 then ask for 03 5232 9400.
- Internet Relay users can contact the NRS via [www.relayservice.com.au](http://www.relayservice.com.au) and ask for 03 5232 9400.

Colac Otway Shire Council accepts and responds to anonymous complaints, provided we have received enough information to do so.

## COMPLAINT HANDLING PROCEDURE

### Overview

We take a four-tiered approach to complaint handling, as follows:

1. **frontline resolution:** frontline staff receive the complaint, assess it, and resolve it immediately, if possible
2. **investigation, if required:** if frontline staff cannot resolve the complaint, they will refer it to an officer for investigation
3. **internal review:** if the complainant is aggrieved with the process or outcome of the frontline resolution/investigation, they can request an internal review
4. **access to external review:** if the complainant is aggrieved with the process or outcome of the internal review, we inform them of any available external review options.

## PROCEDURES

### Frontline resolution

- Frontline staff determine whether the contact with the customer is a complaint or a request for service
- Frontline staff will clarify the complaint and the outcome the complainant is seeking
- Frontline staff will assess the complaint to determine how it should be dealt with
- Frontline staff will receive the complaint and register it as such in Council's Customer Request Management system
- We will acknowledge all complaints within 10 days of receipt
- If the agency is not the right organisation to respond to the complaint, frontline staff will advise the complainant of an organisation that may be able to help





### **Investigation**

- If frontline staff cannot resolve the complaint, it will be assigned to a Manager for investigation.
- The Manager may assign the complaint to an officer.
- The officer responsible for handling the complaint will advise the complainant who the contact person is and how long it will take to respond to the complaint.
- The complaint handling officer will aim to resolve all complaints within 28 days.
- If it takes longer than 28 days to resolve a complaint, the officer responsible will contact the complainant prior to or at this time and explain why.
- Complaints not resolved within 28 days may be escalated if necessary to ensure that a resolution is expedited.
- The officer responsible for handling the complaint will write to the complainant to advise them of the outcome. The outcome letter/report will contain reasons for the decision made and the contact information for the responsible officer.
- The officer handling the complaint may contact the complainant to discuss the outcome of their complaint prior to sending the outcome letter.
- In instances where the complaint is referred to Council by a Councillor for action, the officer handling the complaint will keep the Councillor up-to-date on the resolution of the complaint.

### **Internal review**

The complainant may request an internal review of their complaint if they are not satisfied that the complaint has been resolved or handled correctly.

All matters for internal review will be escalated to a General Manager or Executive Manager for their review; this General Manager or Executive Manager will not have been involved in the original decision/action/investigation.

- The reviewing officer must not be involved in the original decision, action or investigation or be from the same workgroup. The allocation of the review to a General Manager or Executive Manager will be guided by the nature and complexity of the matter.
- The reviewing officer must review the history of the complaint, any previous findings, investigations or responses and information provided to the complainant.
- A written acknowledgement of the request for review will be provided to the complainant within ten business days of its receipt. This will include the contact details of the officer, how the complaint will be handled and expected resolution time frame.
- An outcome letter signed by the General Manager or Executive Manager responsible for the internal review will be provided to the complainant at the conclusion of every internal review.
- The outcome letter will advise the complainant of any avenues of external review available in relation to the matter, such as the Victorian Ombudsman.

### **Complaints about contractors**

We recognise that we retain a level of responsibility for services carried out by contractors on our behalf.

In the first instance when a complaint is made about a contractor, the contractor will be requested to respond to the complaint directly within the timeframes specified within this policy. All outcome letters written by the contractor in relation to complaints will include the name and contact details of the Colac Otway Shire staff member to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided. If a complainant is not satisfied with the outcome of the complaint, he or she can ask us to review the decision.



## **Complaints about specific matters – alternative procedures**

### Complaints about allegations of corrupt conduct

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with Colac Otway Shire's *Protected Disclosure Act 2012* Procedures.

---

## REMEDIES

Where we have found that we have made an error, we will take steps to redress the situation. Possible remedies include, but are not limited to:

- An explanation of why the error occurred and the steps taken to prevent it happening again
- A reversal of a decision
- An ex gratia payment or compensation
- Disciplinary action taken against a staff member
- Providing the means of redress requested by the complainant.

Where we identify an error, we will consider offering a genuine apology to the complainant, in addition to any other remedies offered, irrespective of whether the complainant specifically requests this.

---

## PRIVACY

When gathering information to respond to a complaint, we will only:

- use it to deal with the complaint or to address systemic issues arising from the complaint
- disclose it in a de-identified format when disclosing data to the public
- share it with staff on a need to know basis.

---

## RECORDING COMPLAINTS

All complaints are recorded in our Customer Relationship Management system and document management system, where appropriate.

We analyse our complaint data and provide quarterly reports to the Executive Management Team on how we can reduce complaints and improve services. Senior management is responsible for acting on the recommendations in these reports.

We record the following information for each complaint:

- the complainant's details
- how the complaint was received
- a description of the complaint
- the complainant's desired outcome (if known)



- the officer responsible for handling the complaint
- any action taken, including contact with the complainant, response times and the outcome
- when the complaint was finalised
- relevant demographic information that could help improve services
- any recommendations for improvement, and who is responsible for implementing them.

Any queries regarding the recording of complaints should be directed to the Manager, Governance & Communications.

---

#### REPORTING ON PERFORMANCE

To measure our performance, we use the following indicators:

- complaints upheld, partially upheld, not upheld
- performance against timelines set by the agency i.e. average time to respond
- number of changes made to services as a result of complaints
- number of complaint outcomes overturned on internal review
- customer satisfaction with the complaint handling system
- complaints escalated to the Victorian Ombudsman's office where the agency's original decision has been overturned and/or proposals for action have been made by the Ombudsman.

We will report against our complaint handling indicators in our annual report, where we will also detail any service improvements made as a result of complaints received.

---

#### UNREASONABLE COMPLAINT CONDUCT

The Colac Otway Shire adheres to the Victorian Ombudsman's Managing Unreasonable Complainant Conduct practice manual, August 2012, which can be found at:

<https://www.ombudsman.vic.gov.au/getattachment/182414fb-472c-4efd-9835-e1521ce62d66>

---

#### REFERENCES

- Councils and complaints – A good practice guide  
Victorian Ombudsman, February 2015
- Complaints: Good Practice Guide for Public Sector Agencies  
Victorian Ombudsman, September 2016
- Managing Unreasonable Complainant Conduct practice manual  
Victorian Ombudsman, August 2012



## EXCERPTS

Excerpt from *Councils and complaints – A good practice guide*, Victorian Ombudsman, February 2015

***“When a councillor receives a complaint***

*To ensure transparency and fairness, complaints received by councillors should be treated the same way as ones made to council officers.*

*An integral role of councillors is to be accessible to residents and improve communication between the community and the council. As the public face of the council, councillors often receive complaints from members of the public while undertaking their municipal role. In these cases, it may be unclear what a councillor’s role is in handling complaints.*

*Councils should have transparent and consistent procedures to manage complaints received by councillors. If a councillor receives a complaint about an issue that falls within the council’s normal functions, the councillor should refer the complaint to a designated senior council officer. This is generally the Chief Executive Officer or a Director. The complaint should then be handled in accordance with the council’s complaint handling policy.*

*The councillor who initially received the complaint may wish to write to the complainant advising that they have referred the complaint to council staff for response. They may also wish to seek information from the senior officer about the progress of the complaint, however they must not seek to direct or influence the complaint handling process. Council staff may keep councillors up-to-date on the resolution of these complaints.*

*Once an outcome is reached and council staff have written correspondence reflecting this, a council officer should sign the outcome letter.*

*This process needs to be conveyed and understood by councillors and council staff. This will ensure that all complainants are treated equally, regardless of who received the complaint.”*



Excerpt from *Managing Unreasonable Complainant Conduct practice manual*, Victorian Ombudsman, August 2012

### If you read nothing else, read this page

The approach and the strategies suggested in this manual are based on the clear understanding that:

- They are equally relevant and applicable to all staff within an organisation including frontline staff, supervisors and senior managers.
- All complainants are treated with fairness and respect.
- In the absence of very good reasons to the contrary, all complainants have a right to access public services.
- All complaints are considered on their merits.
- Unreasonable complainant conduct does not preclude there being a valid issue.
- The substance of a complaint dictates the level of resources dedicated to it, not a complainant's demands or behaviour.
- Anger is an understandable and, to some degree, an acceptable emotion among frustrated complainants as long as it is not expressed through aggression or violence.
- Staff safety and well-being are paramount when dealing with unreasonable complainant conduct.
- The decision to change or restrict a complainant's access to services as a result of their behaviour, will only be made at a senior management level and in accordance with clearly defined policies and procedures.
- Senior managers will ensure relevant systems, policies and procedures are in place to manage complaints and UCC and that all staff who interact with complainants will receive training, guidance and direction about using the strategies suggested in this manual.

### RELATED DOCUMENTS

- *Protected Disclosure Act 2012* Procedures – Colac Otway Shire

### FILE MANAGEMENT

Policy owner	Governance & Communications	Division	Executive
Adopted by Council	26 June 2019	Policy Number	18.1
File Number	F18/6637	Review date	2023





## APPENDIX 1 – COMPLAINT HANDLING ORGANISATIONS

### KEY VICTORIAN COMPLAINT AND DISPUTE RESOLUTION BODIES

#### [Accident Compensation Conciliation Service](#)

Provides an independent service to resolve workers compensation disputes in Victoria.

#### [Commissioner for Privacy and Data Protection](#)

The key body regulating the way Victorian government agencies and local councils collect and handle personal information.

#### [Consumer Affairs Victoria](#)

Promotes consumer protection and ethical trading and ensures that consumer protection laws are properly enforced.

#### [Dispute Settlement Centre – Victorian Department of Justice and Regulation](#)

Provides an informal, impartial, accessible, low cost dispute resolution service to the Victorian community.

#### [Disability Services Commissioner](#)

Deals with complaints about disability services in Victoria.

#### [Health Services Commissioner](#)

Deals with complaints about health services providers.

#### [Local Government Investigations and Compliance Inspectorate](#)

Investigates complaints of alleged breaches of the *Local Government Act 1989* by councillors, senior council officers and certain other persons.

#### [Mental Health Complaints Commissioner](#)

Deals with complaints about public mental health services providers.

#### [Public Transport Ombudsman](#)

Deals with complaints about Victorian public transport that members of the community have been unable to resolve directly with the public transport operators.

#### [Victorian Equal Opportunity and Human Rights Commission](#)

Responsible for eliminating discrimination in Victoria. Offers information, education and consultancy services, conducts research and provides legal and policy advice.

#### [Victorian Inspectorate](#)

Key oversight body in Victoria's integrity system. It can take complaints about IBAC, Chief Examiner and Examiners, Victorian Ombudsman and Auditor General.

#### [Victorian Ombudsman](#)

Receives complaints about the administrative actions of Victorian government authorities and local councils.



---

## INDUSTRY COMPLAINT AND DISPUTE RESOLUTION BODIES

### [Energy and Water Ombudsman Victoria](#)

Dispute resolution service for Victorian electricity, gas and water consumers.

### [Financial Ombudsman Service](#)

Dispute resolution scheme for disputes concerning financial services, including banking and finance, home, contents, travel and life insurance, insurance broking, financial planning, managed funds, mortgage and finance broking, pooled superannuation funds, estate planning and management and traditional trustee services.

### [Private Health Insurance Ombudsman](#)

Assists private health fund members to resolve disputes about health insurance.

### [Telecommunications Industry Ombudsman](#)

Dispute resolution service for residential and small business customers who have a complaint about their telephone or internet service in Australia.

### [Tolling Customer Ombudsman](#)

Alternative dispute resolution service for customers of CityLink and EastLink.

---

## PUBLIC SECTOR CORRUPTION AND POLICE MISCONDUCT

### [Independent Broad-based Anti-corruption Commission](#)

Receives complaints and notifications about corruption and misconduct in Victorian government departments and agencies, councils, Victoria Police, the Parliament and the judiciary; assesses potential protected disclosures under the *Protected Disclosure Act 2012*.

### [Professional Standards Command, Victoria Police](#)

Receives complaints about Victoria Police members.

---

## COURTS AND TRIBUNALS

### [Victorian Civil and Administrative Tribunal \(VCAT\)](#)

[Magistrates' Court of Victoria](#)

[County Court of Victoria](#)

[Supreme Court of Victoria](#)



---

## COMMONWEALTH AND INTERSTATE OMBUDSMEN

Commonwealth Ombudsman  
NSW Ombudsman  
Queensland Ombudsman  
Ombudsman South Australia  
Ombudsman Western Australia  
Ombudsman Tasmania  
Ombudsman NT  
ACT Ombudsman



## Council Policy

### COMPLAINTS

#### PURPOSE

Council values complaints and encourage people to contact us when they have an issue with our services, actions, decisions, and policies.

Council are committed to:

- enabling members of the public to make complaints about the Council
- responding to complaints by taking action to resolve complaints as quickly as possible
- learning from complaints to improve our services.

Council treats every complaint we receive on its individual merits, through clear and consistent processes. This Policy outlines how we fulfil that commitment.

#### SCOPE

Our Policy applies to all complaints from members of the public about Council staff, Council contractors and volunteers, and includes:

- The principles by which Colac Otway Shire officers will be guided when complaint handling
- Colac Otway Shire Council's definition of a complaint
- The roles and responsibilities of officers and contractors
- How to make a complaint.

This Policy does not apply to complaints about individual Councillors.

#### OBJECTIVES

This Policy aims to:

- Implement an open and transparent complaint handling system.
- Enhance the relationship between Council and its customers and members of the public.
- Specify the key performance indicators to which we will hold ourselves accountable.
- Establish our timeframes for resolving complaints.
- Clarify the roles and responsibilities of Council staff.
- Ensure there are appropriate pathways for dealing with challenging or unreasonable behavior.
- Provide a safe and secure environment to conduct business in a respectful and professional manner.



## DEFINITIONS

In this Policy:

**‘Complaint’** – See page 4

**‘Complainant’** is the person or entity affected by the action or inaction of Council.

**‘Council staff’** is any person employed by the Council to carry out the functions of the Council, and the Council’s Chief Executive Officer.

**‘Council contractor’** is any third-party engaged by the Council to carry out functions on the Council’s behalf.

**‘the Council’** means the body of elected Councillors.

**‘Protected Disclosure’** refers to a specific class of complaint (governed by the Protected Disclosure Act 2012) that requires a high level of confidentiality and protection of the complainant.

## REFERENCES

### Relevant Legislation:

*Local Government Act 2020 (Vic)*

*Gender Equality Act 2020 (Vic)*

*Charter of Human Rights and Responsibilities Act 2006 (Vic)*

*Equal Opportunity Act 2010 (Vic)*

*Independent Broad-based Anti-corruption Commission Act 2011*

*Public Interest Disclosures Act 2012*

*Protected Disclosure Act 2012*

## RELATED DOCUMENTS

Employee Code of Conduct

Complaint Management Process

Public Interest Disclosure Procedure

Public Transparency Policy

Fraud and Corruption Control Framework

## DOCUMENT CONTROL

Policy owner	Planning and Strategic Focus	Division	Executive
Adopted by council		Policy Number	
File Number		Review date	2027





## CONTENTS

COMPLAINTS .....	1
PURPOSE .....	1
SCOPE .....	1
OBJECTIVES .....	1
DEFINITIONS .....	2
REFERENCES .....	2
RELATED DOCUMENTS .....	2
DOCUMENT CONTROL .....	2
WHAT IS A COMPLAINT? .....	4
HOW TO MAKE A COMPLAINT .....	5
GUIDING PRINCIPLES .....	6
Commitment.....	6
Accessibility.....	6
Transparency .....	6
Responsiveness.....	6
Anonymity.....	6
Customer Focussed.....	7
Fairness .....	7
Accountability .....	7
Continuous improvement .....	7
Privacy.....	7
HOW WE LEARN FROM COMPLAINTS .....	8
Recording complaints .....	8
Reporting Complaints Data and Findings.....	8
Colac Otway Shire Annual Report.....	9
COMPLAINTS THAT WILL NOT BE INVESTIGATED .....	9
Complaints subject to a statutory review .....	10
Unreasonable Complaint Conduct .....	11
What is unreasonable complaint conduct? .....	11
Responding to unreasonable complaint conduct .....	12
OUR COMPLAINTS PROCESS.....	13
Initial Assessment & Investigation.....	14
Remedies .....	14
Complaints made about contractors & Volunteers .....	15
Complaints about allegations of misconduct, or illegality.....	15
Complaints about allegations of corrupt conduct .....	15
Complaints about Councillors.....	15
Complaints about the conduct of the Chief Executive Officer (CEO) .....	15
When a Councillor receives a Complaint .....	16
How to request an Internal Review .....	16
How to request an External Review.....	17



## WHAT IS A COMPLAINT?

A complaint includes a communication (verbal or written) to Council, which expresses dissatisfaction about:

- the quality of an action, decision or service provided by Council staff or a Council contractor
- a delay by Council staff or a Council contractor in taking an action, making a decision or delivering a service
- a Policy or decision made by the Council, Council staff or a Council contractor.

This is defined in the *Local Government Act 2020*.

In simple terms, a complaint to Council is any communication which involves the following:

- an expression of dissatisfaction
- about an action, decision, policy, behaviour or service
- that relates to Council staff, including the CEO, a Council contractor, Council volunteers, or the Council as a decision-making body (not individual Councillors, who are subject to different processes). For the purposes of this Policy, routine requests for service are not treated as complaints.

## What is not a Complaint?

Complaints about matters such as a neighbour's use of property, barking dogs, livestock at large, or noise from a private or business premises are not complaints within the definition of this Policy. These are not a direct result of an action, lack of action, behaviour or service provided by Council and should be captured as a Request for Service.

If the complainant contacts Council because they had previously reported an issue and Council has not acted within its responsibility on the first advice, this then it will be treated as a complaint - about lack of action or service.

If a complaint is about an issue that Colac Otway Shire does not have responsibility for, such as the condition of a road managed by the Department of Transport, the complainant will be directed to the appropriate organisation.

A person may start a conversation with "*I want to make a complaint about...*", however unless the issue is one caused by a service Council provides, actions, behaviour or lack of action or service relating to a previous request, then the person is technically making a request for service.

Please see the table in the following section for further examples.



## COMPLAINT VERSUS REQUEST FOR SERVICE

One way to distinguish a “complaint” from a “request for service” is to look at whether a person is:

- requesting something additional or new (a service request)
- reporting what they believe to be a failing or a shortfall (a complaint)
- complaining about Council’s response, or lack of response, to a service request (a complaint).

The following table is extracted from the Victorian Ombudsman ‘Council and Complaints – A good practice guide’:

Complaint/Request for Service examples	
Complaint	Request for Service
• You haven’t sent out my rates notice	• Can you tell me when my next rates payment is due?
• The Council shouldn’t have approved a development on Main Road.	• What is the process for objecting to the development on Main Road?
• The Council’s website doesn’t have enough information about when a planning permit is needed for a pool.	• Can you tell me whether a planning permit is required for a backyard pool?
• Council’s investigation into noise from a business wasn’t rigorous, and didn’t look at peak times. More investigation is needed.	• My neighbour’s business is very noisy. Can you make it stop?
• A pothole I reported to Council two months ago hasn’t been fixed, and is getting worse.	• Could Council fill in a pothole in my street?
• This is the second time I’ve called you about the street furniture from XXX Café!	• The tables and chairs at XXX Café are blocking foot traffic, can you please have a look and see what can be done about it?

\*Missed bins are addressed immediately as a Request for Service separately through contract management processes and are recorded and reported on.

## HOW TO MAKE A COMPLAINT

Council is committed to providing accessible venues and contact methods. Please refer to the Colac Otway Shire Contact Directory on our website for the most up to date telephone, email, post, and in-person contact details. The on-line form to lodge a complaint can be found on the Complaints and Compliments page on Council’s website.



## GUIDING PRINCIPLES

This Policy is guided by the following principles for effective complaints handling:

### COMMITMENT

Council is committed to resolving complaints that are received in a timely manner. Council recognises people's right to complain and considers complaint handling to be part of the core business of serving the community and improving service delivery.

### ACCESSIBILITY

Our complaint management process is designed to make it easy for a person to make a complaint. Council will assist people to make a complaint, if required. Council understands a complainant may request that another person or organisation assist or represent them to make and progress their complaint.

Council will accept complaints from authorised representatives of complainants. Council will make it easy for anyone in our community to lodge a complaint including people of all genders, ages, abilities, cultural backgrounds, religions and people who are indigenous and/or LGBTIQ+.

Our employees will actively assist everyone to navigate the complaint process.

Council has the following services in place to assist people with specific needs:

- Council can be contacted through the Translating and Interpreting Service (TIS National). TIS can be contacted on 131450, 24 hours a day, every day of the year, to access an immediate phone interpreter.
- Council can be contacted through the National Relay Service (NRS). TTS (Teletypewriter/National Relay Service) users can phone the NRS on 133677, then ask for 03 5232 9400.
- Internet Relay users can contact the NRS via [www.relayservice.com.au](http://www.relayservice.com.au) and ask for 03 5232 9400.

### TRANSPARENCY

Our Complaints Policy is available on the Colac Otway Shire website, [www.colacotway.vic.gov.au](http://www.colacotway.vic.gov.au), along with options for how to contact us to make a complaint and assistance for various members of the community.

Council are open and transparent about the complaints we have received and what we have done to resolve them. The complaints analysis summary is published annually in our annual report.

### RESPONSIVENESS

Council will promptly confirm with a complainant that we have received their complaint. Complaints will be acknowledged and addressed in a timely manner in accordance with the established timeframes within the Policy.

Complainants are kept informed throughout the process. Decisions or any actions taken regarding the complaint will be communicated to complainants as soon as the decision or action is taken.

### ANONYMITY

Colac Otway Shire Council accepts, investigates and records anonymous complaints provided we have received enough information to do so. By their nature, anonymous complaints cannot be responded to.



#### CUSTOMER FOCUSED

Council recognises a customer's right to complain and considers complaint handling to be part of its core business of serving the community and improving service delivery. Council actively solicit feedback from our community on a regular basis. Council will endeavour to involve complainants in the complaint process as far as practicable and appropriate in the circumstances.

#### FAIRNESS

Under the complaint handling system, complainants and staff are treated with respect and courtesy. Complaints are judged on merit and fact. Each complaint is managed in an objective, unbiased and equitable manner.

#### ACCOUNTABILITY

Council is accountable, both internally and externally, for its decision making and complaint handling performance. Council provides explanations and reasons for decisions, and ensures that decisions are subject to appropriate review processes. All areas of the organisation have responsibility for effectively managing a complaint raised about them, the product or service they have provided.

#### CONTINUOUS IMPROVEMENT

Acting on, learning from, and using complaint data helps us identify problems and improve services. Complaints from people who use or who are affected by our services provide us with valuable feedback about how we are performing. Council regularly analyse complaint data to identify trends and potential issues that deserve further attention. This information is used to help identify and prioritise service improvements.

#### PRIVACY

Council is committed to fulfilling its obligations under the *Privacy and Data Protection Act 2014* and provides clear information about how it handles personal information - refer to Council's Information Privacy Policy for further information. Complainants are entitled to access information necessary to resolve their complaint meaningfully but are not entitled to information that breaches the privacy obligations Council owes to any other person. Personally identifiable information will be actively protected from disclosure unless the complainant expressly consents to its disclosure.

Council keep personal information secure. Personal information is used to respond to a complaint, and Council may also analyse the information provided for the purpose of improving services that relate to a complaint.

Where we publish complaint data, personal information is removed.





## HOW WE LEARN FROM COMPLAINTS

A key responsibility of handling complaints is to record the key details about the complaints in a corporate system so that analysis can take place to enable identification of opportunities for improvement.

### RECORDING COMPLAINTS

The following information is recorded for each complaint:

- The Complainant's details.
- How the complaint was received.
- A description of the complaint.
- The Complainant's desired outcome.
- The Council officer responsible for handling the complaint.
- Any action taken, including contact with the complainant, response times and the outcome.
- Any recommendations for improvement, and who is responsible for implementing them.

The Customer Experience Coordinator analyses complaint data and provides reports relating to customer experience. Executive Management is responsible for acting on the recommendations in these reports.

### REPORTING COMPLAINTS DATA AND FINDINGS

Sometimes individual complaints can point to a systemic problem; but generally this only becomes clear when looking at complaint data across the organisation on more transferable issues. The following needs to be considered:

- The overall number of complaints received can indicate community satisfaction or dissatisfaction.
- Changes in the number of complaints over time can indicate that satisfaction is improving or dropping.
- High numbers of complaints about particular services, issues or teams may suggest systemic concerns that warrant further attention, regardless of whether the complaints are substantiated.
- Complaints can be driven by a range of factors, other than poor performance, such as:
  - Changes in community expectations.
  - Increased engagement with the Council and its services (which can be a positive sign).
  - Inadequate information about a service or barriers to accessing a service or process.

The Executive Management Team are provided with a monthly report that categorises and analyses the complaints data to look for any underlying trends and areas for improvement. The analysis in the report includes:

- A summary of compliments and complaints numbers received, resolved, upheld, partially upheld, not upheld, open, and average days to resolve
- Categorisation of the compliments and complaints and comparison to previous period figures
- Analysis of the compliments and complaints data, identification of root causes, identification of opportunities for improvement
- Status of any initiatives or projects that have resulted from customer feedback. These are included in the annual report to Council



## COLAC OTWAY SHIRE ANNUAL REPORT

We will provide a summary of our complaint handling indicators in the Colac Otway Shire Annual Report. These are:

- Complaints upheld, partially upheld, not upheld
- Performance against timelines set out in the Policy
- Number of complaint outcomes overturned on internal review
- Complaints escalated to the Victorian Ombudsman's office where the agency's original decision has been overturned and/or proposals for action have been made by the Ombudsman
- Details of any service improvements made as a result of complaints received.

## COMPLAINTS THAT WILL NOT BE INVESTIGATED

The Chief Executive Officer may determine that a complaint will not be investigated where the matter:

- Is considered frivolous, vexatious or not made in good faith.
- Involves an adequate remedy or right of appeal, whether or not the complainant uses that remedy or right of appeal.
- Relates to a decision awaiting determination by Council.
- Relates to conduct before a court, coroner or tribunal.
- Is under investigation by the Minister for Local Government or any other government department including the Victorian Police Service.
- Relates to the appointment or dismissal of any employee or an industrial or disciplinary issue.
- Relates to the actions or conduct of a private individual.
- Includes situations where there is insufficient information or the complainant declines or refuses to provide further information.
- Involves threats made against Council or Council staff.

Where the Chief Executive Officer determines that a complaint will not be investigated, the complainant will be advised accordingly in writing.



## COMPLAINTS SUBJECT TO A STATUTORY REVIEW

There are a range of complaints that are not covered by this Policy. Matters subject to statutory review relate to specific complaints where there is a formal review process or appeal pathway by a tribunal, e.g. the Victorian Civil and Administrative Tribunal ('VCAT') or a court, under an Act or regulation are not investigated or reviewed through this Policy. Complaints of this type usually concern a particular subject matter such as Infringements, town planning decisions, or public health.

Council's reasons for refusing to deal with a complaint which is otherwise subject to statutory review might include:

- The statutory review process is already underway.
- It is reasonable in the circumstances to expect the complainant to go through that review process.
- A tribunal or court will settle or determine the matter faster.
- The complaint relates to a specialised area, and it is proper that a tribunal or court make a binding determination on the matter (noting the determination's possible precedential effect).

Complaints of this nature will be referred to the manager of the relevant department for the discretionary decision and communication to the complainant. Where the discretion to refuse these complaints is exercised, reasons will be provided. Council is committed to helping complainants obtain the best outcome and where appropriate will assist with information and help you with this process eg. Where the issue is the subject of town planning decisions, Planning Officers will assist you through this process.

### Examples of Statutory Review Bodies

Subject Matter	Statutory Body
Infringement Notices	Fines Victoria 03 9200 8111 1300 369 819 (regional Victoria)
Town Planning Decisions	Victorian Civil and Administrative Tribunal ('VCAT') 1300 018 228
Public Health	Health Complaints Commissioner Victoria 1300 582 113
Fraud and Corruption	Local Government Inspectorate <a href="http://www.lgi.vic.gov.au">www.lgi.vic.gov.au</a> 1800 469 359. Independent Broad-Based Anti-Corruption Commission IBAC <a href="http://www.ibac.vic.gov.au/report">www.ibac.vic.gov.au/report</a> 1300 735 135.



## UNREASONABLE COMPLAINT CONDUCT

Council is committed to balancing the right of individuals to make a complaint with:

- the right of Councillors and officers to carry out their roles in an environment where their health, safety and security is protected and prioritised; and
- the equitable, effective and proportionate allocation of resources across all requests for service and complaints received by Council.

It is acknowledged that unreasonable complaint conduct does not necessarily preclude there being a valid underlying issue to be addressed. Council will continue to assess all complaints based on their merits, in an impartial and equitable manner.

### WHAT IS UNREASONABLE COMPLAINT CONDUCT?

Unreasonable complaint conduct for the purposes of this Policy is behaviour by an external customer that, because of its intensity, nature or frequency, impacts negatively on the health, safety or security of Councillors and staff, and/or requires substantial and disproportionate allocation of Council resources.

Unreasonable complaint conduct can be divided into five categories of conduct:

- **Unreasonable persistence:** continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on the organisation, staff, services, time and/or resources.
- **Unreasonable demands:** demands (express or implied) made by a complainant that have a disproportionate and unreasonable impact on the organisation, staff, services, time and/or resources.
- **Unreasonable lack of cooperation:** unwillingness and/or inability by a complainant to cooperate with the organisation, staff, or complaints system and processes, that results in a disproportionate and unreasonable use of its services, time and/or resources.
- **Unreasonable arguments:** arguments not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon the organisation, staff, services, time, and/or resources.
- **Unreasonable behaviours:** conduct that is unreasonable in all circumstances, regardless of how stressed, angry or frustrated that a complainant is, because it unreasonably compromises the health, safety and security of staff, other service users or the complainant.





## RESPONDING TO UNREASONABLE COMPLAINT CONDUCT

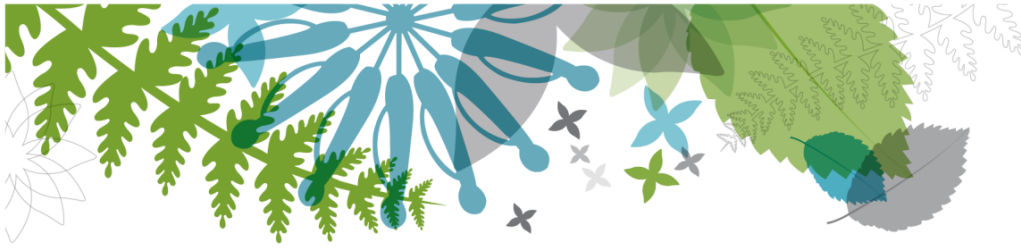
Where a person is deemed to have engaged in unreasonable complaint conduct under this Policy, it may be necessary for limitations to be placed on their contact with Council.

A determination to limit contact with Council will:

- Be made by the Chief Executive Officer or a General Manager.
- Take into account the guidelines for such determinations contained in the Victorian Ombudsman Good Practice Guide to Dealing with Challenging Behaviour, or such other document as may be released as a replacement for that guide in future.
- Be notified to the affected person in writing (unless another form of communication is more appropriate) explaining the reasons for the decision, setting a timeframe for review of the limitations and an explanation of the person's options for complaining about the decision.

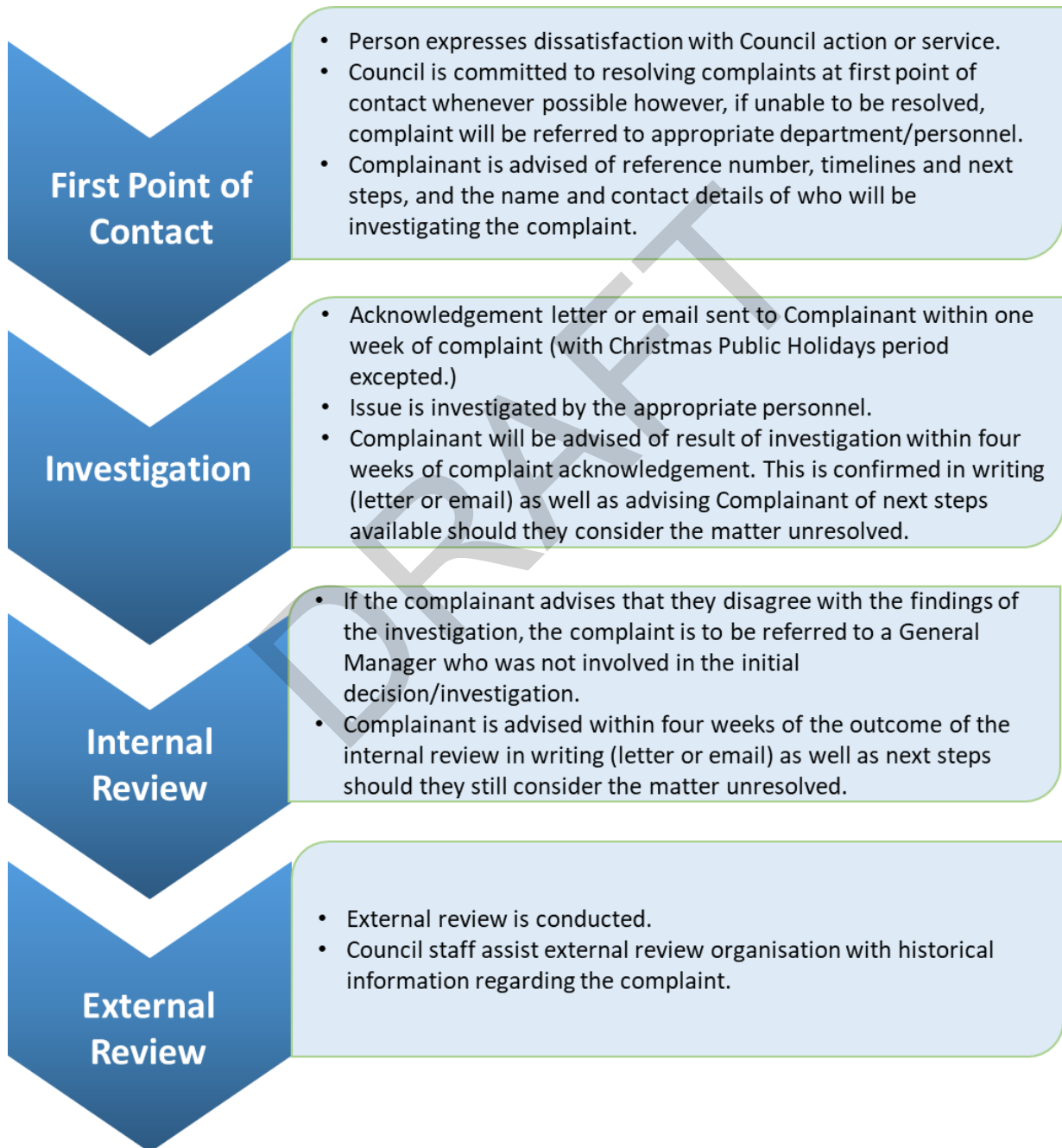
Examples of possible responses to unreasonable complaint conduct include but are not limited to:

- A written warning regarding the unreasonable complaint conduct.
- Restricting the method, frequency or location of contact, or restricting contact to an individual Council officer.
- Advising no further communication will be entered into on an issue for a specified period of time or that further correspondence will be received and assessed but only acknowledged or responded to if, in the view of Council, it raises a new matter or additional information warranting a review or further action.



## OUR COMPLAINTS PROCESS

Our complaint handling process follows a four-tiered approach, as described in the diagram below:





## INITIAL ASSESSMENT & INVESTIGATION

When a complaint is made, we will record and acknowledge it within one week. We will initially assess the complaint to decide how we will handle it. This may happen while we are talking with the complainant.

After our initial assessment, we may:

- take direct action to resolve the complaint;
- refer the complaint to the relevant team or manager for investigation; or
- decline to deal with the complaint if there is a right to a statutory review of the complaint (such as a right of appeal to VCAT).

Where possible, we will attempt to resolve the complaint at the time of first contact. If we cannot action the complaint, we will explain why, and where possible, inform the complainant about other options.

If we cannot resolve the complaint on the spot, we will refer it to the relevant team or manager to investigate. We will advise which officer can be contacted about the investigation.

We aim to complete investigations within four weeks of acknowledging the complaint, and will tell the complainant if the investigation will take longer. We will provide an update every four weeks about progress until the investigation is completed.

As part of our investigation we will:

- assess the information against relevant legislation, policies and procedures
- refer to Council documents and records
- meet affected parties to consider possible solutions
- advise in writing of the outcome and our reasons.

We require our staff to be respectful and responsive in all of their communications with members of the public. We expect the same of complainants when they communicate with our staff.

We may change the way we communicate with a complainant if their behaviour or conduct raises health, safety, resource or equity issues for Council staff involved in the complaints process.

## REMEDIES

Where we have found that we have made an error, we will take steps to redress the situation. Possible remedies include, but are not limited to:

- An explanation of why the error occurred and the steps taken to prevent it happening again
- A reversal of a decision
- Disciplinary action taken against a staff member
- Providing the means of redress requested by the complainant.

Where we identify an error, we will acknowledge and apologise to the complainant, in addition to any other remedies offered, irrespective of whether the complainant specifically requests this.



#### COMPLAINTS MADE ABOUT CONTRACTORS & VOLUNTEERS

We recognise that we retain a level of responsibility for services carried out by contractors on our behalf.

In the first instance, when a complaint is made about a contractor, a council employee will oversee and support the contractor/volunteer who will be requested to respond to the complaint within the timeframes specified within this Policy. All outcome letters written by the contractor in relation to complaints will include the name and contact details of the Colac Otway Shire staff member to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided. If a complainant is not satisfied with the outcome of the complaint, he or she can ask Council to review the decision.

#### COMPLAINTS ABOUT ALLEGATIONS OF MISCONDUCT, OR ILLEGALITY

Some complaints will extend beyond a customer's general dissatisfaction with Council and may involve accusations of misconduct or alleged illegal activity. Complaints claiming criminal activity by an Officer, Councillor or to Council property will be assigned to the appropriate Manager for investigation and reported to Victoria Police, where necessary. If the matter is posing a risk to the community it will be advised that the complaint go directly to Victoria Police.

#### COMPLAINTS ABOUT ALLEGATIONS OF CORRUPT CONDUCT

Disclosures which reveal corrupt, improper conduct, or conduct involving a risk to public safety or the environment may need to be treated as a Protected Disclosure.

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with the IBAC guidelines. The Independent Broad-based Anti-corruption Commission (IBAC) is Victoria's agency responsible for preventing and exposing public sector corruption and police misconduct.

Legislation requires that the Chief Executive Officer must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct that is occurring or has already occurred. The Chief Executive Officer's duty to notify IBAC cannot be delegated.

#### COMPLAINTS ABOUT COUNCILLORS

This Policy does not apply to individual Councillors. Complaints relating to Councillors should be referred to the Mayor or CEO to provide guidance about the most appropriate process or response which will depend on the issues being raised.

#### COMPLAINTS ABOUT THE CONDUCT OF THE CHIEF EXECUTIVE OFFICER (CEO)

Complaints about the Chief Executive Officer will be referred to the Mayor.





---

#### WHEN A COUNCILLOR RECEIVES A COMPLAINT

To ensure transparency and fairness, complaints received by Councillors should be treated the same way as ones made to council officers.

In the first instance, Councillors will provide guidance to the customer as follows:

- Acknowledge the dissatisfaction without undertaking any personal investigation or providing opinion.
- Affirm Council's commitment to addressing complaints and continuous improvement.
- Explain that Council has an adopted policy and robust processes to manage complaints.
- Encourage the complainant to lodge their complaint directly with Council or assist if needed. If this is not possible the Councillor will convey the complaint to Council Officers with the details of the complainant.

Complaints received via a Councillor will be addressed for investigation and response in accordance with this Policy. In some instances the CEO may provide Councillors with relevant information regarding the outcome of a specific complaint if it is not a personnel related matter.

---

#### HOW TO REQUEST AN INTERNAL REVIEW

If a person is dissatisfied with our decision and how we responded to the complaint, they can request an internal review.

The internal review will be conducted by a senior Council officer who has not had any prior involvement with the complaint.

We will advise in writing of the outcome of the internal review and explain our reasons within 28 days from acknowledging a request for Internal Review.



## HOW TO REQUEST AN EXTERNAL REVIEW

There are external bodies that can deal with different types of complaints about us.

An external review can be requested from the following organisations:

Complaint	Organisation to contact for external review
<p>Actions or decisions of a Council, Council staff and contractors.</p> <p>This includes failure to consider human rights or failure to act compatibly with a human right under the Charter of Human Rights and Responsibilities Act 2006 (Vic)</p>	<p>Victorian Ombudsman <a href="http://www.ombudsman.vic.gov.au">www.ombudsman.vic.gov.au</a></p>
Breaches of the Local Government Act	<p>Local Government Inspectorate <a href="http://www.lgi.vic.gov.au">www.lgi.vic.gov.au</a></p>
<p>Breach of privacy.</p> <p>Complaint about a freedom of information application</p>	<p>Office of the Victorian Information Commission <a href="http://www.ovic.vic.gov.au">www.ovic.vic.gov.au</a></p>
Corruption or public interest disclosure ('whistleblower') complaints	<p>Independent Broad-based Anti-corruption Commission <a href="http://www.ibac.vic.gov.au">www.ibac.vic.gov.au</a></p>
Discrimination	<p>Victorian Human Rights and Equal Opportunity Commission <a href="http://www.humanrights.vic.gov.au">www.humanrights.vic.gov.au</a></p>
Council elections	<p>Victorian Electoral Commission <a href="http://www.vec.vic.gov.au">www.vec.vic.gov.au</a></p>

## Item: 9.4

### Review of Procurement Policy for exhibition

<b>OFFICER</b>	David Butterfield
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Attachment 1 - DRAFT Procurement Policy - 2024 [9.4.1 - 33 pages]</li><li>2. Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516 [9.4.2 - 15 pages]</li></ol>

## 1. PURPOSE

To endorse the draft Procurement Policy to be placed on public exhibition for a period of six weeks for the purpose of inviting submissions.

## 2. EXECUTIVE SUMMARY

In accordance with Section 108 (5) of the Local Government Act 2020, Council is required at least once in every four-year term of Council to review its current Procurement Policy.

The Policy was last reviewed and revised in 2021 to meet the requirement of the revised provisions of the Local Government Act 2020 and was adopted by Council on 24 June 2021.

Following the Internal Audit into Procurement completed in May 2023, several findings and recommendations were identified. Those recommendations have been incorporated into the draft revised Procurement Policy. Council also undertook benchmarking of other Council's Procurement Policies in considering changes to be made.

### 3. RECOMMENDATION

***That Council:***

- 1. Notes that a comprehensive review of its Procurement Policy has been completed and a number of amendments are proposed.***
- 2. Endorses the draft Procurement Policy, as per Attachment 1, to be placed on public exhibition for six weeks for the purpose of inviting submissions.***
- 3. Provides the opportunity for any person wishing to speak to their written submission to be heard, or a nominated representative to speak to their submission on behalf of the person, at a Submissions Committee meeting prior to Council considering adoption of the final policy.***
- 4. Notes the final Procurement Policy will be put forward for adoption at the July 2024 meeting of Council.***

### 4. KEY INFORMATION

Several issues were identified from the findings and recommendations of the Internal Audit into Procurement and the benchmarking exercise with other Councils, these have now been addressed in the revised draft Procurement Policy. Amendments include:

- A 'Table of Contents' to allow readers to find content quickly and easily.
- The 'Definitions' section has been expanded to ensure readers understand key terms and concepts correctly.
- The 'References' section has been expanded to provide readers with a more comprehensive source of information that relates to Procurement processes.
- The 'Best Practice Principles and Framework' section now has an introduction paragraph added to show how the Policy aligns with Section 108 (2) of the Local Government Act and ways it will benefit the community.
- An 'Introduction' paragraph was added to showing the principles that Council's procurement process will be based on.
- 'Indigenous Procurement' was added so that Aboriginal and Torres Strait Islander businesses are to be invited to quote for supplying goods and services under the tender threshold.
- 'Accessibility' was added to ensure Council's procurement processes are accessible to all potential suppliers and contractors who wish to submit a tender/quotation with particular attention to:
  - a) people with disabilities.
  - b) cultural and language barriers.
  - c) age.
  - d) gender and gender identities; and
  - e) religion.



- 'Model of Procurement' was expanded to direct all procurement and contracts process through the Procurement and Contracts Department, providing guidance on determining the procurement value.
- 'Tender Exceeding Budget or Zero Submissions Process' was added to provide guidance for when no submissions are received, or all submissions exceed the set budget.
- 'Tender negotiation' was added to provide guidance for when it is not desired to go back to market, but the panel deem it worthwhile to negotiate with a particular proponent or take another course of action.
- '5.1.2.3 Conflict of Interest' was added to the Policy.
- No verbal quotations.
- Revised market method thresholds.
- New clauses for collaborative procurement.
- Whole new section for sustainable procurement – multiple factors and broader considerations.
- Whole section on Contracts and contract management is new, including variations and claims.
- Revised Complexity Assessment.
- Updated exemptions and market engagement methods.
- New section on third party financial relationships added.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

- Council decisions are to be made and actions taken in accordance with the relevant law.
- priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- innovation and continuous improvement is to be pursued.
- collaboration with other Councils and Governments and statutory bodies is to be sought.
- the ongoing financial viability of the Council is to be ensured.
- regional, state, and national plans and policies are to be taken into account in strategic planning and decision making.
- the transparency of Council decisions, actions and information is to be ensured.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

- Local Government Best Practice Guidelines 2024.
- Council's Procurement Procedure, LGA 2020.
- Competition and Consumer Act 2010.
- Freedom of Information Act 1982.
- Privacy and Data Protection Act 2014.
- Public Records Act 1973.
- Security and Payments 2002.
- Colac Otway Shire Council's Fraud & Corruption Policy.
- Colac Otway Shire Council's Information and Privacy Policy.
- Colac Otway Shire Council's Gifts, Benefits and Hospitality Policy.
- Corporate Procurement Card Operational Policy.
- Colac Otway Shire Council Staff Code of Conduct.
- Colac Otway Shire Council Councillor Code of Conduct.

- S7 Instrument of Sub Delegation from CEO to Council Staff and
- Environmental Protection Act 2017.

#### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

The Procurement Policy addresses Council's commitment to reducing its environmental impacts and operating in a socially, financially, and environmentally responsible manner.

#### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Members of the public will have an opportunity to make submissions on the draft Policy (following endorsement of the draft Policy by Council), in accordance with the timelines set out in Council's Community Engagement Policy.

#### **Public Transparency (s58 LGA 2020)**

- Council decision making processes must be transparent except when Council is dealing with information that is confidential by virtue of this Act or any other Act of Parliament.
- Council information must be understandable and accessible to members of the municipal community.
- Public awareness of the availability of Council information must be facilitated.

#### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement.

#### **Financial Management (s101 Local Government Act 2020)**

There are no budget or resource implications associated with this report.

#### **Service Performance (s106 Local Government Act 2020)**

Not applicable

#### **Risk Assessment**

Not applicable.

#### **Communication/Implementation**

- Council endorses draft Procurement Policy
- Public Exhibition 6 weeks
- Submission Committee Hearing (if required)
- Council Meeting for endorsement
- Internal communication after adoption of Procurement Plan

#### **Human Rights Charter**

The author and co-authors of this report have considered the Human Rights Charter in the preparation of the report. No person's Human Rights have been diminished.

#### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

## **Options**

### Option 1 – Endorse the Draft Procurement Policy

This option is recommended by officers as the Draft Procurement Policy has been developed with internal consultation and recommendations from the Internal Audit and Risk Committee. Council officers also undertook benchmarking with other local Councils and referred to the Local Government Best Practice Guidelines. Endorsement of the Draft Procurement Policy at this meeting will also fulfil Council's obligations under the *Local Government Act 2020*.

### Option 2 – Endorse the Draft Procurement Policy with amendments

This option is not recommended as careful consideration as been given by officers, recommending a policy which reflects best practice. It is considered that the policy is effective and complete in the proposed form.

### Option 3 – Do not endorse the Draft Procurement Policy

This option is not recommended by officers as significant improvements have been made to the policy and the review process has been informed by the Audit and Risk Committee and Councillor feedback.



## Council Policy

### 3.5 – PROCUREMENT POLICY

#### Table of Contents

1	Purpose .....	1
2	Policy Principles .....	1
3	Scope .....	1
4	Background .....	1
5	Statement of Policy .....	2
5.1	Implementing best practice principles .....	2
5.1.1	Value for Money .....	3
5.1.2	Open and Fair Competition.....	4
5.1.3	Accountability .....	6
5.1.4	Probity, integrity and transparency.....	7
5.1.5	Risk Management.....	7
5.1.6	Sustainable Procurement .....	8
5.2	Market Engagement Methods.....	10
5.2.1	Procurement Thresholds .....	10
5.2.2	Existing Council Contracts, including panels.....	10
5.2.3	Use of State Government and other Panels.....	10
5.2.4	Market Engagement Methods.....	11
5.2.5	Collaborative Procurement .....	12
5.2.6	Public Tender Process.....	13
5.2.7	Late tenders .....	14
5.2.8	Alternative Proposals.....	14
5.2.9	Third party financial relationships.....	15
5.2.10	Zero tender submissions process .....	15
5.2.11	Direct Tender Negotiation .....	15
5.2.12	Exemptions from Market Engagement Methods .....	16
6	Financial Delegations .....	17
7	Contracts .....	18
7.1	Contract Documents.....	18
7.2	Contract Terms and Conditions .....	18



7.2.1	Contract KPIs .....	18
7.2.2	Deviations from standard terms and conditions .....	18
7.3	Contract Insurance .....	19
7.4	Contract Establishment.....	19
7.5	Contract Management .....	19
7.6	Variations to the Contract .....	20
7.7	Claims under the Contract .....	21
7.8	Contract Extensions.....	21
7.9	Contract Completion .....	22
7.10	Contract Evaluation .....	22
8	Other Policy Matters .....	22
8.1	Roles and Responsibilities.....	22
8.2	Disclosure of Information .....	23
8.3	Document Management .....	23
8.3.1	Record Keeping.....	23
9	Definitions.....	23
10	References .....	27
11	Commencement .....	27
12	Document Control.....	27
	Appendix 1 – Complexity Assessment .....	28
	Appendix 2 – Exemptions .....	29

**All monetary values stated in this policy include GST unless specifically stated otherwise**

## 1 Purpose

The purpose of this Policy is to demonstrate the Colac Otway Shire Council's commitment to delivering leading practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance in accordance with Section 108 and 109 of the Local Government Act 2020 (Act).

## 2 Policy Principles

This policy is based on the following principles:

- a) The community has confidence that Council's policies and processes strive to deliver **value for money**;
- b) Suppliers and the community have confidence that there is **open and fair competition** in the market;
- c) There is **accountability** for all procurement activities;
- d) **Probity, integrity and transparency** ensures that the community and suppliers can readily access and understand how procurement occurs and can see that Council's policies and processes are consistent with relevant legislation and policy.
- e) **Risk management** is incorporated into procurement processes and decisions; and
- f) **Sustainable procurement** will generate benefits not only to Council, but to society and the economy, whilst minimising damage to the environment.

## 3 Scope

This policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council Officers and committees with procurement delegations.

This policy applies to agency staff, contractors and consultants undertaking any procurement activities on behalf of Council, noting that they have no financial delegation and cannot act as an Authorising Officer.

## 4 Background

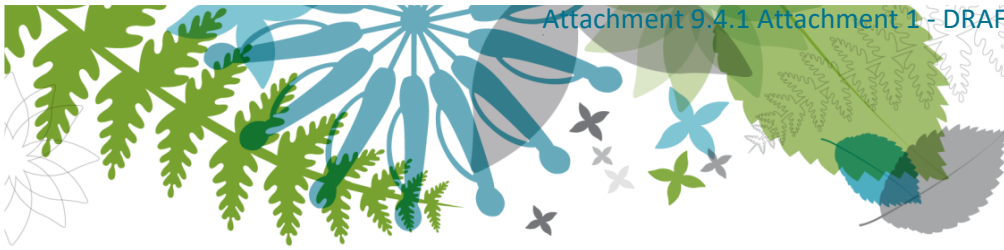
The Act requires each Council to:

- 1) prepare and adopt a procurement policy which specifies the principles, processes, and procedures to be applied in respect of the purchase of goods and services and carrying out of works by Council; and
- 2) review its procurement policy at least once during each 4-year term of Council.

This Policy is consistent with the requirements of s108(2) of the Act and will:

- a) promote open and fair competition and deliver value for money;

CM Reference	D22/234405	Date of Adoption	TBC	Page 1
--------------	------------	------------------	-----	--------



- b) provide consistency and control over Council's procurement activities;
- c) demonstrate accountability to ratepayers and residents;
- d) provide guidance on ethical behaviour within Council's procurement processes;
- e) incorporate best practice in all procurement activities;
- f) focus on sustainability in procurement with respect to social, economic and environmental factors; and
- g) promote collaborative procurement.

In accordance with the above objectives, Council's contracting and purchasing activities will:

- a) support Council's corporate strategies, aims and objectives, including but not limited to those related to sustainability, protection of the environment and social objectives;
- b) take a long-term strategic view of procurement needs while continually assessing, reviewing and auditing procedures, strategy and objectives;
- c) span the whole life cycle from initial concept through to disposal of an asset or the completion of a service contract;
- d) demonstrate that public money has delivered value for money;
- e) be conducted in an impartial, fair and ethical manner;
- f) seek continual improvement including harnessing innovative and technological initiatives such as electronic tendering processes to reduce activity costs;
- g) ensure that risk is identified, assessed and managed at all stages of the procurement process;
- h) comply with legislation, Council policies and other best practice requirements;
- i) use strategic procurement practices and innovative procurement solutions, in particular, making use of collaboration and partnership opportunities; and
- j) generate and support local businesses when value for money is evidenced.

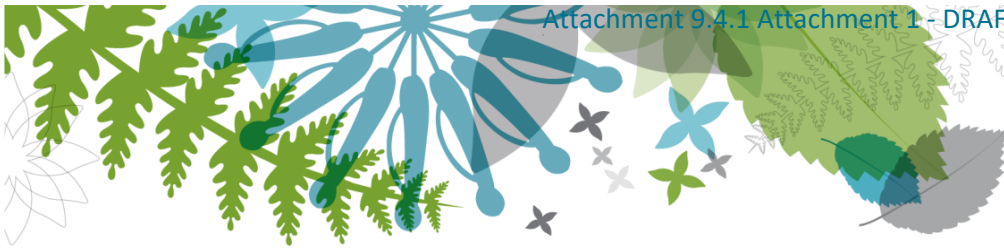
## 5 Statement of Policy

### 5.1 Implementing best practice principles

Council purchases goods, services and works to support service delivery and the maintenance and development of infrastructure. Council's procurement processes are based on the following principles established in section 2 of this policy:

- a) Value for money
- b) Open and fair competition
- c) Accountability
- d) Probity, integrity and transparency
- e) Risk management
- f) Sustainable procurement

CM Reference	D22/234405	Date of Adoption	TBC	Page 2
--------------	------------	------------------	-----	--------



### 5.1.1 Value for Money

Value for money is an overarching principle governing purchasing and disposal which allows the best possible outcome to be achieved for Council.

It is important to note that compliance with the purchasing specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

The principle of Value for Money underpins Council's procurement function. It is the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. It is a common, internationally recognised test for benchmarking expenditure to achieve policy objectives.

#### 5.1.1.1 Achieving value for money

Achieving Value for Money will be facilitated by:

- a) developing, implementing and managing a procurement framework that supports the co-ordination and streamlining of activities throughout the life cycle;
- b) development, implementation and management of the local procurement strategy;
- c) effective use of competition;
- d) using aggregated contracts where appropriate;
- e) identifying and rectifying inefficiencies in procurement processes;
- f) developing cost efficient tender processes, including appropriate use of e-solutions; and
- g) working with suppliers to create relationships that are professional and productive.

Lowest price is not the sole determinant of value for money and a combination of cost and non-cost factors are considered, including:

- (a) all relevant total costs of ownership and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as, but not limited to holding costs, consumables, deployment, maintenance and disposal;
- (b) the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions, and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications, service and support;
- (c) financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- (d) the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers; and
- (e) contribution to the advancement of Council's priorities and objectives.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 3
---------------------	------------	-------------------------	-----	--------



### 5.1.2 Open and Fair Competition

Council is committed to providing equal opportunity for all businesses, irrespective of their size and location, to bid for work through open and transparent market processes. Impartiality is to be maintained throughout the procurement process so it can eliminate the prospect of any bias in decisions and withstand public scrutiny.

#### 5.1.2.1 Accessibility

Council's procurement processes should be accessible to all potential suppliers and contractors who wish to submit a tender/quotation. Consideration should be made to ensure that the submissions process can be accessed by individuals or organisations who have additional needs that relate to, but are not limited to the following:

- (a) people with disabilities;
- (b) cultural and language barriers;
- (c) age;
- (d) gender and gender identities; and
- (e) religion.

Suppliers with additional needs should receive the same courtesy, attention, information, and service as any other tenderers. Council must ensure that assistance at any stage of the process is available when needed. Some examples of assistance that may be required include:

- (a) support with the navigation of online systems;
- (b) ensuring site visits are accessible to all potential suppliers; and
- (c) understanding and interpreting forms and contracts.

Whilst Council Officers may be required to assist with the submission of quotation/tenders, they must not enter a submission on behalf of a potential supplier. Officers may not influence the content of the submission; the submission must be in the words of the tenderer only. In the process of assisting Council officers should not disclose any information that is not publicly available and accessible to other potential suppliers/contractors. Answers and information provided in response to any questions during the market engagement period through a tender process must be provided to all parties via Council's online platform.

#### 5.1.2.2 Conduct of Councillors and Council Officers

Councillors and Council Officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.

Councillors and Council Officers, must:

- (a) treat potential and existing suppliers with equality and fairness;
- (b) not use their position to seek or receive personal gain in procurement matters;

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 4
---------------------	------------	-------------------------	-----	--------



- (c) maintain confidentiality of Commercial in Confidence information;
- (d) present the highest standards of professionalism and probity;
- (e) provide suppliers and tenderers with the same information and an equal opportunity to tender or quote for goods, services and works contracts;
- (f) be able to account for all decisions, and demonstrate and provide evidence of the processes followed;
- (g) not perform any work under any council contracts they are supervising (i.e. Council Staff cannot also work for the relevant supplier);
- (h) query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity, or established policies and procedures; and
- (i) ensure that this Policy and associated guidelines are adhered to in relation to any expenditure of Council funds.

#### 5.1.2.3 Conflicts of Interest

Councillors and staff must avoid situations which may give rise to an actual or perceived conflict of interest or potential conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.

A person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A person has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of staff and their family members.

Staff involved in the procurement process, in particular, preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report; and Councillors and council staff awarding tenders must:

- Avoid material or general conflicts of interest, whether actual, potential or perceived;
- Declare if they have a conflict of interest in respect of the procurement. Staff participating in tender evaluation panels must complete a conflict of interest declaration. Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and
- Observe prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information, whether or not for personal gain.

#### 5.1.2.4 Gifts, Benefits and Hospitality

Councillors and Council Officers must not, either directly or indirectly, solicit or accept gifts or hospitality from any member of the public where:

CM Reference	D22/234405	Date of Adoption	TBC	Page 5
--------------	------------	------------------	-----	--------



- (a) it is made during a procurement or tender process by a person or organisation involved in the process; and
- (b) acceptance could be perceived as endorsement of a good, service or work; or
- (c) acceptance would unfairly advantage the member of the public in future procurement decisions.

Councillors and Council Officers should refer to Council's applicable Code of Conduct and Gifts, Benefits and Hospitality Policy (18.9) for more guidance regarding the declaration of gifts, benefits and hospitality.

#### **5.1.2.5 Competition and Consumer Act Compliance**

Council will comply with the *Competition and Consumer Act 2010* and other fair-trading legislation applicable to its operations. Council is committed to the public policy goals embodied by these laws, which include the protection and promotion of competition.

Council is committed to ensuring staff are informed of their obligations arising under competition and consumer legislation, and to not allow the following to occur:

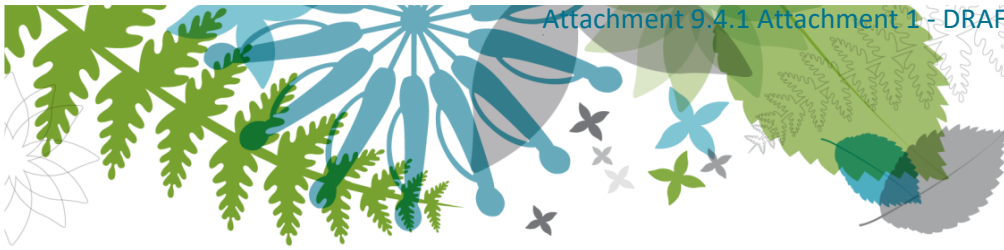
- (a) restrictive trade practices (including price fixing and exclusionary provisions relating to a division of territories);
- (b) market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power;
- (c) inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- (d) unconscionable and/or unfair business practices.

#### **5.1.3 Accountability**

Accountability in procurement means being able to explain and provide evidence on the process followed to procure the goods, services or works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable. All prospective suppliers and vendors will have the same information about the procurement to enable them to submit prices, quotations and tenders on the same basis. Council must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.

All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with the Act, this policy, Council's Procurement Procedure and related relevant Council policies and procedures.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 6
---------------------	------------	-------------------------	-----	--------



## 5.1.4 Probity, integrity and transparency

### 5.1.4.1 Probity Advisor

The use of an external, independent probity advisor shall be considered, dependant on the complexity of the procurement process, where the procurement is deemed a 'Strategic' procurement in accordance with the complexity assessment, or when the value of the goods, services or works exceeds \$2,000,000 (including GST). The probity advisor ensures process compliance, governance and high standards in the conduct of the procurement activity. The role of the probity advisor includes, but is not limited to:

- (a) endorsement of the procurement plan;
- (b) attendance at briefing sessions and tender evaluation meetings; and
- (c) submission of an independent report.

The probity advisor will provide their independent report once the tender evaluation panel report is finalised.

The probity advisor's report will be presented to Council as a confidential information when Council approval to award a contract is sought through a resolution of Council.

### 5.1.4.2 Probity Auditor

A probity auditor's role is to focus on compliance to procurement processes according to the tender requirements, criteria and principles to ensure adherence to Council policies and procedures. A probity auditor does not provide advice or offer any solution to any probity issues that arise during a procurement process. Where a probity auditor is to be engaged, the Audit and Risk Committee will be informed at the next available meeting. On completion of the audit, a report on the findings will be issued by the probity auditor and a copy provided to the Audit and Risk Committee.

### 5.1.4.3 Fraud and Corruption Control

Council has zero tolerance to any fraudulent or corrupt behaviour.

Council will take all reasonable measures to prevent, detect and deal with fraud and corruption and will:

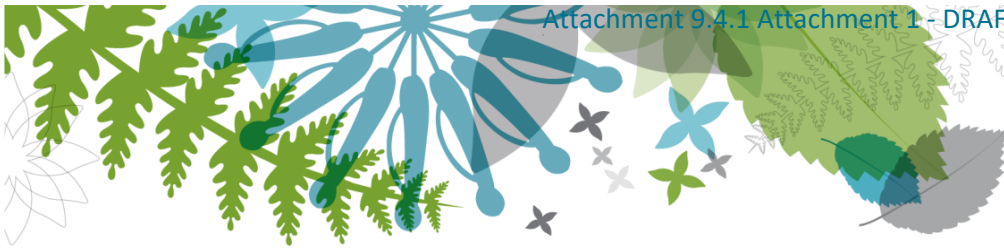
- (a) assess all alleged instances of fraud or corruption, and further investigate as necessary; and
- (b) pursue disciplinary, administrative, civil or criminal action as appropriate.

Council has developed a Fraud and Corruption Control Framework aimed at preventing fraud and corruption in the workplace and strengthening organisational integrity.

## 5.1.5 Risk Management

Risk management is to be appropriately applied at all stages of procurement activities. It is to be properly planned and carried out in a manner that will protect and enhance Council's capability. This is to prevent, withstand and recover from interruption to the supply of goods, services or works. Council will minimise its risk exposure by measures such as:

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 7
---------------------	------------	-------------------------	-----	--------



- (a) standardisation of contracts including current and relevant clauses;
- (b) requiring security deposits where appropriate;
- (c) where required, referring specifications to relevant industry experts;
- (d) contracts must be fully executed before the commencement of the good, service or work; and
- (e) use of or reference to relevant Australian Standards (or equivalent).

The Procurement and Contracts Department provides assistance to Council Officers to obtain goods, services and works using the most appropriate purchasing method. This includes:

- (a) providing assistance and advice regarding Council's procurement procedures and delegations;
- (b) developing appropriate documents and forms used in the procurement process; and
- (c) management of all Council's tenders.

To protect the best interests of the Council, terms and conditions will be settled in advance of any commitment being made with a contractor or supplier. Any exception to this requirement exposes Council to risk.

#### **5.1.5.1 Procurement Plans**

A Procurement Plan will be prepared for any procurement activity that is expected to result in a contract of value greater than \$150,000 (including GST) or assessed to have a high degree of complexity.

#### **5.1.6 Sustainable Procurement**

Council is committed to reducing its environmental impacts and operating in a socially, financially and environmentally responsible manner. Council will use Council's procurement processes to deliver sustainable procurement outcomes where such purchases may be justified on value for money grounds.

For the purpose of achieving broad sustainability outcomes, balanced with overall value for money outcomes, Council will assign collective weighting for sustainability factors (listed below).

- Minimum combined weighting of 10%
- Maximum combined weighting of 20%

As part of a request for quotation or request for tender quotation process, a weighting of up to 10% may be applied for any of the following single sustainability factors:

- a) environmental benefits;
- b) strengthening and building the economic growth of Aboriginal and Torres Strait Islander owned businesses;
- c) social benefits; and/or
- d) promoting economic benefits to the local region.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 8
---------------------	------------	-------------------------	-----	--------



#### 5.1.6.1 Environmental Sustainability

In its procurement and purchasing, Council will assess the following environmental benefits offered as part of its procurement activity:

- reducing greenhouse gas emissions
- increasing energy efficiency and the uptake of renewable energy
- application of the waste hierarchy
- promoting a circular economy
- using environmentally sustainable design principles
- conserving water conservation
- biodiversity protection

#### 5.1.6.2 Social Sustainability

Social sustainability focuses on the social (or people) aspects of procurement and in particular social equity. Social equity goals address disadvantage and are underpinned by principles of diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities. A focus is placed on people who are underrepresented and people with less opportunity.

Social procurement generates positive outcomes and contributes to building stronger communities by elevating the inherent social value of doing business. Where applicable within the context of purchasing on a value for money basis, Council will use procurement processes and purchasing power to generate positive social and economic outcomes for our community through exploring opportunities including but not limited to:

- a) engaging Social Enterprises for the procurement of goods or services;
- b) valuing suppliers that identify principles of inclusion, diversity and gender equity;
- c) promoting the use of suppliers/businesses where the ownership or majority of employment relates to Aboriginal and Torres Strait Islander people; and

Council is committed to actively participate in the Growing Regional Opportunities for Work (GROW G21) Program and will seek to incorporate specific GROW principles where possible.

#### 5.1.6.3 Support for Local Content

Council is committed to buying from local suppliers. This is to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the municipality.

In every instance where the market engagement method is through request for quotation or tender, Council will seek at least one quotation from business within the Shire and if this is not possible it will seek at least one quotation tender from within 50km of the municipal boundary to encourage participation from regional businesses.

Council will also seek from prospective suppliers, where applicable, details of the economic contribution they will make to the Colac Otway Shire and the wider Barwon and South West regions of Victoria. Such examples may include:

- engaging and contracting with local suppliers;

CM Reference	D22/234405	Date of Adoption	TBC	Page 9
--------------	------------	------------------	-----	--------





- supply chain engagement of local sub-contractors;
- suppliers participation in any local apprenticeship and traineeship schemes;
- contributing to the financial, social and environmental wellbeing of the region; and/or
- enabling business expansion, growth and servicing of local business.

## **5.2 Market Engagement Methods**

### **5.2.1 Procurement Thresholds**

The policy requirements that must be complied with by Council Officers, including market engagement processes and contract awards are detailed in this policy and further supported by operational procedures.

#### **5.2.1.1 Calculating procurement thresholds**

Assessment of procurement thresholds will include:

1. The actual or expected value of a contract over the full contract period (including provision sums, provisional items and all options to extend);
2. The estimated cumulative expenditure with a certain Supplier for a similar form of goods, service or works in any 12-month period, inclusive of the total of existing contracts and the estimated value of the proposed contract; and
3. The extent to which it could be reasonably expected that Council will continue to purchase a particular category of goods, service or works, and what the total value is or could be reasonably expected to be purchased.

When consideration point 2 above, Council needs to consider the likely respondents to a request for quotation or request for tender process when assessing the expected purchasing threshold, particularly where there is a relatively limited number of likely suppliers, such as in the local market.

#### **5.2.1.2 No splitting of contracts**

Council Officers must not attempt to avoid the requirements of this policy by splitting what is essentially a single procurement into more than one part.

### **5.2.2 Existing Council Contracts, including panels**

Council is committed to developing constructive long-term relationships with suppliers.

Existing Council contracts must be utilised for the procurement of goods, services and works unless the panel of providers cannot provide a specialist type of good, service or works.

### **5.2.3 Use of State Government and other Panels**

Where possible officers must seek public tenders from the open market for all procurement above the thresholds.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 10
---------------------	------------	-------------------------	-----	---------

Officers must not access State Government panels or any other external panels unless they have prior discussion and approval from the Property, Procurement and Contracts Department and/or Executive Leadership Team. This is to ensure the process remains competitive, is accessible to local suppliers and provides best value to Council.

#### 5.2.4 Market Engagement Methods

The purchasing threshold calculated in accordance with the previous section will determine the market engagement method for the procurement of goods, services or works as outlined in the following table.

Procurement Threshold (Including GST)	Minimum Market Engagement	Payment Method	Agreement Type	Record Keeping
<b>Less than \$2,000</b>	Obtain one (1) written quotation *	Petty cash if less than \$100, Credit Card if less than \$2,000. Payment on Invoice	Written record of acceptance of quotation, or purchase order where appropriate.	Receipt of purchase.
<b>\$2,000 to less than \$30,000</b>	Seek two (2) written quotations	Payment on invoice.	Purchase order with terms and conditions.	Quotes and written quote form must be attached to the purchase order
<b>\$30,000 to less than \$150,000</b>	Seek a minimum of three (3) written quotations	Payment on invoice.	Purchase order with terms and conditions: <ul style="list-style-type: none"> <li>for <u>works</u> up to \$50,000</li> <li>for <u>goods and services</u> up to \$100,000</li> </ul> For contracts greater than the above limits, use a Contract with Instrument of Agreement	All RFT and RFQ submissions, panel reports or written quote forms must be attached to the purchase order
<b>\$150,000 to less than \$250,000</b>	Seek a minimum of five (5) written quotations, and receive at least two (2) written quotations	Payment on invoice.	Contract with Instrument of Agreement	All RFT and RFQ submissions, panel reports or written quote forms must be attached to the purchase order

Procurement Threshold (Including GST)	Minimum Market Engagement	Payment Method	Agreement Type	Record Keeping
<b>\$250,000 or greater</b>	Select or Public Tender (based on complexity assessment in Appendix 1)	Payment on invoice.	Contract with Instrument of Agreement	All RFT and RFQ submissions, panel reports or written quote forms must be attached to the purchase order

*\* For purchases less than \$2,000 (including GST) an advertised retail price is treated as a quotation for the purpose of this policy.*

The above are minimum requirements only.

If a better value for money outcome may be achieved Council Officers are to:

- Seek further quotations in excess of the minimum specified
- Conduct a Tender process in lieu of a Request for Quotation.

In instances where the minimum number of quotations sought are not received, Council Officers must provide documentation to demonstrate that there were genuine attempts to source the desired number of quotations. The Authorising Officer is able to progress with the procurement, unless it would be considered inappropriate to proceed.

No market engagement should commence until it is authorised by an Authorising Officer.

### 5.2.5 Collaborative Procurement

In accordance with section 108(c) of the Act, Council will first give consideration to collaboration with other councils and public bodies or utilise existing collaborative procurement arrangements when procuring goods, services and works in order to take advantage of economies of scale.

Council will actively pursue opportunities to collaborate and work across municipal boundaries to improve procurement outcomes, maximise savings and benefits, share better practices and achieve enhanced value for money outcomes or other community benefits.

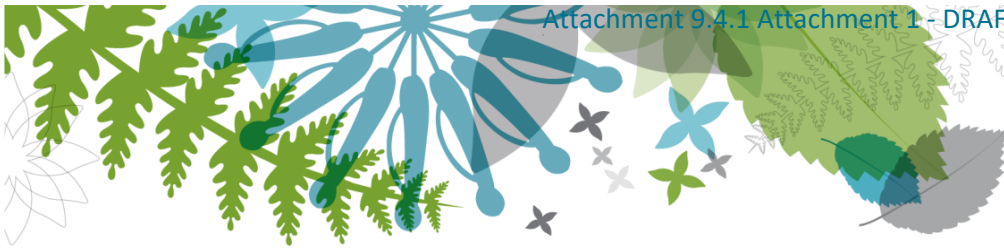
When a report for a procurement is presented to Council for approval, it will include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process.

#### 5.2.5.1 Identifying collaborative procurement opportunities

To aid in the identification of collaborative procurement opportunities, the responsible manager will maintain a Collaborative Procurement Register that will identify:

- Council contracts with a minimum value of \$500,000 (per annum for the ongoing supply of goods or provision of services or works).

CM Reference	D22/234405	Date of Adoption	TBC	Page 12
--------------	------------	------------------	-----	---------



- Other contracts which, due to the subject matter, nature or scope, are likely to deliver operational efficiencies if procured in collaboration for consideration as a possible joint procurement opportunity; and
- Projects that are bespoke or unique to Council (e.g. unique construction or works projects), which will be excluded from collaboration.

The overarching strategic aim of collaboration is for communities to benefit from the productive use of Council resources. Where benefit to the community, either directly or indirectly is unlikely to be achieved, a collaborative approach should not proceed.

#### 5.2.5.2 Participating in a collaborative procurement

Modification of Council's standard Procurement Policy requirements may be necessary to achieve the optimum benefits available from collaborative procurement opportunities.

Various models of collaborative procurement exist, each present varying challenges, governance and probity complexities, which without appropriate planning may otherwise limit Council's ability to participate in cooperative purchasing arrangements.

The standards set out in the Best Practice Principles of this Policy will continue to apply for all collaborative procurement.

#### 5.2.5.3 Reporting requirements

When a report for a procurement is presented to Council for approval, it will include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process including:

- a) The nature of those opportunities, if any, and councils or public bodies with which they are available; and
- b) Why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

#### 5.2.6 Public Tender Process

The table below outlines the main processes undertaken for a public tender.

Stage	Process
Advertisement	Tender advertised via Colac Herald, online through online tender portal. Council officers may elect to also place advertisements in other medium forums such as the Geelong Advertiser, The Age, the Herald Sun or through relevant industry associations. Council officers may also opt to place advertisements on relevant approved social media platforms.
Tender Period	Tender period is a minimum of 21 calendar days. A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date.

CM Reference	D22/234405	Date of Adoption	TBC	Page 13
--------------	------------	------------------	-----	---------



Stage	Process
Tender Evaluation	<p>Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.</p> <p>Once all evaluation panel members have scored the tenders, a moderation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.</p>
Contract Award	<p>The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.</p>

Conflicts of interest should be regularly assessed through all parts of the tender process above, and any officer that identifies a potential conflict of interest must remove themselves from any further participation in the process.

### 5.2.7 Late tenders

A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date.

Council staff shall not accept a late tender.

### 5.2.8 Alternative Proposals

Invitees are encouraged to offer options or solutions which may, in an innovative way, contribute to Council's ability to carry out its business in a more cost-effective manner. These may be related to:

- (a) the outputs, functional, performance and technical aspects of the requirement;
- (b) minimisation of environmental impact; and/or
- (c) opportunities for more advantageous commercial arrangements.

Where an Invitee submits an alternative proposal which meets the requirements of a request for tender, the offer must also include any supplementary material (including such pricing and costing details as may be necessary to enable Council to fully assess the financial impact of the alternative proposal), which demonstrates in detail that such an alternative will fully achieve all the specified requirements, together with references as to why the additional features may be advantageous.

Council reserves the right, in its absolute discretion, to consider an alternative tender provided the invitee has met the mandatory evaluation criteria. If an invitee submits an alternative tender, it must also:

CM Reference	D22/234405	Date of Adoption	TBC	Page 14
--------------	------------	------------------	-----	---------





- (a) submit a complying tender; and
- (b) submit a copy of the clearly identified alternative tender in a marked-up form, which identifies all departures from the complying tender.

Council also reserves the right to consider an alternative tender without offering other respondents the opportunity to revise their response on the same basis.

### **5.2.9 Third party financial relationships**

Where a respondent to a RFQ or RFT proposes that a third party has a financing role (i.e. where Council directly pays the third party rather than the supplier) then both contracts/agreements must be approved via Council resolution regardless of the value.

Request for Council approval will be via a single officer's report that details all contracts and arrangements, including measurement and payment arrangements.

### **5.2.10 Zero tender submissions process**

If a request for tender fails to result in any eligible tender submissions, Council may do one of the following:

- (a) undertake new procurement process by way of inviting open RFT based on the same or different details;
- (b) undertake new procurement process by way of inviting selective RFT from persons interested in tendering for the proposed contract;
- (c) undertake new procurement process by way of inviting selective RFT from persons interested in tendering for contracts of the same kind as the proposed contract;
- (d) undertake tender negotiation process as per section 5.2.11;
- (e) carry out the requirements of the proposed contract itself.

### **5.2.11 Direct Tender Negotiation**

In situations where the procurement policy has been followed, and a tender process has failed to result in the acceptance of any tender submission, Council may decide by delegation or resolution to enter into direct negotiations with any person or persons with the intention to enter a contract.

Any direct tender negotiation must be conducted in accordance with this section.

- The delegation or resolution of Council must state the reasons for declining to advertise and invite fresh tenders.
- Council will establish any conditions or limitations on the negotiation via resolution prior to commencement of any negotiation.
- Direct tender negotiations must not occur with any supplier that was involved in, or privy to, the initial tender process.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 15
---------------------	------------	-------------------------	-----	---------

- Council must not use such tender negotiations as an opportunity to trade-off one tenderer's prices against other tenderers' prices in order to obtain lower prices.

When the decision to undertake direct negotiation with one supplier, buyer or proponent has been made, Council will demonstrate commitment to a fair and accountable process by ensuring the following:

- Council's CEO is provided with a negotiating plan prior to commencement and is provided with updates of progress as appropriate;
- Council officers conducting the negotiations have high level skills, training and experience in commercial negotiations;
- A team approach is taken to the negotiations, led by a suitably qualified experienced senior person and consideration is given to including an independent observer or probity auditor;
- The negotiation process is adequately resourced;
- Preparation of a negotiation plan and strategy includes aims, objectives, constraints and agreed minimum bargaining positions;
- A formal communication protocol is adopted and agreed by both parties, which covers regular meetings, written exchanges, document exchanges, dealing with urgent matters, 'critical' issues meetings, recording of meetings and the roles and responsibilities of all team members;
- Expert technical and legal advisers are involved at the appropriate times;
- Appropriate confidentiality is maintained;
- Following completion of the negotiations, an evaluation is conducted to assess whether the aims of the negotiations were achieved; and
- comprehensive documentation of the planning, process and results of the negotiations is maintained.

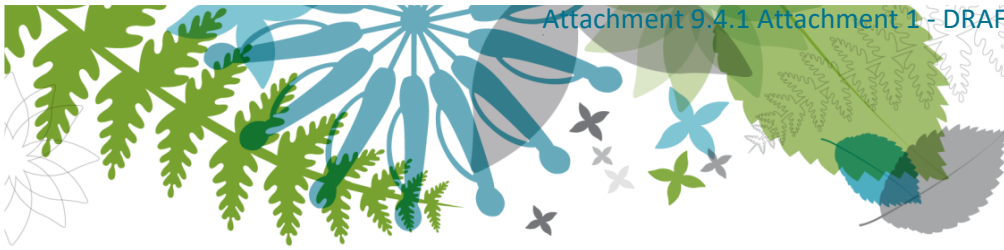
### 5.2.12 Exemptions from Market Engagement Methods

An exemption to the Market Engagement Methods and procedures should only be considered in exceptional circumstances. Potential exemptions must be considered **prior** to seeking or receiving any quotation or tender for works.

This policy recognises this principle and therefore exemptions are limited under this policy to the following circumstances:

- in matters of *emergency* including public health, security or safety as a result of an unforeseen event or occurrence;
- installations where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability;
- an absence of competition; there is one or a limited number of available tenderers in the market or suppliers able to submit quotations;

CM Reference	D22/234405	Date of Adoption	TBC	Page 16
--------------	------------	------------------	-----	---------



- (d) the goods, services or works are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the goods, service or works are to be provided or undertaken;
- (e) the goods or services are being supplied through a renewal or extension of the term of a contract (the original contract) where;
  - i. the original contract was administered through a public tender process;
  - ii. the invitation for tenders contained provisions for the renewal or extension of a contract;
  - iii. the original contract contains an option to renew or extend its term; and
  - iv. the supplier's tender included a requirement for such an option.
- (f) where the acquisition is of a cultural or artistic nature i.e. a live show or art piece;
- (g) the marketplace is restricted by statement of license or third-party ownership of an asset;
- (h) Council is party to a joint arrangement where Council jointly owns the Intellectual Property with a third party provider;
- (i) it is not in the interest of the public to apply the procurement thresholds; and
- (j) where the procurement is on Council's procurement exemptions list (refer to **Appendix 2**).

The above exemptions require approval by a General Manager, or the Chief Executive Officer where the anticipated contract amount is higher than the financial delegation of the General Manager. Requests for an approval of exemption to the Market Engagement process must be documented in a manner that demonstrates that the circumstances listed in this section apply.

All other exemptions to the Market Engagement processes require approval the approval of the Chief Executive Officer and must be supported by a detailed report justifying the need for an exemption to be granted.

All exemptions to the Market Engagement processes will be recorded in the Procurement Exemption Form and recorded in the Procurement Exemption Register managed by the Property, Procurement and Contracts Department as follows:

- i. A register of '*Specified Exemptions*' that meet circumstances (a) to (j) listed in this section; and
- ii. A register of '*Other Exemptions*' that are outside the circumstances (a) to (j) listed in this section.

The register of Other Exemptions shall be presented to the Audit and Risk on a quarterly basis (noting that these committee agendas are also presented to a Council Meeting).

## 6 Financial Delegations

Delegations empower Council Officers and Delegated Committees with the authority to make binding decisions on behalf of Council, and are a function of administration expressed, in ordinary terms, as 'who can do what'.

CM Reference	D22/234405	Date of Adoption	TBC	Page 17
--------------	------------	------------------	-----	---------



Authorising Officers with financial delegation have authority to commit funds for procurement purposes within the budget approved by Council. This enables Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity. Council officers are not authorised to enter a contract on behalf of Council where the Contract Value exceeds their financial delegation.

For more information on delegations Council Officers should refer to S7 Instrument of Sub-Delegation from CEO to Council staff.

## **7 Contracts**

This section applies to formalised Contracts with an Instrument of Agreement.

### **7.1 Contract Documents**

All contractual relationships must be documented in writing based on Council's standard terms and conditions.

### **7.2 Contract Terms and Conditions**

Contractual terms and conditions must be settled prior to issue of the Acceptance Letter or Award Letter and the Contract Documents, or any commitment is made to the supplier. To facilitate this, Council's proposed contractual terms and conditions must be issued as part of any request for quotation/tender documentation (on all purchases over \$50,000 including GST) to ensure that suppliers are fully aware of the contractual terms and conditions that will be the basis of any contractual relationship between the parties.

Council will generally use contract documents with conditions that are based on the suite of contracts developed by Standards Australia, with all amendments to standard conditions clearly identified and documented.

The conditions of tendering and of the contract (standard and amended) will be documented and available at the time of commencing market engagement, inclusive of the criteria and relative weightings that will form the basis of assessment of tenders.

#### **7.2.1 Contract KPIs**

Key Performance Indicators should be considered for inclusion in all contracts and are mandatory in all service contracts with a value in excess of \$500,000 (including GST).

#### **7.2.2 Deviations from standard terms and conditions**

Council officers are not to accept changes to Council's standard terms and conditions proposed by a supplier and / or any agreements provided by an external supplier under any circumstances.

In the event that difficulties are encountered with a supplier accepting Council's standard terms and conditions of the contract, no changes are to be accepted without prior consultation and agreement with the Manager of Property, Procurement and Contracts and written approval from the CEO. Such approval is to be supported with procurement, risk management and legal advice as relevant.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 18
---------------------	------------	-------------------------	-----	---------



### 7.3 Contract Insurance

Insurance required under a contract shall be as per the following table.

Type of Contract	Type of Insurance	Minimum Level Required
Goods and Services	Public Liability	\$20 million
	Professional Indemnity	\$5 million
	Products Liability	\$10 million
	Workcover/Motor vehicle	As required
Panel/Annual Supply/Works	Public Liability	\$20 million
	Professional Indemnity	\$10 million (if required)
	Products Liability	\$20 million
	Workcover/Motor vehicle	As required
Consultants (including consultants on a panel)	Public Liability	\$5 million
	Professional Indemnity	\$5 million
	Products Liability	As required

Higher levels of insurance should be considered when assessing the procurement complexity and preparing the Procurement Plan.

Variations to the above insurance requirements can only be approved by the Chief Executive Officer.

### 7.4 Contract Establishment

Contracts must be signed or executed only by an Authorising Officer with the required level of financial delegation.

The Manager of Property, Procurement and Contracts must review all contracts prior to the documents being presented to the Authorising Officer for their approval and issuance to the Contractor.

An appropriately skilled and experienced Contract Manager, Contract Superintendent or Contract Supervisor who is responsible for management of the contract must be appointed at the establishment of every contract.

The Contract Manager may delegate or assign particular functions or obligations to another staff member but remains responsible for management of the contract.

Where a dispute concerning the contract arises, the Contract Manager is to take a leadership role in dispute resolution.

### 7.5 Contract Management

Council will proactively reinforce the performance of obligations and responsibilities under a contract by applying best practice contract management disciplines.

CM Reference	D22/234405	Date of Adoption	TBC	Page 19
--------------	------------	------------------	-----	---------





Good contract management ensures goods, services and works are delivered to the required standards of quality and quantity as intended by the contract through:

- (a) Establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract;
- (b) Providing a means for the early recognition of issues and performance problems and the identification of solutions;
- (c) Adhering to Council's risk management framework and relevant Occupational Health and Safety and sustainability requirements.

Council contracts are to include contract management requirements commensurate with the complexity of the procurement.

## 7.6 Variations to the Contract

All contract variations, including monetary or non-monetary variations, must be documented and appropriately approved.

Variations should not be used to mask poor performance or serious underlying problems, including poor project scoping and/or omissions from specifications.

The effect on original timeframes, deliverables and value for money should be assessed. If the effects are significant, senior management and other stakeholders need to be consulted and/or advised.

A variation to a contract must be approved by an Authorising Officer with adequate financial delegation to approve the adjusted contract sum unless the Council has appointed the CEO or a senior officer to act in the role of Principal or Superintendent on behalf of the Council. This authorisation does not over-ride this policy unless it is clear in the resolution of Council.

A variation should not be approved that results in the Total Estimated Project Cost (TEPC) exceeding the Total Project Budget (TPB) unless the variation is required to address:

- a. a workplace health and safety issue; or
- b. a matter that would result in non-compliance relevant legislation or regulation;

and seeking a resolution of Council to adjust the project budget would result in a material delay that is expected to incur a similar or greater cost than the proposed variation.

If a variation is approved and the Adjusted Contract Sum results in the TEPC exceeding the Total Project Budget:

- a. the Executive Management Team will be advised promptly; and
- b. Council will be asked to approve a budget adjustment via Council resolution with the reason for the variation documented with the request for adjustment.

When Council approval for a budget adjustment is sought prior to approval of a variation, the approval may include an estimate for future variations, to provide the CEO with the authority to approve future variations without exceeding the budget.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 20
---------------------	------------	-------------------------	-----	---------



Cumulative variations on a single contract that exceed 30% of the Original Contract Sum will be reported to the Executive Management Team monthly.

Cumulative variations on a single contract that exceed 30% of the Original Contract Sum will be reported bi-annually to the Audit and Risk Committee, where the total value of the cumulative variations exceeds \$150,000 (including GST).

### **7.7 Claims under the Contract**

The Contract Manager, Superintendent or Contract Supervisor must accept, assess and consider any claim submitted by a Supplier in accordance with the relevant terms and conditions of the contract, including timeframes for the Superintendent's decision.

The Superintendent is responsible for ensuring that there are records of:

- a. The claim made and all supporting documentation to substantiate the claim;
- b. Their assessment of the claim with reference to all relevant clauses in the Conditions of Contract; and
- c. The Superintendent's determination.

The CEO will be advised of any claim submitted that could result in a payment to the supplier of greater than \$50,000 (including GST) prior to the Superintendent formalising their determination.

If the Superintendent determines to accept a claim that results in a cost that results in the TEPC exceeding the TPB:

- a. the Executive Management Team will be advised promptly; and
- b. Council will be asked to approve a budget adjustment via Council resolution with an explanation for the request for adjustment.

Cumulative claims on a single contract that exceed 30% of the Original Contract Sum will be reported bi-annually to the Audit and Risk Committee, where the total value of the cumulative variations exceeds \$150,000 (including GST).

### **7.8 Contract Extensions**

In order for an extension to be approved a contract performance review must be undertaken including a thorough assessment of KPIs and performance against the contract.

Prior to approval there needs to be assurance that there is still best value present and the criteria / principles in the original evaluation have been re-assessed and re-considered.

Where all opportunities for an extension allowable under an existing contract have been exhausted and circumstances are such that there is a critical requirement to extend the contract further the CEO may approve an additional extension where:

- a. the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected; or

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 21
---------------------	------------	-------------------------	-----	---------

- b. an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.

## 7.9 Contract Completion

A contract is considered complete when all activity associated with the contract has ceased and all accounts have been paid. Tasks that may be required by the Contract Manager/Owner at the completion of a contract include:

- ensuring the contract deliverables to ensure that the goods or services have met the contract requirements;
- ensuring that permits and approval conditions have been satisfied;
- confirming that contract records are complete and accurate;
- acquitting any external grants provided to Council;
- ensuring any defects, omissions or outstanding services have been rectified, completed or delivered;
- issuing a certificate of practical completion and final certificate;
- returning any security held.

## 7.10 Contract Evaluation

In order to continually improve its procurement and contract management processes and outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accordance with its documented procurement processes.

## 8 Other Policy Matters

### 8.1 Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure overall organisation compliance with the policy.
General Managers	Ensure compliance with the policy by all Council Officers under their supervision.
General Manager Corporate Services	Overall responsibility for the policy implementation and compliance.

CM Reference	D22/234405	Date of Adoption	TBC	Page 22
--------------	------------	------------------	-----	---------



Party / Parties	Roles and Responsibilities
Managers	Ensure compliance with the policy by all Council Officers under their supervision.
Manager Property, Procurement and Contracts	Responsible for reviewing, updating and implementing policy. Together with the Procurement and Contracts Department, primary source for procurement advice, training and guidance.

## 8.2 Disclosure of Information

The commercial interests of existing and potential suppliers must be protected. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing, intellectual property and product information. The *Freedom of Information Act 1982* provides members of the public with a legally enforceable right of access to documents held by Council, subject to certain restrictions (or exemptions) that are set out within the legislation. Where practicable, Council will consult with businesses to seek their views before making a determination on whether to release documentation to a Freedom of Information (FOI) applicant.

At no stage should Councillors or Council Officers have discussions with potential suppliers about active procurements prior to the approval process being finalised, other than authorised procurement negotiations. Councillors and Council Officers should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier is to improperly influence a Councillor's or Council Officer's decision-making in procurement related matters.

## 8.3 Document Management

### 8.3.1 Record Keeping

Council Officers need to ensure that all records relating to procurements are stored in Council's record management database. This is to ensure that:

- (a) the processes followed and any decisions made during the procurement can be substantiated; and
- (b) there are adequate records to support contract matters or disputes.

Records will be kept in accordance with the *Public Records Act 1973* - Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions).

## 9 Definitions

In this Policy:

CM Reference	D22/234405	Date of Adoption	TBC	Page 23
--------------	------------	------------------	-----	---------



**Act (the)** means the *Local Government Act 2020* (as amended)

**Authorising Officer** means a Colac Otway Shire Council employee who has a formal sub-delegation from the Chief Executive Officer and is authorised to enter contracts and approve expenditure on behalf of Council within a specific monetary limit.

**CEO** means the Chief Executive Officer of Colac Otway Shire Council.

**CEO Delegation** means the financial delegation of the Chief Executive Officer as approved by Council.

**Claim** includes any claim, action, demand or proceeding by the Supplier against Council, whether under or arising out of the Contract or otherwise.

**Collaborative Procurement** means a contract established by a council, government or a nominated agent, aggregator or other approved entity, for the benefit of multiple state, federal and/or local government entities and that achieves value for money by leveraging combined economies of scale.

**Conflict of Interest** means where a Councillor or Council Officer has private interests that could influence, or be seen to influence, their decisions or actions in the performance of their public duties, defined under the Act as a general or material interest.

**Contract** means an agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act/s that is enforceable in law. A contract may be verbal or written or inferred by conduct. Contracts subject to this policy relate to agreements between Council and another party who has agreed to provide goods or services to Council or undertake works on behalf of Council.

**Contract Management** means the process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide value for money.

**Contract Manager** – see Superintendent

**Contract Supervisor** – see Superintendent

**Contracted Supplier Panel List** means a list of suppliers that have been appointed for the supply of goods and/or services following a public Tender process undertaken by Council.

**Council** means Colac Otway Shire Council.

**Councillor** means a person who has been elected to the office of Councillor of Council.

**Council Officer** means a current member of Council staff with the authority to engage in activities on behalf of Council.

**Emergency** means a sudden or unexpected event which constitutes a risk to life or property requiring immediate action, and which may require the immediate procurement of goods/services/works to provide relief, business continuity or public safety.

- a) an earthquake, flood, windstorm or other natural event;

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 24
---------------------	------------	-------------------------	-----	---------





- b) a fire;
- c) an explosion;
- d) a road accident or any other accident;
- e) a plague or an epidemic or contamination;
- f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth;
- g) a hi-jack, siege or riot; and
- h) a disruption to an essential service.

**Expression of Interest (EOI)** means an invitation for interested persons to provide information for the provision of the goods, services and works which are generally set out in the overview of requirements contained in a document. An Expression of Interest is not an offer or a contract. An EOI can be part of a multi-stage tendering process.

**Evaluation Criteria** means the criteria that are used to evaluate the compliance and/or relative ranking of proposals. Evaluation criteria must be clearly stated in the request for tender.

**GROW G21** is an initiative established by the G21 Geelong Region Alliance built on the collective impact model, we bring together individuals, community organisations, businesses, and government to address entrenched disadvantage through employment.

**Goods, Services or Works** means the deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.

**Grant** means a sum of money given by Colac Otway Shire Council to an eligible recipient (grantee) for a particular purpose following an application and assessment process.

**Indigenous Procurement** means purchasing from a business that is owned and operated by an Aboriginal or Torres Strait Islander person(s).

**Invitee** means a company, person or entity (including representatives) which submits a tender or quote; and includes, where the context permits, prospective Invitees and other recipients of the request for tender or request for quote.

**Local Content** means the labour, materials, plant and supervision that is sourced from within Colac Otway Shire.

**Market Engagement Method** means the market mechanism for the procurement of goods, services or works.

**MAV Contracts** means the Municipal Association of Victoria. These contracts are created through the Municipal Association of Victoria, for the supply of goods and services.

**Negotiation** means a process of arriving at an agreement on the conditions of a contract, through discussion between Council and tenderer/tenderers.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 25
---------------------	------------	-------------------------	-----	---------



**PA Contracts** means Procurement Australia contracts. These contracts are created through Procurement Australia, for the supply of goods.

**Probity** within local government, the term “probity” is often used in a general sense to mean “good process”. A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council’s policies and legislation are established, understood, and followed from the outset.

**Probity Advisor** ensures process compliance and helps ensure high standards of probity in the conduct of the procurement activity.

**Probity Auditor** means an independent scrutiny after completion of a procurement process and expresses an objective opinion to whether the probity principles and standards were adhered to.

**Procurement** means the process involving all activities following the decision that a good or service is required. It involves the acquisition of goods and services and the disposal of goods.

**Procurement Plan** means a document prepared prior to commencing a procurement process (having consideration to the objectives, complexities and expected contract value) to detail the intended process to be followed throughout the approach to market; including but not limited to the criteria by which submissions will be evaluated.

**Public Tender Process** means the process of inviting parties via public advertisement to submit an offer by tender followed by evaluation of submissions and selection of a successful bidder or tenderer in accordance with pre-determined evaluation criteria.

**Request for Quotation (RFQ)** means the process of inviting parties to submit a quotation followed by the evaluation of submissions and selection of a successful bidder.

**Request for Tender (RFT)** means the process of inviting parties via public advertisement to submit an offer by tender followed by evaluation of submissions and selection of a successful bidder or tenderer in accordance with pre-determined evaluation criteria.

**Requisitioning Officer** means a Colac Otway Shire Council employee who has system access to raise a purchase requisition. This employee will not necessarily have purchasing authority, in which case, the requisition, and associated documentation is forwarded to an Authorising Officer for consideration.

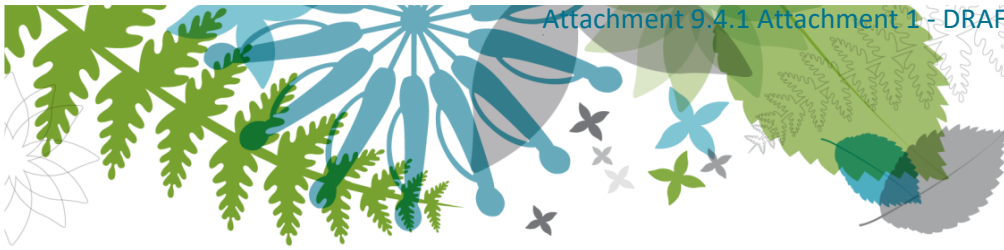
**Select Tender** means an approach to market which is directed to a select group of suppliers who are invited to submit a tender proposal. This process may follow an Expression of Interest.

**Superintendent** means the Council Officer or person appointed to perform the role of the Contract Manager, Superintendent or Contract Supervisor

**Supplier** means an external person or organisation from which goods, services and works are purchased, on behalf of Council, and in accordance with contractual obligations.

**Sustainable Procurement** means a strategic approach to meeting social, economic and environmental objectives by using procurement processes and purchasing power to generate positive social and environmental outcomes in addition to the delivery of efficient goods, services and works.

CM Reference	D22/234405	Date of Adoption	TBC	Page 26
--------------	------------	------------------	-----	---------



**Value for Money** means the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

**Variation** means any direction by the Superintendent to change the goods, services or works under contract, and generally results in deliverables, outputs, methodology or timeframes that differ from those in the contract. Note that *claims* by the supplier are considered to be different to variations.

## 10 References

This policy should be read in conjunction with the following:

- (j) *Competition and Consumer Act 2010*;
- (a) *Freedom of Information Act 1982*;
- (b) *Local Government Act 2020*;
- (c) *Privacy and Data Protection Act 2014*;
- (d) *Public Records Act 1973*;
- (e) *Security of Payments Act 2002*;
- (f) Council's Procurement Procedure;
- (g) Policy 16.2 Colac Otway Shire Council's Fraud and Corruption Control Policy;
- (h) Policy 18.2 Colac Otway Shire Council's Information Privacy Policy;
- (i) Policy 18.9 Colac Otway Shire Council's Gifts, Benefits and Hospitality Policy;
- (j) Corporate Procurement Card Procedure;
- (k) Corporate Procurement Card Operational Policy;
- (l) Colac Otway Shire Council's Staff Code of Conduct;
- (m) Colac Otway Shire Councils Councillor Code of Conduct;
- (n) S7 Instrument of Sub-Delegation from CEO to Council staff;
- (o) Environment Protection Act 2017; and
- (p) Local Government Best Practice Procurement Guidelines, 2024.

## 11 Commencement

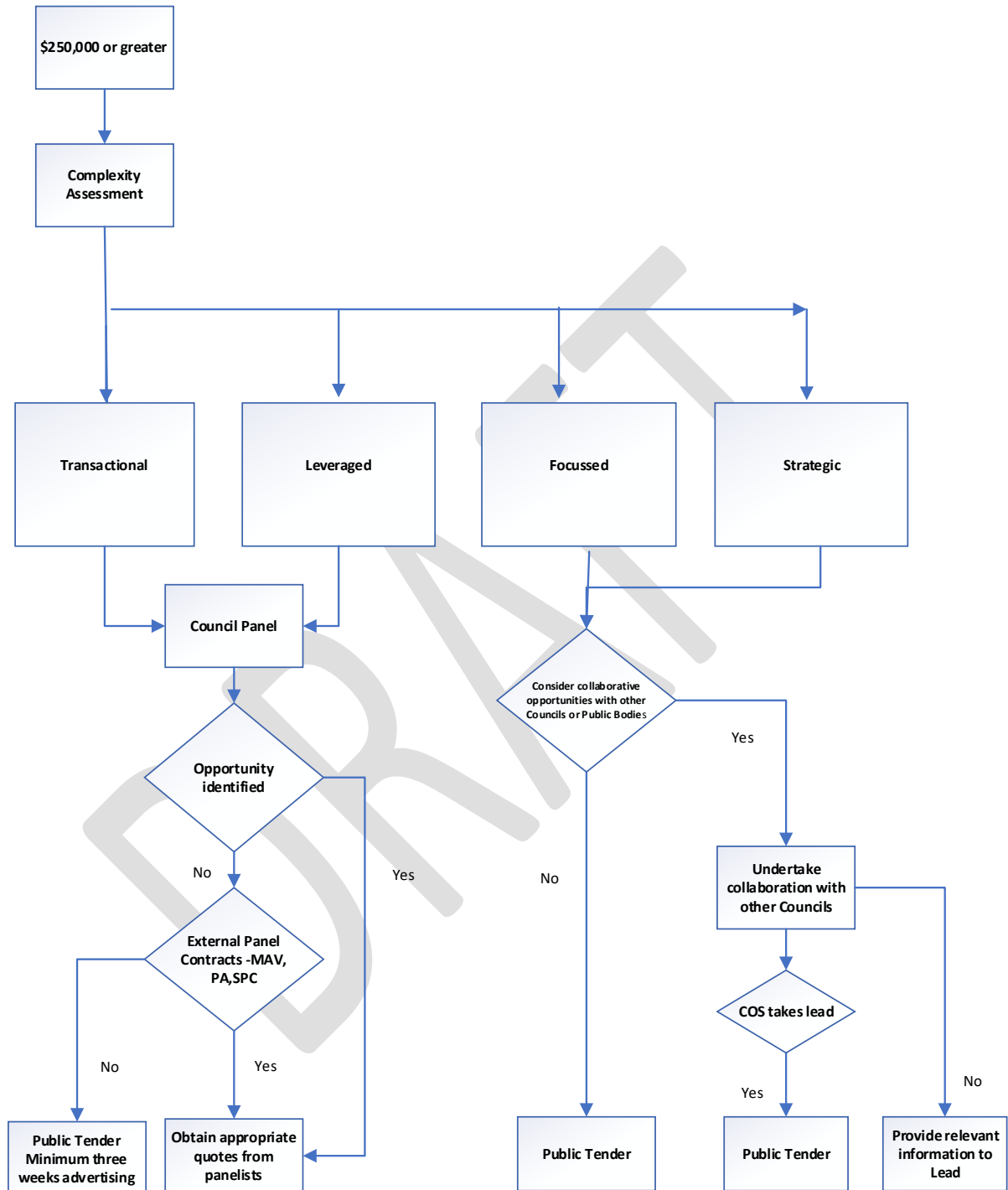
The provisions of this Procurement Policy come into operation on the 1 July 2024.

## 12 Document Control

<b>Policy owner</b>	Manager Property, Procurement and Contracts
<b>Review date</b>	At least once during each term of the Council.

<b>CM Reference</b>	D22/234405	<b>Date of Adoption</b>	TBC	Page 27
---------------------	------------	-------------------------	-----	---------

## Appendix 1 – Complexity Assessment



CM Reference	D22/234405	Date of Adoption	TBC	Page 28
--------------	------------	------------------	-----	---------



## Appendix 2 – Exemptions

The following procurements are either exempt from market engagement and/or the requirement for a Purchase Order. With the Chief Executive Officer's approval, exemptions can be added or removed from this list at any time. In these circumstances, the change shall be reported to the Audit and Risk Committee as part of the quarterly reports referred to in section 5.2.11.

Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
Utilities	Electricity, gas, water and telephone services.	No	Yes
Insurance premiums and claims	WorkCover and other insurances.	Yes	Yes
Prescribed contracts	Legal services	Yes	No
Payroll expenses	Superannuation and PAYG.	Yes	Yes
GST	Goods and Services Tax payable.	Yes	Yes
Postage	Australia Post.	Yes	Yes
Vehicle registrations	VicRoads vehicle registrations.	Yes	Yes
Councillor expenses	Allowances and Reimbursements.	Yes	Yes
Refundable trust funds	Includes Security Bonds, Contract Retentions and other funds held in trust.	Yes	Yes
Levies	EPA Victoria Levy.	Yes	Yes
	Fire Services Property Levy.	Yes	Yes
Other	Acquisition of Land and Buildings.	Yes	Yes

CM Reference	D22/234405	Date of Adoption	TBC	Page 29
--------------	------------	------------------	-----	---------





Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
	Medical expenses.	Yes	Yes
	Internal venue hire (e.g. COPACC, Bluewater).	Yes	Yes
	Diesel Fuel – Fisherman's Co-Op. <i>To be removed once Port of Apollo Bay transfers to GORCAPA</i>	Yes	No
	Memberships and subscriptions.	Yes	Yes
	Software renewals.	Yes	No
	External audit fees – Victorian Auditor-General's Office.	Yes	No
	Home Care Packages	Yes	No
	Annual community grants.	Yes	Yes
	Professional workshop and conference registration fees and associated costs.	Yes	No
	Loans and investments.	Yes	Yes
	General advertising.	Yes	No
	Recruitment advertising.	Yes	No
	First Nation Corporations - Statutory Functions and Non-Competitive Functions.	Yes	No



Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
	COPACC Performances - Where the acquisition is of a cultural or artistic nature i.e. a live show or art piece.	Yes	No
	Audit and Risk Committee Fees	Yes	No

DRAFT

<b>Colac Otway Shire Council</b> <b>Procurement Policy</b> <b>Comparison between 2021 Policy and 2024 Draft Policy</b>		
<b>Policy Section</b>	<b>2021 - Current Council Procurement Policy</b>	<b>2024 - Draft Council Procurement Policy</b>
<b>Entire Policy</b>		Numbering system has been changed
<b>Entire Policy</b>	Refers to CE/Chief Executive	Changed to CEO/Chief Executive Officer
<b>Entire Policy</b>	Refers to Coordinator Procurement and Contracts (Discontinued Position)	Changed to Manager Property, Procurement and Contracts (New Position)
<b>Table of Contents</b>	Did not contain a Table of Contents	Table of Contents added
<b>Purpose</b>	Council is required under section 108 of the Local Government Act 2020 to prepare, adopt and comply with a Procurement Policy. In accordance with the Act, the Procurement Policy sets out the key principles and processes applied to the purchases of Goods, Services and Works by Council.	The purpose of this Policy is to demonstrate the Colac Otway Shire Council's commitment to delivering leading practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance in accordance with Section 108 and 109 of the Local Government Act 2020 (Act). The Act requires each council to: (a) prepare and adopt a procurement policy which specifies the principles, processes and procedures to be applied in respect of the purchase of goods and services and carrying out of works by Council; and (b) review its procurement policy at least once during each 4-year term of Council.
<b>Scope/Policy Principles</b>	This Procurement Policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council Officers, Committees, contractors and consultants while engaged by Council. This Procurement Policy does not cover contract management activities, with the exception of contract variations.	Policy scope heading changed to 'Policy Principles' <b>Policy Principles</b> This policy is to be underpinned by the following objectives: (a) ethical behaviour in public sector procurement; (b) consistency and control over procurement activities; (c) transparency and accountability to rate payers; and (d) risk minimisation. This Procurement Policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council Officers, Committees, contractors and consultants while engaged by Council.
<b>Commencement</b>	Date stated 1 July 2021	Date updated

Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table -  
20240516

<b>Definitions</b>	Contained fewer definitions	<p>In addition to the existing definitions, the following definitions have been added:</p> <ul style="list-style-type: none"> <li>- Authorising officer</li> <li>- Collaborative Procurement</li> <li>- Contract</li> <li>- Contract management</li> <li>- Contracted supplier panel list</li> <li>- Emergency</li> <li>- Expression of interest</li> <li>- Evaluation criteria</li> <li>- G21 Region</li> <li>- Grant</li> <li>- Indigenous Procurement</li> <li>- MAV Contracts</li> <li>- Negotiation</li> <li>- PA (Procurement Australia) Contracts</li> <li>- Probity</li> <li>- Probity Advisor</li> <li>- Probity Auditor</li> <li>- Procurement</li> <li>- Procurement Plan</li> <li>- Request for Quotation</li> <li>- Request for Tender</li> <li>- Requisitioning Officer</li> <li>- Schedule of Rates Contract</li> <li>- Select Tender</li> <li>- Supplier</li> <li>- Sustainable Procurement</li> </ul>
<b>References</b>	Contained fewer references	<p>In addition to existing references, the following references have been added:</p> <ul style="list-style-type: none"> <li>- Colac Otway Shire Council's Staff Code of Conduct</li> <li>- Environmental Protection Act 2017</li> <li>- Local Government Best Practice Procurement Guidelines 2024</li> </ul> <p>The following definitions were removed:</p> <ul style="list-style-type: none"> <li>- Content Manager</li> <li>- Committees</li> </ul>
<b>Statement of Policy</b>		Remains the same
<b>Treatment of GST</b>		Remains the same

Background	Did not contain a background	<p>The following background has been added:</p> <p><b>Background</b></p> <p>This Policy is consistent with the requirements of s108(2) of the Act and will:</p> <ul style="list-style-type: none"> <li>(a) promote open and fair competition and deliver value for money;</li> <li>(b) provide consistency and control over Council's procurement activities;</li> <li>(c) demonstrate accountability to ratepayers and residents;</li> <li>(d) provide guidance on ethical behaviour within Council's procurement processes;</li> <li>(e) incorporate best practice in all procurement activities;</li> <li>(f) focus on sustainability in procurement with respect to social, economic and environmental factors; and</li> <li>(g) promote collaborative procurement.</li> </ul> <p>In accordance with the above objectives, Council's contracting and purchasing activities will:</p> <ul style="list-style-type: none"> <li>(a) support Council's corporate strategies, aims and objectives, including but not limited to those related to sustainability, protection of the environment and social objectives;</li> <li>(b) take a long term strategic view of procurement needs while continually assessing, reviewing and auditing procedures, strategy and objectives;</li> <li>(c) span the whole life cycle from initial concept through to disposal of an asset or the completion of a service contract;</li> <li>(d) demonstrate that public money has been well spent;</li> <li>(e) be conducted in an impartial, fair and ethical manner;</li> <li>(f) seek continual improvement including harnessing innovative and technological initiatives such as electronic tendering processes to reduce activity costs;</li> <li>(g) ensure that risk is identified, assessed and managed at all stages of the procurement process;</li> <li>(h) comply with legislation, Council policies and other best practice requirements;</li> <li>(i) use strategic procurement practices and innovative procurement solutions, in particular, making use of collaboration and partnership opportunities; and</li> <li>(j) generate and support local businesses when value for money is evidenced.</li> </ul>
Best Practice Principles and Framework	Introduction paragraph added	<p><b>Introduction paragraph reads:</b></p> <p>Council purchases goods, services and works to support service delivery and the maintenance and development of infrastructure. Council's procurement processes will be based on the following principles:</p> <ul style="list-style-type: none"> <li>(a) value for money;</li> <li>(b) open and fair competition;</li> <li>(c) accountability;</li> <li>(d) probity and transparency;</li> <li>(e) risk management; and</li> <li>(f) sustainability (positive local, social, economic and environmental outcomes).</li> </ul>



## Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

<p><b>Value for Money</b></p>	<p>The principle of Value for Money underpins Council's procurement function. It is the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. It is a common, internationally recognised test for benchmarking expenditure to achieve policy objectives. Value for Money considers the total cost of procurement from planning to disposal and everything in between. This is commonly known as total cost of ownership. Achieving Value for Money will be facilitated by:</p> <ul style="list-style-type: none"> <li>(a) developing, implementing and managing a procurement framework that supports the co-ordination and streamlining of activities throughout the lifecycle;</li> <li>(b) development, implementation and management of the local procurement strategy;</li> <li>(c) effective use of competition; (d) using aggregated contracts where appropriate;</li> <li>(e) identifying and rectifying inefficiencies in procurement processes;</li> <li>(f) developing cost efficient tender processes including appropriate use of e- solutions; and</li> <li>(g) working with suppliers to create relationships that are professional and productive.</li> </ul>	<p>Value for money is an overarching principle governing purchasing and disposal which allows the best possible outcome to be achieved for Council. It is important to note that compliance with the purchasing specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.</p> <p>The principle of Value for Money underpins Council's procurement function. It is the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. It is a common, internationally recognised test for benchmarking expenditure to achieve policy objectives. Value for Money considers the total cost of procurement from planning to disposal and everything in between. This is commonly known as total cost of ownership. Achieving Value for Money will be facilitated by:</p> <ul style="list-style-type: none"> <li>(a) developing, implementing and managing a procurement framework that supports the co-ordination and streamlining of activities throughout the lifecycle;</li> <li>(b) development, implementation and management of the local procurement strategy;</li> <li>(c) effective use of competition;</li> <li>(d) using aggregated contracts where appropriate;</li> <li>(e) identifying and rectifying inefficiencies in procurement processes;</li> <li>(f) developing cost efficient tender processes, including appropriate use of e-solutions; and</li> <li>(g) working with suppliers to create relationships that are professional and productive.</li> </ul> <p>Lowest price is not the sole determinant of value. Both cost and non-cost factors are considered, including:</p> <ul style="list-style-type: none"> <li>(a) all relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as, but not limited to holding costs, consumables, deployment, maintenance and disposal;</li> <li>(b) the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions, and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications, service and support;</li> <li>(c) financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);</li> <li>(d) the safety requirements associated with both the product design and specification offered by suppliers and the evaluation</li> <li>(e) contribution to the advancement of Council's priorities and objectives.</li> </ul>
-------------------------------	---	--

<p><b>Conduct of Councillors and Council Officers</b></p>	<p>Councillors and Council Officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.</p> <p>Councillors and Council Officers, must:</p> <p>(a) at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;</p> <p>(b) not participate in any action or matter associated with the arrangement of a tender or contract where that person has a general or material conflict as defined by the Act; and</p> <p>(c) when becoming aware of a conflict, promptly declare the direct or indirect Conflict of Interest to the Procurement and Contracts Department, or in the case of Councillors declaring a conflict to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive.</p> <p>Councillors cannot participate in any aspect of the procurement process with the exception of the following:</p> <p>(a) acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract; or</p> <p>(b) where Councillors have requested their involvement in developing the scope and specifications of specific tenders, including focused and strategic procurements. To ensure adequate time for Councillors to review the scope and specifications of focused and strategic procurements, Councillors will be provided a list of known contracts on a monthly</p>	<p>Councillors and Council Officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.</p> <p>Councillors and Council Officers, must:</p> <p>(a) treat potential and existing suppliers with equality and fairness;</p> <p>(b) not use their position to seek or receive personal gain in procurement matters;</p> <p>(c) maintain confidentiality of Commercial in Confidence information;</p> <p>(d) present the highest standards of professionalism and probity;</p> <p>(e) provide suppliers and tenderers with the same information and an equal opportunity to tender or quote for goods, services and works contracts;</p> <p>(f) be able to account for all decisions, and demonstrate and provide evidence of the processes followed;</p> <p>(g) not perform any work under any council contracts they are supervising (i.e. Council Staff cannot also work for the relevant supplier);</p> <p>(h) query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity, or established policies and procedures; and</p> <p>(i) ensure that this Policy and associated guidelines are adhered to in relation to any expenditure of Council funds.</p> <p>Councillors and Council Staff shall at all times avoid situations which may give rise to an actual or perceived conflict of interest.</p> <p>A conflict of interest may be a general or a material conflict of interest. A member of Council Staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.</p> <p>A member of Council Staff has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of Council Staff and their family members.</p> <p>Council Staff involved in the procurement process, in particular preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report; and Councillors and Council Staff awarding tenders must:</p> <p>(a) avoid conflicts of interest, whether material or general, or actual, potential or perceived;</p> <p>(b) declare that they do not have a conflict of interest in respect of the procurement. Council Staff participating in tender evaluation panels must complete a Conflict of Interest declaration. Council Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and</p> <p>(c) observe prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations, and not take advantage of any tender related information whether or not for personal gain.</p> <p>Council Staff must not publicly endorse any products or services without the permission of the relevant General Manager or the CEO.</p>
---	---	--

Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table -  
20240516

<b>Conflict of Interest</b>	<p>Partly covered in <b>3.2 Conduct of Councillors and Council Officers</b></p> <p>Councillors and Council Officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.</p> <p>Councillors and Council Officers, must:</p> <p>(a) at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;</p> <p>(b) not participate in any action or matter associated with the arrangement of a tender or contract where that person has a general or material conflict as defined by the Act; and</p> <p>(c) when becoming aware of a conflict, promptly declare the direct or indirect Conflict of Interest to the Procurement and Contracts Department, or in the case of Councillors declaring a conflict to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive.</p> <p>Councillors cannot participate in any aspect of the procurement process with the exception of the following:</p> <p>(a) acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract; or</p> <p>(b) where Councillors have requested their involvement in developing the scope and specifications of specific tenders, including focused and strategic procurements. To ensure adequate time for Councillors to review the scope and specifications of focused and strategic procurements, Councillors will be provided a list of known contracts on a monthly basis. For operational contracts the list will include contracts that are due to expire within 24 months. For capital contracts the list will include all known projects at the time of the report. This level of involvement may require extra time commitments from the Councillors involved to ensure the tender process meets any time constraints.</p>	<p>6.1 Conflict of Interest</p> <p>Councillors and staff must, always, avoid situations which may give rise to an actual or perceived conflict of interest or potential conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.</p> <p>A person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.</p> <p>A person has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of staff and their family members.</p> <p>Staff involved in the procurement process, in particular, preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report; and Councillors and council staff awarding tenders must:</p> <ul style="list-style-type: none"> <li>• Avoid material or general conflicts of interest, whether actual, potential or perceived;</li> <li>• Declare if they have a conflict of interest in respect of the procurement. Staff participating in tender evaluation panels must complete a conflict of interest declaration. Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and</li> <li>• Observe prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information, whether or not for personal gain.</li> </ul>
<b>Fair and Honest Dealing</b>	Remains the same	
<b>Accountability and Transparency</b>	<p>Accountability in procurement means being able to explain and provide evidence on the process followed to procure the goods, services or works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable. All procurement activities must be in accordance with the Act, this policy, Council's Procurement Procedure and related relevant Council policies and procedures.</p>	<p>Accountability in procurement means being able to explain and provide evidence on the process followed to procure the goods, services or works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable. All prospective suppliers and vendors will have the same information about the procurement to enable them to submit prices, quotations and tenders on the same basis. Council must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.</p> <p>All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with the Act, this policy, Council's Procurement Procedure and related relevant Council policies and procedures.</p>
<b>Fraud and Corruption Control</b>	Remains the same	
<b>Competition and Consumer Act Compliance</b>	Remains the same	
<b>Contract Management</b>	Did not contain a contract management section	<p>Contract Management Section added, reading:</p> <p><b>Contract Management</b></p> <p>In order to continually improve its procurement and contract management processes and outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accordance with its documented procurement processes. Good contract management ensures goods, services and works are delivered to the required standards of quality and quantity as intended by the contract through:</p> <p>(a) Establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract;</p> <p>(b) Providing a means for the early recognition of issues and performance problems and the identification of solutions;</p> <p>(c) Adhering to Council's risk management framework and relevant Occupational Health and Safety and sustainability requirements.</p> <p>Council contracts are to include contract management requirements commensurate with the complexity of the procurement. Furthermore, contracts are to be proactively managed by the member of Council Staff responsible for the delivery of the contracted goods, services or works to ensure Council, and therefore the community, receives Value for Money.</p>

## Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

<b>Risk Management</b>	<p>Risk management is to be appropriately applied at all stages of procurement activities. It is to be properly planned and carried out in a manner that will protect and enhance the Council's capability. This is to prevent, withstand and recover from interruption to the supply of Goods, Services or Works. The Council will minimise its risk exposure by measures such as:</p> <ul style="list-style-type: none"> <li>(a) standardisation of contracts including current and relevant clauses;</li> <li>(b) requiring security deposits where appropriate;</li> <li>(c) where required, referring specifications to relevant industry experts;</li> <li>(d) contracts must be fully executed before the commencement of the Good, Service or Work; and</li> <li>(e) use of or reference to relevant Australian Standards (or equivalent).</li> </ul> <p>The Procurement and Contracts Department provides assistance to Council Officers to obtain Goods, Services and Works using the most appropriate purchasing method. This includes:</p> <ul style="list-style-type: none"> <li>(a) providing assistance and advice regarding Council's procurement procedures and delegations;</li> <li>(b) developing appropriate documents and forms used in the procurement process; and</li> <li>(c) managing and coordinating Council's tenders.</li> </ul> <p>To protect the best interests of the Council, terms and conditions will be settled in advance of any commitment</p>	<p>Risk management is to be appropriately applied at all stages of procurement activities. It is to be properly planned and carried out in a manner that will protect and enhance Council's capability. This is to prevent, withstand and recover from interruption to the supply of goods, services or works. Council will minimise its risk exposure by measures such as:</p> <ul style="list-style-type: none"> <li>(a) standardisation of contracts including current and relevant clauses;</li> <li>(b) requiring security deposits where appropriate;</li> <li>(c) where required, referring specifications to relevant industry experts;</li> <li>(d) contracts must be fully executed before the commencement of the good, service or work; and</li> <li>(e) use of or reference to relevant Australian Standards (or equivalent).</li> </ul> <p>The Procurement and Contracts Department provides assistance to Council Officers to obtain goods, services and works using the most appropriate purchasing method. This includes:</p> <ul style="list-style-type: none"> <li>(a) providing assistance and advice regarding Council's procurement procedures and delegations;</li> <li>(b) developing appropriate documents and forms used in the procurement process; and</li> <li>(c) management of all Council's tenders.</li> </ul> <p>To protect the best interests of the Council, terms and conditions will be settled in advance of any commitment being made with a contractor or supplier. Any exception to this requirement exposes Council to risk.</p>
<b>Probity Advisor</b>	<p>The use of an external, independent probity advisor is mandated when the value of the Goods, Services or Works exceeds \$2,000,000 (including GST) or where the procurement is deemed a 'Strategic' procurement in accordance with the complexity assessment. A probity advisor ensures process compliance and helps ensure high standards of probity in the conduct of the procurement activity. The role of the probity advisor includes:</p> <ul style="list-style-type: none"> <li>(a) endorsement of the procurement plan;</li> <li>(b) attendance at tender closing, briefing sessions and tender evaluation meetings;</li> <li>(c) ensuring probity principles are achieved; and</li> <li>(d) submission of an independent report.</li> </ul> <p>The probity advisor will provide their independent report once the tender evaluation panel report is finalised.</p>	<p>The use of an external, independent probity advisor shall be considered, dependant on the complexity of the procurement process, where the procurement is deemed a 'Strategic' procurement in accordance with the complexity assessment, or when the value of the goods, services or works exceeds \$2,000,000 (including GST). The probity advisor ensures process compliance, governance and high standards in the conduct of the procurement activity. The role of the probity advisor includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>(a) endorsement of the procurement plan;</li> <li>(b) attendance at briefing sessions and tender evaluation meetings; and</li> <li>(c) submission of an independent report.</li> </ul> <p>The probity advisor will provide their independent report once the tender evaluation panel report is finalised.</p>
<b>Probity Auditor</b>	Remains the same	
<b>Disclosure of Information</b>	Remains the same	
<b>Record Keeping</b>	<p>Council Officers need to ensure that all records relating to procurements are stored in Content Manager. This is to ensure that:</p> <ul style="list-style-type: none"> <li>(a) the processes followed and any decisions made during the procurement can be substantiated; and</li> <li>(b) there are adequate records to support contract matters or disputes.</li> </ul> <p>The structure and extent of records kept will depend on the value and complexity of the procurement. Records will be kept in accordance with the Public Records Act 1973 - Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions).</p>	<p>8.3 Document Management</p> <p>8.3.1 Record Keeping</p> <p>Council Officers need to ensure that all records relating to procurements are stored in Council's record management database. This is to ensure that:</p> <ul style="list-style-type: none"> <li>(a) the processes followed and any decisions made during the procurement can be substantiated; and</li> <li>(b) there are adequate records to support contract matters or disputes.</li> </ul> <p>Records will be kept in accordance with the Public Records Act 1973 - Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions).</p>
<b>Gifts and Hospitality</b>	Previously named 'Gifts and Hospitality'	Changed to 'Gifts, Benefits and Hospitality'

Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

	Councillors and Council Officers must not, either directly or indirectly, solicit or accept gifts or hospitality from any member of the public where: (a) it is made during a procurement or tender process by a person or organisation involved in the process; and (b) acceptance could be perceived as endorsement of a Good, Service or Work; or (c) acceptance would unfairly advantage the member of the public in future procurement decisions. Councillors and Council Officers should refer to Council's applicable Code of Conduct for more guidance regarding the declaration of gifts/hospitality.	Councillors and Council Officers must not, either directly or indirectly, solicit or accept gifts or hospitality from any member of the public where: (a) it is made during a procurement or tender process by a person or organisation involved in the process; and (b) acceptance could be perceived as endorsement of a good, service or work; or (c) acceptance would unfairly advantage the member of the public in future procurement decisions. Councillors and Council Officers should refer to Council's applicable Code of Conduct and Gifts, Benefits and Hospitality Policy (18.9) for more guidance regarding the declaration of gifts, benefits and hospitality.
<b>Support for Sustainable Procurement</b>	Previously named 'Support for Sustainable Procurement' Council will include in its tender process, where applicable, a minimum weighting of five percent for environmentally sustainable practices and content when engaging and contracting with suppliers. Criteria Description Weighting Sustainable Procurement Percentage of sustainable content in the delivery of the Goods, Services or Works. 3.5% Documented evidence of the organisation's commitment to its own environmental performance. This may include policies, initiatives and environmental management systems. 1.5% Where applicable, Council Officers shall consider the following environmental principles as part of their procurement activity: (a) Refuse – Choose not to procure a good or service. (b) Reduce – Choose to procure less of a given good or service. (c) Reuse – Procure a product of extended life or of multiple uses. (d) Recycle – Procure a product that contains amounts of non-virgin materials. (e) Replace – Choose to replace or offset the resources purchased in a product.	Content stays the same but heading changed to "Sustainable Procurement".
<b>Social Sustainability</b>	There was not a section on Social Sustainability in the previous policy	New section added 'Social Sustainability' which reads: <b>Social Sustainability</b> Social sustainability focuses on the social (or people) aspects of procurement and in particular social equity. Social equity goals address disadvantage and are underpinned by principles of diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities. A focus is placed on people who are underrepresented and people with less opportunity. Social procurement generates positive outcomes and contributes to building stronger communities by elevating the inherent social value of doing business. Where applicable within the context of purchasing on a value for money basis, Council staff will be supported to use Council's procurement processes and purchasing power to generate positive social and economic outcomes for our community through exploring opportunities including but not limited to: (a) engaging Social Enterprises for the procurement of goods or service; (b) valuing suppliers that identify principles of inclusion, diversity and gender equity; (c) promoting the use of suppliers/businesses owned by Aboriginal and Torres Strait Islander People; and (d) Council's commitment to actively participate in the G21 Regional Opportunities for Work (GROW) Program.
<b>Support for Local Content</b>	Remains the same	
<b>Indigenous Procurement</b>	There was not a section on Indigenous Procurement in the previous policy	Indigenous Procurement Section added, which reads: <b>Indigenous Procurement</b> Where possible, Aboriginal and Torres Strait Islander businesses are to be invited to quote for supplying goods and services under the tender threshold.



Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table -  
20240516

<b>Accessibility</b>	There was not a section on Accessibility in the previous policy	<p>Accessibility Section Added, which reads:</p> <p><b>Accessibility</b></p> <p>Council's procurement processes should be accessible to all potential suppliers and contractors who wish to submit a tender/quotation. Consideration should be made to ensure that the submissions process can be accessed by individuals or organisations who have additional needs that relate to, but are not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) people with disabilities;</li> <li>(b) cultural and language barriers;</li> <li>(c) age;</li> <li>(d) gender and gender identities; and</li> <li>(e) religion.</li> </ul> <p>Suppliers with additional needs should receive the same courtesy, attention, information, and service as any other tenderers. Council must ensure that assistance at any stage of the process is available when needed. Some examples of assistance that may be required include:</p> <ul style="list-style-type: none"> <li>(a) support with the navigation of online systems;</li> <li>(b) ensuring site visits are accessible to all potential suppliers; and</li> <li>(c) understanding and interpreting forms and contracts.</li> </ul> <p>Whilst Council Officers may be required to assist with the submission of quotation/tenders, they must not enter a submission on behalf of a potential supplier. Officers may not influence the content of the submission, the submission must be in the words of the tenderer only. In the process of assisting Council officers should not disclose any information that is not publicly available and accessible to other potential suppliers/contractors. Any questions that arise relating to the project should be uploaded to eProcure, and answered as per the standard process.</p>
<b>Collaborative Procurement</b>	Council Officers will seek collaborative opportunities with other Councils and Public Bodies for all procurements requiring Council approval in accordance with section 108(3)(c) of the Act. When a report for a procurement is presented to Council for approval, it will include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process.	Council Officers will consider collaborative opportunities with other Councils and Public Bodies for all procurements requiring Council approval in accordance with section 108(3)(c) of the Act. When a report for a procurement is presented to Council for approval, it will include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process.
<b>Model of Procurement</b>	Previously named 'Model of Procurement'	Changed to 'Procurement Thresholds and Policy Requirements'
	Council operates a centre-led procurement model. All purchases equal to or greater than \$250,000 (including GST) must be undertaken in conjunction with the Procurement and Contracts Department.	<p>Council operates a centre-led procurement model. All purchases for goods, services and works that require a contract must come through the Procurement and Contracts Department.</p> <p>The requirements that must be complied with by Council Officers, including purchasing thresholds and processes, are prescribed within the legislation, this Policy and Council's Procurement Procedure. Determining purchasing value is to be based on the following considerations:</p> <ul style="list-style-type: none"> <li>(a) inclusive of Goods and Services Tax (GST);</li> <li>(b) all cumulative expenditure with any one supplier without a tender must not exceed the procurement threshold requirements in any 12 month period for the supply of similar goods or services;</li> <li>(c) the actual or expected value of a contract over the full contract period (including all options to extend);</li> <li>(d) the extent to which it could be reasonably expected that Council will continue to purchase a particular category of goods, service or works, and what the total value is or could be reasonably expected to be purchased;</li> </ul> <p>Procurements must not be split into smaller amounts to avoid procurement threshold requirements.</p> <p>Any purchasing activity must be undertaken in accordance with the Council Officer's delegated purchasing authority limit as approved by the CEO. No purchasing activity is to be undertaken until it is approved by an Authorising Officer. In some cases, suppliers may not respond to a request for quotation. In this instance, Council Officers must provide documentation to demonstrate their attempt to source the required number of quotations as outlined in Section 25, however non-responses should not delay any purchasing activity unless it would be considered inappropriate to proceed.</p>
<b>Procurement Delegations</b>	Previously before the 'Market Engagement Methods' table	Moved to follow the 'Market Engagement Methods' table.
<b>Market Engagement Methods Table</b>	Remains the same	
<b>Public Tender Process</b>	3.19 Public Tender Process	27. Public Tender Process

## Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

	<p>The table below outlines the main processes undertaken for a public tender.</p> <table><tr><th>Stage</th><th>Process</th></tr><tr><td>Advertisement</td><td>Tender advertised via Colac Herald, Geelong Advertiser, G21 Business Connect and online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a></td></tr><tr><td>Tender Period</td><td>Tender period ranges from three weeks to six weeks. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the Invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.</td></tr><tr><td>Tender Evaluation</td><td>Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, an evaluation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.  The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.</td></tr><tr><td>Contract Award</td><td></td></tr></table>	Stage	Process	Advertisement	Tender advertised via Colac Herald, Geelong Advertiser, G21 Business Connect and online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a>	Tender Period	Tender period ranges from three weeks to six weeks. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the Invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.	Tender Evaluation	Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, an evaluation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.  The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.	Contract Award		<p>2.7. PUBLIC TENDER PROCESS</p> <p>The table below outlines the main processes undertaken for a public tender.</p> <table><tr><th>Stage</th><th>Process</th></tr><tr><td>Advertisement</td><td>Tender advertised via Colac Herald, online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a>. <u>Council officers may opt to also place advertisements in other medium forums such as the Geelong Advertiser, The Age and the Herald Sun.</u> <u>Council officers may also opt to place advertisements on relevant approved social media platforms.</u></td></tr><tr><td>Tender Period</td><td>Tender period is a minimum of 21 days. A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date. Council staff shall not accept a late tender. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.</td></tr><tr><td>Tender Evaluation</td><td>Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, a moderation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.</td></tr><tr><td>Contract Award</td><td>The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.</td></tr></table>	Stage	Process	Advertisement	Tender advertised via Colac Herald, online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a> . <u>Council officers may opt to also place advertisements in other medium forums such as the Geelong Advertiser, The Age and the Herald Sun.</u> <u>Council officers may also opt to place advertisements on relevant approved social media platforms.</u>	Tender Period	Tender period is a minimum of 21 days. A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date. Council staff shall not accept a late tender. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.	Tender Evaluation	Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, a moderation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.	Contract Award	The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.
Stage	Process																					
Advertisement	Tender advertised via Colac Herald, Geelong Advertiser, G21 Business Connect and online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a>																					
Tender Period	Tender period ranges from three weeks to six weeks. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the Invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.																					
Tender Evaluation	Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, an evaluation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.  The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.																					
Contract Award																						
Stage	Process																					
Advertisement	Tender advertised via Colac Herald, online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal <a href="https://www.eprocure.com.au/colacotway/">https://www.eprocure.com.au/colacotway/</a> . <u>Council officers may opt to also place advertisements in other medium forums such as the Geelong Advertiser, The Age and the Herald Sun.</u> <u>Council officers may also opt to place advertisements on relevant approved social media platforms.</u>																					
Tender Period	Tender period is a minimum of 21 days. A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date. Council staff shall not accept a late tender. Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration unless the invitee can clearly document that exceptional circumstances caused the tender to be lodged after the closing time. The determination on whether a late tender is accepted on the basis of an exceptional circumstance will be made in accordance with the process outlined in Council's Procurement Procedure.																					
Tender Evaluation	Tender submissions are provided to the evaluation panel members excluding the pricing elements. Each panel member scores the submissions independently of other evaluation panel members.  Once all evaluation panel members have scored the tenders, a moderation meeting is chaired by a member of the Procurement and Contracts Department where the pricing elements are disclosed and incorporated into the non-price criteria to determine an overall score for each Invitee.																					
Contract Award	The decision to award or not award a contract can only be made by a delegate who has the authority (financial delegation) to commit the relevant sum of money. The decision is made after consideration of the evaluation report. Once approved, the Procurement and Contracts Department notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.																					
<b>Third Party Contractual Interests and Relationships</b>	There was not a section on third party contractual interests and relationships, including financial relationships, in the previous policy.	Where a respondent to a RFQ or RFT for the provision of goods, services or works proposes that a third party has a contractual interest/s or relationship/s, including but not limited to financial services whereby Council make direct payment/s to the third party, then both contracts/agreements must be approved via Council resolution regardless of the value. Request for Council approval will be via a single officer's report that details all contracts and arrangements, including measurement and payment arrangements.																				
<b>Alternative Proposals</b>	Invitees are encouraged to offer options or solutions which may, in an innovative way, contribute to the Council's ability to carry out its business in a more cost- effective manner. These may be related to: (a) the outputs, functional, performance and technical aspects of the requirement; (b) minimisation of environmental impact; and/or (c) opportunities for more advantageous commercial arrangements. Where an Invitee submits an alternative proposal which meets the requirements of a request for tender for quote, the offer must also include any supplementary material (including such pricing and costing details as may be necessary to enable the Council to fully assess the financial impact of the alternative proposal), which demonstrates in detail that such an alternative will fully achieve all the specified requirements, together with references as to why the additional features may be advantageous. Council reserves the right, in its absolute discretion, to consider an alternative tender provided the invitee has met the mandatory evaluation criteria. If an invitee submits an alternative tender it must also: (a) submit a complying tender; and (b) submit a copy of the clearly identified alternative tender in a marked-up form, which identifies all departures from the complying tender. Council also reserves the right to consider an alternative tender without offering other respondents the opportunity to revise their response on the same basis.	Invitees are encouraged to offer options or solutions which may, in an innovative way, contribute to Council's ability to carry out its business in a more cost- effective manner. These may be related to: (a) the outputs, functional, performance and technical aspects of the requirement; (b) minimisation of environmental impact; and/or (c) opportunities for more advantageous commercial arrangements. Where an Invitee submits an alternative proposal which meets the requirements of a request for tender, the offer must also include any supplementary material (including such pricing and costing details as may be necessary to enable Council to fully assess the financial impact of the alternative proposal), which demonstrates in detail that such an alternative will fully achieve all the specified requirements, together with references as to why the additional features may be advantageous. Council reserves the right, in its absolute discretion, to consider an alternative tender provided the invitee has met the mandatory evaluation criteria. If an invitee submits an alternative tender it must also: (a) submit a complying tender; and (b) submit a copy of the clearly identified alternative tender in a marked-up form, which identifies all departures from the complying tender. Council also reserves the right to consider an alternative tender without offering other respondents the opportunity to revise their response on the same basis.																				

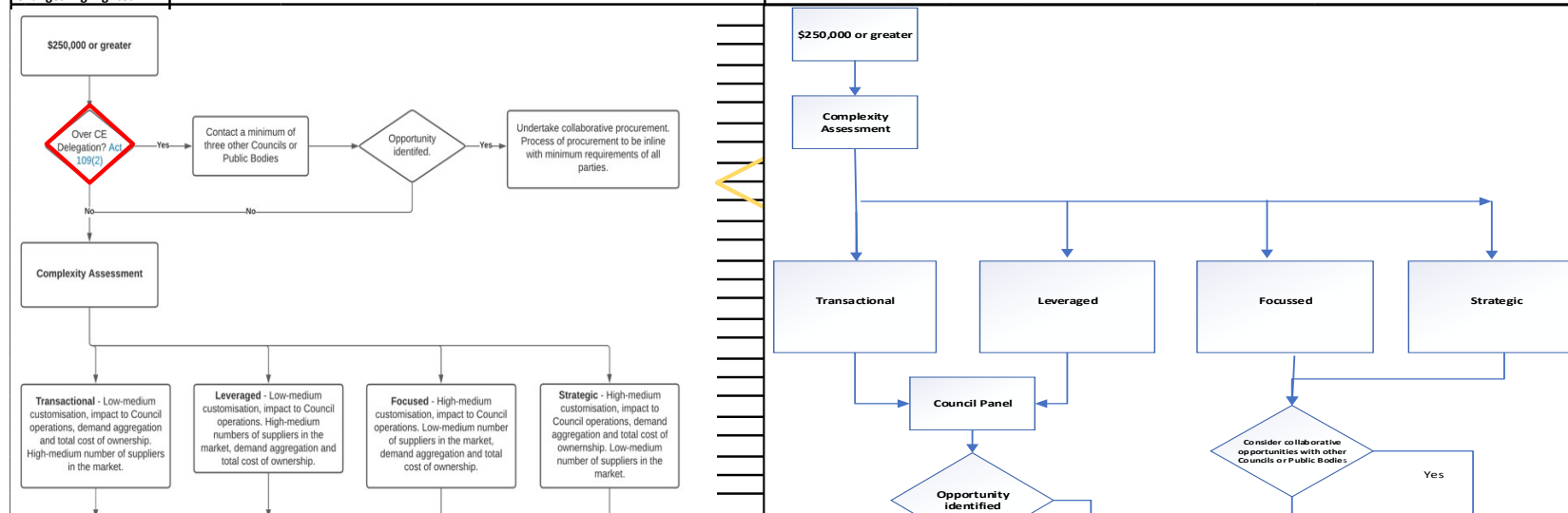
## Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

<b>Tender Exceeding Budget or Zero Submissions Process</b>	There was not a section on Tender Exceeding Budget or Zero Submissions Received in the previous policy	<p>Section on Tender Exceeding Budget or Zero Submissions Process has been added, which reads:</p> <p><b>Tender Exceeding Budget or Zero Submissions Process</b></p> <p>Should Council, by way of delegative authority, decide not to accept any of the submissions for a proposed contract, or received no submissions for the proposed contract, it is recommended Council postpone or cancel the proposal for the contract. Following completion of the process as above, Council may do one of the following:</p> <ul style="list-style-type: none"> <li>(a) undertake new procurement process by way of inviting open RFT based on the same or different details;</li> <li>(b) undertake new procurement process by way of inviting selective RFT from persons interested in tendering for the proposed contract;</li> <li>(c) undertake new procurement process by way of inviting selective RFT from persons interested in tendering for contracts of the same kind as the proposed contract;</li> <li>(d) undertake tender negotiation process as per section 30;</li> <li>(e) carry out the requirements of the proposed contract itself.</li> </ul>
<b>Tender Negotiation</b>	There was not a section on Tender Negotiation in the previous policy	<p>Tender Negotiation section added, which reads:</p> <p><b>Tender Negotiation</b></p> <p>As a general rule direct negotiations should be avoided due to the risks associated with the process. If, after the tendering process none of the tenders are accepted, Council may decide by delegation or resolution to enter into direct negotiations with any person or persons with the intention to enter a contract. The delegation or resolution of council must state the reasons for declining to advertise and invite fresh tenders. Council should not use such tender negotiations as an opportunity to trade-off one tenderer's prices against other tenderers' prices in order to obtain lower prices. When the decision to undertake direct negotiation with one supplier, buyer or proponent has been made, Council should demonstrate commitment to a fair and accountable process by ensuring the following:</p> <ul style="list-style-type: none"> <li>(a) Council officers conducting the negotiations have high level skills, training and experience in commercial negotiations;</li> <li>(b) a team approach is taken to the negotiations, led by a suitably qualified experienced senior person and consideration is given to including an independent observer or probity auditor;</li> <li>(c) the negotiation process is adequately resourced;</li> <li>(d) Preparation of a negotiation plan and strategy includes aims, objectives, constraints and agreed minimum bargaining positions.</li> <li>(e) Council officials conducting the negotiations do not have a conflict of interest;</li> <li>(f) a formal communication protocol is adopted and agreed by both parties, which covers regular meetings, written exchanges, document exchanges, dealing with urgent matters, 'critical' issues meetings, recording of meetings and the roles and responsibilities of all team members.</li> <li>(g) expert technical and legal advisers are involved at the appropriate times;</li> <li>(h) Council's CEO is informed of progress as appropriate;</li> <li>(i) appropriate confidentiality is maintained;</li> <li>(j) following completion of the negotiations, an evaluation is conducted to assess whether the aims of the negotiations were achieved.</li> <li>(k) comprehensive documentation of the planning, process and results of the negotiations is maintained.</li> </ul>
<b>Exemptions from Market Engagement Methods</b>	<p>An exemption to the Market Engagement Methods and procedures may be requested under the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence;</li> <li>(b) installations where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability;</li> <li>(c) an absence of competition for technical reasons;</li> <li>(d) the Goods, Services or Works are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the Goods, Service or Works are to be provided or undertaken; where the acquisition is of a cultural or artistic nature i.e. a live show or art piece; and</li> <li>(f) where the procurement is on Council's procurement exemptions list (refer to Appendix 2)</li> </ul>	<p>An exemption to the Market Engagement Methods and procedures may be requested under the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) in matters of emergency including public health, security or safety as a result of an unforeseen event or occurrence;</li> <li>(b) installations where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability;</li> <li>(c) an absence of competition; there is one or a limited number of available tenderers in the market or suppliers able to submit quotations;</li> <li>(d) the goods, services or works are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the goods, service or works are to be provided or undertaken;</li> <li>(e) the goods or services are being supplied through a renewal or extension of the term of a contract (the original contract) where; <ul style="list-style-type: none"> <li>i. the original contract was administered through a public tender process;</li> <li>ii. the invitation for tenders contained provisions for the renewal or extension of a contract;</li> <li>iii. the original contract contains an option to renew or extend its term; and</li> <li>iv. the supplier's tender included a requirement for such an option.</li> </ul> </li> <li>(f) where the acquisition is of a cultural or artistic nature i.e. a live show or art piece;</li> <li>(g) the marketplace is restricted by statement of license or third-party ownership of an asset;</li> <li>(h) Council is party to a joint arrangement where Council jointly owns the Intellectual Property with a third party provider;</li> <li>(i) it is not in the interest of the public to apply the procurement thresholds; and</li> <li>(j) where the procurement is on Council's procurement exemptions list (refer to Appendix 2).</li> </ul>

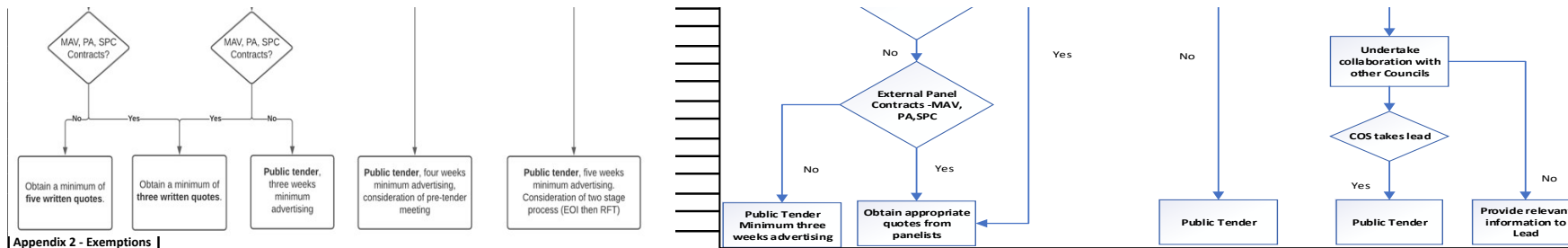
Attachment 9.4.2 Attachment 2 - Procurement Policy Changes - Comparison Table - 20240516

	<table><tr><th>Procurement Value (Including GST)</th><th>Policy Exemption</th></tr><tr><td>Greater than \$2,000 to Manager Delegation</td><td>Approval must be obtained from the relevant Manager using the procurement exemption form.</td></tr><tr><td>Greater than Manager Delegation to \$150,000</td><td>Approval must be obtained from the relevant General Manager using the procurement exemption form.</td></tr><tr><td>Greater than \$150,000 to the CE Delegation</td><td>Approval must be obtained from the Chief Executive using the procurement exemption form.</td></tr><tr><td>Greater than the CE Delegation</td><td>Approval must be obtained from Council by way of Council report at an approved Council meeting.</td></tr></table>	Procurement Value (Including GST)	Policy Exemption	Greater than \$2,000 to Manager Delegation	Approval must be obtained from the relevant Manager using the procurement exemption form.	Greater than Manager Delegation to \$150,000	Approval must be obtained from the relevant General Manager using the procurement exemption form.	Greater than \$150,000 to the CE Delegation	Approval must be obtained from the Chief Executive using the procurement exemption form.	Greater than the CE Delegation	Approval must be obtained from Council by way of Council report at an approved Council meeting.	Chart removed from this version.									
Procurement Value (Including GST)	Policy Exemption																				
Greater than \$2,000 to Manager Delegation	Approval must be obtained from the relevant Manager using the procurement exemption form.																				
Greater than Manager Delegation to \$150,000	Approval must be obtained from the relevant General Manager using the procurement exemption form.																				
Greater than \$150,000 to the CE Delegation	Approval must be obtained from the Chief Executive using the procurement exemption form.																				
Greater than the CE Delegation	Approval must be obtained from Council by way of Council report at an approved Council meeting.																				
Mechanisms	Remains the same																				
Contracts	Remains the same																				
Variations	Contract Variations must be approved in accordance with Council’s delegations. Variations should not exceed the available budget	Contract Variations must be approved in accordance with Council’s delegations. Variations should not exceed the available budget.																			
<table><tr><th>Position</th><th>Variation (including GST)</th></tr><tr><td>Coordinators and Superintendents Representatives</td><td>Up to the lesser of 5% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the Manager or Superintendent for authorisation.</td></tr><tr><td>Managers and Superintendents</td><td>Up to the lesser of 10% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the General Manager for authorisation.</td></tr><tr><td>General Managers</td><td>Up to the lesser of 20% of the original contract value or a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CE for authorisation.</td></tr><tr><td>CE</td><td>Up to the lesser of 30% of the original contract value or a maximum of the CE Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.</td></tr></table>	Position	Variation (including GST)	Coordinators and Superintendents Representatives	Up to the lesser of 5% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the Manager or Superintendent for authorisation.	Managers and Superintendents	Up to the lesser of 10% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the General Manager for authorisation.	General Managers	Up to the lesser of 20% of the original contract value or a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CE for authorisation.	CE	Up to the lesser of 30% of the original contract value or a maximum of the CE Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.	<table><tr><th>Position</th><th>Variation (including GST)</th></tr><tr><td>Coordinators</td><td>Up to the lesser of 5% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant Manager for authorisation.</td></tr><tr><td>Managers</td><td>Up to the lesser of 10% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant General Manager for authorisation.</td></tr><tr><td>General Managers and Superintendents</td><td>Up to the <u>lesser</u> of 20% of the original contract value and a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CEO for authorisation.</td></tr><tr><td>CEO</td><td>Up to the <u>lesser</u> of 30% of the original contract value and a maximum of the CEO Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.</td></tr></table>	Position	Variation (including GST)	Coordinators	Up to the lesser of 5% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant Manager for authorisation.	Managers	Up to the lesser of 10% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant General Manager for authorisation.	General Managers and Superintendents	Up to the <u>lesser</u> of 20% of the original contract value and a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CEO for authorisation.	CEO	Up to the <u>lesser</u> of 30% of the original contract value and a maximum of the CEO Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.
Position	Variation (including GST)																				
Coordinators and Superintendents Representatives	Up to the lesser of 5% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the Manager or Superintendent for authorisation.																				
Managers and Superintendents	Up to the lesser of 10% of the original contract value or a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the General Manager for authorisation.																				
General Managers	Up to the lesser of 20% of the original contract value or a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CE for authorisation.																				
CE	Up to the lesser of 30% of the original contract value or a maximum of the CE Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.																				
Position	Variation (including GST)																				
Coordinators	Up to the lesser of 5% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant Manager for authorisation.																				
Managers	Up to the lesser of 10% of the original contract value and a maximum of the financial delegation provided by the S7 Instrument of Sub-Delegation from CEO to Council Staff.  Where the aggregate of all variations exceeds this threshold they must be referred to the relevant General Manager for authorisation.																				
General Managers and Superintendents	Up to the <u>lesser</u> of 20% of the original contract value and a maximum of \$150,000.  Where the aggregate of all variations exceeds this threshold they must be referred to the CEO for authorisation.																				
CEO	Up to the <u>lesser</u> of 30% of the original contract value and a maximum of the CEO Delegation.  Where the aggregate of all Variations exceeds this threshold it will be noted in the bi-annual report to the Audit Committee.																				

Roles and Responsibilities	These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:		These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:	
	Party / Parties	Roles and Responsibilities	Party / Parties	Roles and Responsibilities
	Chief Executive	Ensure overall organisation compliance with the policy.	Chief Executive Officer	Ensure overall organisation compliance with the policy.
	General Managers	Ensure compliance with the policy by all Council Officers under their supervision.	General Managers	Ensure compliance with the policy by all Council Officers under their supervision.
	Corporate Services General Manager	Overall responsibility for the policy implementation and compliance.	General Manager Corporate Services	Overall responsibility for the policy implementation and compliance.
	Managers	Ensure compliance with the policy by all Council Officers under their supervision.	Managers	Ensure compliance with the policy by all Council Officers under their supervision.
	Coordinator Procurement and Contracts	Responsible for reviewing, updating and implementing policy. Together with the Procurement and Contracts Department, primary source for procurement advice, training and guidance.	Manager Property, Procurement and Contracts	Responsible for reviewing, updating and implementing policy. Together with the Procurement and Contracts Department, primary source for procurement advice, training and guidance.
Privacy and Human Rights	Remains the same			
Document Control	Date of adoption, Policy Number and File Number reflected previous policy		Date of adoption, Policy Number and File Number updated	
Appendix 1 - Complexity Assessment Procedure				
Previous Complexity Assessment (2021 Policy) Changes Highlighted in			Revised Complexity Assessment:	







Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
Utilities	Electricity, gas, water and telephone services.	No	Yes
Insurance premiums and claims	WorkCover and other insurances.	<del>Yes</del> No	Yes
Prescribed contracts	Legal services	Yes	No
Payroll expenses	Superannuation and PAYG.	Yes	Yes
GST	Goods and Services Tax payable.	Yes	Yes
Postage and Freight	Australia Post.	Yes	Yes
Vehicle registrations	VicRoads vehicle registrations.	Yes	Yes
Councillor expenses	Allowances and Reimbursements.	Yes	Yes
Refundable trust funds	Includes Security Bonds, Contract Retentions and other funds held in trust.	Yes	Yes
Levies	EPA Victoria Levy.	Yes	Yes
	Fire Services Property Levy.	Yes	Yes
Other	Acquisition of Land and Buildings.	Yes	Yes
	Medical expenses.	Yes	Yes

Extra exemptions (in yellow) were added to Category - Other			
Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
	Medical expenses.	Yes	Yes
	Internal venue hire (e.g. COPACC, Bluewater).	Yes	Yes
	Diesel Fuel – Fisherman's Co-Op. <i>To be removed once Port of Apollo Bay transfers to GORCAPA</i>	Yes	No
	Memberships and subscriptions.	Yes	Yes
	Software renewals.	Yes	No
	External audit fees – Victorian Auditor-General's Office.	Yes	No
	Home Care Packages	Yes	No
	Annual community grants.	Yes	Yes
	Professional workshop and conference registration fees and associated costs.	Yes	No
	Loans and investments.	Yes	Yes
	General advertising.	Yes	No

	Recruitment advertising.	Yes	No
	First Nation Corporations - Statutory Functions and Non-Competitive Functions.	Yes	No
Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
	COPACC Performances - Where the acquisition is of a cultural or artistic nature i.e. a live show or art piece	Yes	No
	Audit & Risk Committee Fees	Yes	No

## Item: 9.5

### Review of Governance Rules for exhibition

<b>OFFICER</b>	Kendrea Pope
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Governance Rules for public consultation attachment one - 22 May 2024 Council Meeting [9.5.1 - 47 pages]</li><li>2. Governance Rules for public consultation - attachment two - 22 May 2024 Council Meeting [9.5.2 - 47 pages]</li></ol>

## 1. PURPOSE

To present Council with a set of revised Governance Rules for public consultation in line with Council's Community Engagement Policy.

## 2. EXECUTIVE SUMMARY

The Governance Rules were most recently amended in 2022 to address a range of matters including essential amendments to ensure the continuance of online and hybrid meetings.

The revisions proposed in this draft include a mix of essential updates and improvements which reflect the accumulated experience of councillors over the current council term.

The proposed consultation approach includes a public submission period and a hearings submission committee.

## 3. RECOMMENDATION

***That Council:***

- 1. Endorses the draft Governance Rules, as per Attachment 1, for release on Council's website enabling public consultation for the period 23 May 2023 and 5 July 2024.***
- 2. Provides the opportunity for any person wishing to speak to their written submission to be heard, or a nominated representative to speak to their submission on behalf of the person,***

*at a Submissions Committee meeting prior to Council considering adoption of the final Governance Rules.*

- 3. Notes the Governance Rules will be put forward for adoption at the July 2024 meeting of Council.**

## 4. KEY INFORMATION

A number of the proposed changes to the Rules should be actioned prior to the 2024 elections. These necessary changes include amendments to the provisions relating to the election of the Mayor, minor but important updates to references in the election period policy which forms a part of the Governance Rules and, less critically, updates to the provisions relating to losing quorum due to conflicts of interest among other editorial changes to more closely align to the requirements of the Local Government Act 2020.

In addition to these important but relatively minor changes, officers have worked with councillors to prepare a number of other proposed improvements highlighted in yellow that include:

- Incorporating the governance principles articulated in the Act
- Removing provisions relating to divisions and en bloc voting and redundant procedural motions
- Streamlining and clarifying procedure around the chairing of debate, procedural and dissent motions
- Additional criteria guiding preparation of notices of motion and
- Conventions around the use of the casting vote

Minor editorial amendments are numerous and include streamlining the provisions around public question time, removal of conflicting provisions including those related to voting, removing unnecessary references to the provisions in the Act and inclusion of gender-neutral language.

## 5. ADDITIONAL INFORMATION

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The overarching governance principles particularly relevant to this proposal are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law
- b) the municipal community is to be engaged in strategic planning and strategic decision making
- c) innovation and continuous improvement is to be pursued
- d) the transparency of Council decisions, actions and information is to be ensured

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

The Local Government Act 2020 mandates public engagement in the development of Council's governance rules. The approach proposed here is aligned with the requirements outlined in the Colac Otway Community Engagement Policy which provides for a range of community engagement mechanisms and approaches suitable for the nature of the engagement.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable

**Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

The approach proposed here is aligned with the requirements outlined in the Colac Otway Community Engagement Policy which provides for a range of community engagement mechanisms and approaches suitable for the nature of the engagement. In this instance it is considered appropriate to allow for a public consultation period of nearly six weeks.

**Public Transparency** (s58 LGA 2020)

The proposed approach to public engagement and decision making in relations to the Governance Rules are consistent with the Act's public transparency principles.

**Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

**Financial Management** (s101 Local Government Act 2020)

Not applicable

**Service Performance** (s106 Local Government Act 2020)

Not applicable

**Risk Assessment**

Not applicable

**Communication/Implementation**

Council is advised to widely communicate the opportunity for participating in the public submissions process and hearings committee.

**Human Rights Charter**

No impact

**Officer General or Material Interest**

No officer involved in the preparation of this report has a conflict of interest in the Council decision.

**Options**Option 1 – Endorse for public consultation the version of the Governance Rules at attachment 1

This version which is recommended includes an additional requirement at section 47 5 (b) and (c) that members of the public provide the wording of their question from the gallery at the point of registration. This provision will provide the Chair with forewarning of the upcoming questions and can manage time accordingly and can better manage in advance any risks associated with having questions asked in a live meeting broadcast by Council. It will also allow an opportunity for Council administration, in many cases, to find the relevant information to enable them to provide fuller and more detailed answers to questions raised from the gallery.



## Option 2 – Endorse for public consultation the version of the Governance Rules at attachment 2

This version of the draft for consultation does not include a requirement for a community member to provide their question in writing under section 47 5 (c) and instead requires that only the ‘topic’ of the question be registered. While this gives the Chair some forward notice of matters that may be raised in public question time it does not provide the detail required to manage risk more fully and does not allow officers the benefit of some additional time to gather the relevant information together and may increase the proportion of questions which may need to be taken on notice.



# GOVERNANCE RULES

Date adopted by Council:

Next review date:

CM reference		Responsible:	Manager Governance	Approval date:	
--------------	--	--------------	--------------------	----------------	--



## GOVERNANCE RULES

### TABLE OF CONTENTS

<b>Table of Contents .....</b>	<b>2</b>
<b>PART 1 – INTRODUCTION .....</b>	<b>5</b>
<b>Date of Commencement .....</b>	<b>5</b>
<b>Context.....</b>	<b>5</b>
<b>Principles.....</b>	<b>5</b>
<b>Decision Making .....</b>	<b>6</b>
<b>Confidential Information .....</b>	<b>6</b>
<b>Definitions.....</b>	<b>7</b>
<b>PART 2 – COUNCIL MEETINGS.....</b>	<b>8</b>
<b>Meeting preparation .....</b>	<b>8</b>
1. Dates and Times of Meetings Fixed by Council (Scheduled Meetings) .....	8
2. Council May Cancel or Alter Meeting Dates .....	8
3. Meetings Not Fixed in the schedule of annual meetings by Council (Unscheduled Meetings) ....	8
4. Notice of Meeting .....	8
5. Agenda and the Order of Business .....	9
6. Prohibition of Unauthorised Recording of Meetings.....	9
7. Availability of Council Meeting Documentation .....	9
8. Inability to Obtain a Quorum .....	9
9. Inability to Maintain a Quorum .....	10
10. Adjourned Meetings .....	10
11. Cancellation or Postponement of a Meeting .....	10
12. Informal Meetings of Councillors.....	10
13. Requirements relating to petitions and joint letters .....	11
<b>PART 3 – MEETING PROCEDURE.....</b>	<b>13</b>
<b>Debate And Decision Making .....</b>	<b>13</b>
14. Chair's Duty.....	13
15. Maintaining order.....	13
16. Change to Order of Business.....	13
17. Introducing a Report.....	13
18. Priority of address .....	14
19. Introducing a Motion or an Amendment .....	14
20. Moving an Amendment .....	14
21. Who May Propose an Amendment .....	14
22. How Many Amendments May be Proposed.....	14
23. An Amendment Once Carried .....	15
24. Foreshadowing Motions .....	15
25. Withdrawal of Motions .....	15
26. Voting in Parts .....	15



27.	Motions in Writing.....	15
28.	Repeating Motion and/or Amendment .....	16
29.	Debate Must Be Relevant to the Motion .....	16
30.	Right of Reply .....	16
31.	Speaking Times.....	16
32.	Time Limits for Meetings .....	16
33.	Addressing the Meeting .....	17
34.	Right to Ask Questions.....	17
35.	Councillors May Give Notice of Motions .....	17
36.	<b>Notice of Motion</b> .....	17
37.	Petitions and joint letters .....	18
	<b>Procedural Motions.....</b>	<b>19</b>
38.	<b>Managing procedural motions</b> .....	19
	<b>PROCEDURAL MOTIONS TABLE.....</b>	<b>20</b>
	<b>Rescission Motions.....</b>	<b>24</b>
39.	<b>Notice of Rescission</b> .....	24
40.	<b>If Lost or if not moved</b> .....	24
41.	<b>May be Moved by any Councillor</b> .....	24
	<b>Points of Order .....</b>	<b>25</b>
42.	Valid Points of Order .....	25
43.	Procedure for Point of Order .....	25
44.	Chair May Adjourn to Consider .....	25
45.	Chair to Decide.....	25
46.	<b>Motion of dissent</b> .....	25
	<b>Public Question Time.....</b>	<b>26</b>
47.	<b>Question Time</b> .....	26
	<b>Voting.....</b>	<b>27</b>
48.	<b>How Motion Determined</b> .....	27
49.	Silence.....	27
50.	Recount .....	27
51.	<b>Casting Vote</b> .....	27
52.	No Discussion Once Declared .....	27
	<b>Urgent business .....</b>	<b>28</b>
53.	<b>Urgent Business</b> .....	28
	<b>Minutes .....</b>	<b>28</b>
54.	Confirmation of Minutes .....	28
55.	Form and Availability of Minutes .....	28
	<b>Behaviour.....</b>	<b>29</b>
56.	Public Addressing the Meeting.....	29
57.	Chair May Remove.....	29
58.	Chair may adjourn disorderly meeting .....	30
59.	Removal from Chamber .....	30
60.	Criticism of members of Council staff.....	30
	<b>Suspension of Meetings Procedure.....</b>	<b>30</b>
61.	Suspension of Meetings Procedure .....	30



**PART 4 – MEETINGS CONDUCTED VIA ELECTRONIC MEANS OF COMMUNICATION 31**

<b>Electronic Communication .....</b>	<b>31</b>
62. Meeting requirements.....	31
63. Requesting and Approval of ‘electronic’ attendance .....	32
64. Other matters not provided for .....	33
65. Recording Proceedings .....	33

**PART 5 – MEETING PROCEDURE FOR DELEGATED COMMITTEES AND COMMUNITY ASSET COMMITTEES.....34**

<b>Committee Meeting Procedure.....</b>	<b>34</b>
66. Appointing Chairs of Delegated Committees .....	34
67. Meeting Procedure Generally .....	34
68. Meeting Procedure Can Be Varied .....	34
69. Requests to address a Delegated Committee .....	34
70. No Public Question Time .....	34
71. Community Asset Committee.....	34

**PART 6 – DISCLOSURE OF CONFLICTS OF INTEREST .....35**

<b>Conflict Of Interest .....</b>	<b>35</b>
72. Disclosure of a Conflict of Interest .....	35
73. Disclosure by Members of Council Staff Preparing Reports for Meetings.....	35
74. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power .....	36
75. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function.....	36
76. Retention of Written Notices .....	36

**PART 7 – ELECTION OF MAYOR.....37**

<b>Election Procedure.....</b>	<b>37</b>
77. Overseeing the Election .....	37
78. Method of Voting .....	37
79. Determining the election of the Mayor .....	37
80. Election of Deputy Mayor and Chairs of Delegated Committees.....	38
81. Appointment of Acting Mayor .....	38
82. Appointment of a Temporary Chair .....	38

**Election Period Policy.....39**





## PART 1 – INTRODUCTION

### DATE OF COMMENCEMENT

These Governance Rules commence on (insert date on adoption).

### CONTEXT

The Governance Rules have been developed in accordance with section 60 of the *Local Government Act 2020* (the Act). Their purpose is to ensure that Council:

- makes decisions on any matter fairly on the merits and with accurate and adequate information considering the interests of anyone impacted by decisions and
- has decision-making processes that are transparent and robust, ensuring that all decision makers have the opportunity to express their views.

These Rules should be read in the context of and in conjunction with the overarching governance principles specified in section 9(2) of the Act and the following documents approved by Council:

- Council Plan
- Councillor Code of Conduct
- Public Transparency Policy and
- Livestreaming and Recording of Council and Planning Committee Meetings Policy.

### PRINCIPLES

Council is committed to governing on behalf of the Colac Otway community in a transparent, consultative and outcomes-driven way, as outlined by the overarching governance principles set out at section 9(2) of the Act:

- decisions are to be made and actions taken in accordance with the relevant law and Council policies
- priority is to be given to achieving the best outcomes for the municipal community, including future generations
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
- the municipal community is to be engaged in strategic planning and strategic decision making
- innovation and continuous improvement is to be pursued
- collaboration with other councils and governments and statutory bodies is to be sought
- the ongoing financial viability of the Council is to be ensured
- regional, state and national plans and policies are to be considered in strategic planning and decision making and



- the transparency of Council decisions, actions and information is to be ensured.

---

#### DECISION MAKING

In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), this must be done:

- fairly, by giving consideration and deciding which is balanced, ethical and impartial and
- on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.

Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice. This includes ensuring that any person whose rights will be directly affected by a decision of Council is afforded an opportunity to communicate their views and have their interests considered.

If a report to be considered at a Council meeting or delegated committee concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has, or persons have been provided with an opportunity to communicate their views and have their interests considered.

If a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

---

#### CONFIDENTIAL INFORMATION

Where the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may advise the information is confidential and advise Councillors and/or members of Council staff in writing accordingly. If not advised, then the information may still be confidential by virtue of the Act.

Information which has been advised by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing, accordingly, will be presumed to be confidential information.

Council may resolve to release information advised by the Chief Executive Officer as confidential information within the meaning of the Act.

The CEO will prepare a report twice yearly capturing all decisions made in meetings (including meetings of delegated committees) closed to the public and confidential attachments to reports presented in public meetings. This report will include advice on items which may be no longer confidential and are appropriate for release by Council resolution.



## DEFINITIONS

In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:

**Act** - the *Local Government Act 2020*

**Chief Executive Officer** - includes an Acting Chief Executive Officer

**Community Asset Committee** - a Community Asset Committee established under section 65 of the Act

**Council** - Colac Otway Shire Council

**Council meeting** - a meeting of the Council convened in accordance with the Act and these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Days** unless specified as 'business days' the use of the term 'days' in these rules includes all seven days of the week including those days on the weekend.

**Delegated Committee** - a Delegated Committee established under section 63 of the Act

**Delegated Committee meeting** - a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Instrument of Delegation** - an instrument of delegation made by the Chief Executive Officer under section 47(1)(b) of the Act

**Mayor** - the Mayor of Council

**Meetings by electronic** - of communication include meetings where all members attend electronically, or where some members attend in-person and some attend via electronic means of communication



## PART 2 – COUNCIL MEETINGS

### MEETING PREPARATION

#### **1. Dates and Times of Meetings Fixed by Council (Scheduled Meetings)**

- 1.1 Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.

#### **2. Council May Cancel or Alter Meeting Dates**

- 2.1 Council may cancel or change the date, time and place of any Council meeting which has been fixed by it and must provide reasonable notice of the change to the public.

#### **3. Meetings Not Fixed in the schedule of annual meetings by Council (Unscheduled Meetings)**

- 3.1 The Council may by resolution, call an unscheduled meeting of the Council. The resolution must specify the date, time and place of the meeting and the business to be transacted.
- 3.2 In addition, the Mayor or at least three Councillors may by a written notice call an unscheduled Council meeting.
- 3.3 The notice must specify the date and time of the unscheduled Council meeting and the business to be transacted.
- 3.4 The Chief Executive Officer must convene the unscheduled Council meeting as specified in the notice.

#### **4. Notice of Meeting**

- 4.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 4.2 Notwithstanding 4.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the election period of their absence.
- 4.3 Reasonable notice of each Council meeting must be provided to the public at least seven days before the meeting. Council may do this:
- (a) for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting and



- (b) for any meeting by giving notice on its website and in each of its Customer Service Centres and in at least one newspaper generally circulating in the municipal district.

**4.4 If urgent or extraordinary circumstances prevent Council from complying with the notice requirements in this section, the Council must:**

- (a) give such notice as is practicable and
- (b) specify the urgent or extraordinary circumstances which prevented the Council from complying from the notice requirements in this section in the minutes of the meeting.

**5. Agenda and the Order of Business**

- 5.1 The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer, following consultation with the Mayor, so as to facilitate and maintain open, efficient and effective processes of government.

**6. Prohibition of Unauthorised Recording of Meetings**

- 6.1 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.

**7. Availability of Council Meeting Documentation**

- 7.1 All endeavours will be made to make Council meeting documentation available:
    - (a) through section to Councillors and relevant staff members six days prior to a scheduled meeting
    - (b) on Council's website five days prior to a scheduled meeting and hard copies provided at its Customer Service centres
    - (c) to Councillors and relevant staff members seven days prior to a scheduled meeting when the Council meeting is to be held on a Wednesday and the Monday or Tuesday immediately prior to the scheduled meeting is a public holiday.
  - 7.2 Council may, on occasion, be unable to comply with sub-Rule 7.1 where the meeting is an unscheduled meeting.
- 8. Inability to Obtain a Quorum**
- 8.1 If after 30 minutes from the scheduled starting time of any Council meeting, a quorum cannot be obtained:
    - (a) the meeting will be deemed to have lapsed
    - (b) the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting



- (c) the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor.

## **9. Inability to Maintain a Quorum**

- 9.1 If during any Council meeting, a quorum cannot be maintained then the meeting will be considered adjourned. This does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered, or where prior notification has been given that the meeting will not proceed and there was no opportunity for Council to formally resolve to cancel it.

- 9.2 In the event that a quorum fails due to there being a predominant number of Councillors with a conflict of interest in a matter, Council will consider the alternative options outlined at s67 of the *Local Government Act 2020* including considering moving a motion to:

- (a) split the matter into parts and/or

- (b) delegate the decision to a person or committee not impacted by a conflict on the matter.

- 9.3 A decision to delegate a matter under the above provision due to their being conflicts of interest which would cause a failure of a quorum is not itself a decision on which Councillors have a conflict.

## **10. Adjourned Meetings**

- 10.1 Council may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 10.2 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 10.3 If it is impracticable for the notice given be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

## **11. Cancellation or Postponement of a Meeting**

- 11.1 The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting.
- 11.2 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 11.1.

## **12. Informal Meetings of Councillors**

- 12.1 If there is an informal meeting of Councillors involving at least three Councillors that:





(a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors in advance of a Council meeting at which a related decision will be made and

(b) is attended by at least one member of Council staff and

(c) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

### **13. Requirements relating to petitions and joint letters**

**13.1** A petition or joint letter must be presented to the next available scheduled meeting of Council where the petition or joint letter is received at least 10 days before the Council meeting.

**13.2** Every petition or joint letter presented to Council:

- (a) must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people
- (b) must be addressed to the Council, Mayor, a Councillor or Councillors, containing a request for action to be taken by Council
- (c) may be submitted electronically, by post or delivered in person
- (d) must be in the English language, or accompanied by a translation, which will need to be certified by the Chief Executive Officer who will present it to be correct
- (e) must not be defamatory or objectionable in language or nature and
- (f) must not relate to matters outside the powers of Council or relate to neighbourhood disputes/issues
- (g) must be received by Council in its original form 10 days prior to a Council meeting and, if it is not, will be presented at the next Council meeting and
- (h) may, at the discretion of the Chief Executive Officer, be refused if the same, or substantially the same, petition is received more than once in a twelve (12) month election period during the course of a term of Council.

**13.3** Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.

**13.4** Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.

**13.5** Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.



- 13.6** The Chief Executive Officer may accept electronic petitions received via online websites if they are satisfied that the petition is authentic and from a legitimate website and provided that the electronic petition has been closed and a copy has been forwarded to Council.
- 13.7** A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format. Only the wording of the request and the number of signatories will be included in the public agenda for a Council meeting.
- 13.8** A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or if it is not obvious who the intended contact person is, Council will reply to the first signatory who appears on the petition or joint letter.
- 13.9** Should a matter raised in a petition not be dealt with under 37.2 the CEO may bring an officer's report on the item to a subsequent Council meeting.



## PART 3 – MEETING PROCEDURE

### DEBATE AND DECISION MAKING

#### 14. Chair's Duty

14.1 Among other things, it is the Mayor's role to chair Council meetings and promote behaviour that meets the Councillors' Code of Conduct.

14.2 The Chair must not accept any motion that they determine to be:

- (a) defamatory
- (b) objectionable in language or nature
- (c) vague or unclear in intention
- (d) outside the powers of Council
- (e) a motion which if passed would result in Council otherwise acting invalidly
- (f) revealing or likely to reveal confidential information which has not been resolved to be made public by Council
- (g) irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not, or
- (h) breaching any provision at 36(2) in the absence of a Council report.

#### 15. Maintaining order

15.1 In addition to the duties and discretions provided in this Part, the Chair:

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community and
- (b) must call to order any person who is disruptive or unruly during any meeting.

#### 16. Change to Order of Business

16.1 Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered through resolution of Council.

#### 17. Introducing a Report

17.1 Before a written report is considered by Council and any motion moved, a member of Council staff may introduce the report if invited by the Chair by summarising its background and key analysis behind the officer's recommendation.

17.2 Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.



## **18. Priority of address**

**18.1** Outside of the specific application of rules relating to the priority given to the mover and seconder, in the case of competition for the right to speak, the Chair must decide the order in which the Councillors concerned will be heard.

## **19. Introducing a Motion or an Amendment**

**19.1** The procedure for moving any motion or amendment is:

- (a) the mover must state the motion without speaking to it
- (b) the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder.

**19.2** If a motion or an amendment is moved and seconded the Chair must ask:

- (a) "Does any Councillor wish to speak to the motion or amendment?"

**19.3** If a Councillor indicates a desire to speak to it, then the Chair must first call on the mover to address the meeting.

**19.4** After the mover has addressed the meeting, the seconder may address the meeting.

**19.5** After the seconder has addressed the meeting, or has reserved their address, the Chair must invite debate by calling on any Councillor who wishes to speak to the motion.

**19.6** If, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the Chair must put the motion to the vote.

## **20. Moving an Amendment**

**20.1** Once the mover and seconder of a motion have been offered the opportunity to speak, a motion may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

**20.2** An amendment must not be directly opposite to the motion.

## **21. Who May Propose an Amendment**

**21.1** An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

**21.2** Any one Councillor cannot move more than two amendments in succession without the agreement of the Chair and permission will not be unreasonably withheld.

## **22. How Many Amendments May be Proposed**

**22.1** Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.



- 22.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

**23. An Amendment Once Carried**

- 23.1 If the amendment is carried, the original motion as amended then becomes the substantive motion and may be further debated before it is put to the vote.

- 23.2 Only Councillors who didn't speak to the original motion have a right to speak to the substantive motion.

- 23.3 The mover of the original motion retains the right of reply to the substantive motion.

**24. Foreshadowing Motions**

- 24.1 At any time during debate a Councillor may foreshadow a motion to inform Council of their intention to move a motion on the item at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

- 24.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

- 24.3 The Chief Executive Officer is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

- 24.4 If an item of business concerns a matter that involves a statutory or contractual deadline or other obligation that cannot be safely or conveniently deferred, the Chair may call for subsequent motions if a motion has been moved and fails and where no further motions have been foreshadowed.

- 24.5 In this instance the Chair may also initiate a short adjournment to allow for a motion to be drafted.

**25. Withdrawal of Motions**

- 25.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder.

**26. Voting in Parts**

- 26.1 On request by a Councillor or to facilitate debate on a long and complex motion where appropriate, the Chair may put any motion to the vote in several parts.

**27. Motions in Writing**

- 27.1 The Chair may require that a complex or detailed motion be in writing.

- 27.2 The Chair may adjourn the meeting while the motion is being written or Council may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.



**28. Repeating Motion and/or Amendment**

- 28.1 The Chair may request the person taking the minutes of the Council meeting to read the motion or amendment to the meeting before the vote is taken.

**29. Debate Must Be Relevant to the Motion**

- 29.1 Debate must always be relevant to the motion before the Chair, and, if not, the Chair must request the speaker to confine debate to the motion.
- 29.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- 29.3 A speaker to whom a direction has been given must comply with that direction.

**30. Right of Reply**

- 30.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 30.2 After the right of reply has been taken the motion must be put to the vote without any further discussion or debate.

**31. Speaking Times**

- 31.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
- (a) the mover of a motion five minutes
  - (b) the mover of an amendment three minutes
  - (c) any other Councillor three minutes and
  - (d) Councillor exercising a right of reply/closing statement two minutes.

**32. Time Limits for Meetings**

- 32.1 The Chair will pause a Council meeting after four hours and the Council will consider if it wants to continue. A majority of Councillors present must vote in favour of its continuance.
- 32.2 In the absence of a continuance, the meeting must stand adjourned to a time and date to be announced by the Chair, immediately prior to the meeting standing adjourned and where possible, within two business days.
- 32.3 No meeting is to continue past six hours. In that event, the meeting is considered adjourned.
- 32.4 The Council may adjourn for a short break every hour, after a period of two hours, or at the Chair's discretion.





### **33. Addressing the Meeting**

#### **33.1** If the Chair so determines:

- (a) any person addressing the Chair must refer to the Chair as:
  - Mayor or
  - Chair or Acting Chairas the case may be.

#### **33.2** All Councillors, other than the Mayor, must be addressed as:

- (a) Cr.....(surname).

#### **33.3** All members of Council staff, must be addressed by their official title.

### **34. Right to Ask Questions**

#### **34.1** A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

#### **34.2** The Chair has the right to limit questions and direct that debate be commenced or resumed.

### **35. Councillors May Give Notice of Motions**

#### **35.1** Councillors may ensure that a matter is considered by a scheduled Council meeting by giving Notice of a Motion.

### **36. Notice of Motion**

#### **36.1** A notice of motion must be in writing signed by a Councillor and be lodged with or sent to the Chief Executive Officer at least eight days prior to the Council meeting, to allow sufficient time for the Chief Executive Officer to include the notice of motion in the agenda papers for a Council meeting.

#### **36.2** A notice of motion must call for a Council report if it proposes any action which would:

- (a) commit Council to unbudgeted expenditure above \$20,000
- (b) materially impact Council service levels, the delivery of strategic priorities in the annual action plan and delivery of initiatives in the draft budget
- (c) commit Council to a contractual arrangement
- (d) potentially prejudice Council in any litigation in which Council is a party or which concerns any litigation or compliance matter.

#### **36.3** Notices of motion put forward by a Councillor must not include multiple unrelated items. Where such a notice is received, the CEO may, without changing the content and in consultation with the submitting Councillor, separate a notice of motion into separate notices of motion.



**36.4 The Chief Executive Officer may reject any notice of motion which:**

- (a) is defamatory
- (b) is objectionable in language or nature
- (c) is vague or unclear in intention
- (d) reveals or is likely to reveal confidential information which has not been resolved to be made public by Council
- (e) is outside the powers of Council or
- (f) if passed would result in Council otherwise acting invalidly but must:
  - give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so and
  - notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.

**36.5** Once a notice of motion is accepted by the CEO for the register it must immediately be circulated by the CEO to all Councillors.

**36.6** The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and may include an officer comment.

**36.7** The Chief Executive Officer must cause all notices of motion to be numbered, dated, and entered in the notice of motion register in the order in which they were received.

**36.8** Except by resolution to change the order of business, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.

**36.9** Where a notice of motion is listed on an agenda, the Chair will first invite the Councillor who gave the notice of motion to move it. The Chair will offer an opportunity for the mover and seconder to speak in order before any other Councillor is offered an opportunity to speak.

**36.10** If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.

**36.11** If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

**36.12** Unless Council resolves to re-list at a future Council meeting a notice of motion which has been lost, a similar motion must not be put before Council for at least three months from the date it was lost.

**37. Petitions and joint letters**

**37.1** On tabling a petition or joint letter a Councillor must move a motion to note the petition or joint letter and refer it to the CEO for preparation of a response unless the provisions of 37.2 apply.



**37.2** If a petition relates to:

(a) a 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987* or

(b) a 'statutory matter' or matter relating to the budget which is the subject of a community engagement process

the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory' or 'budgetary process' (as the case may be).

**37.3** If the petition or joint letter relates to any item already on the agenda for the Council meeting at which the petition or joint letter is submitted, the Chair may decide that the petition or joint letter will be considered as part of Council's deliberations on that agenda item.

---

PROCEDURAL MOTIONS

**38. Managing procedural motions**

**38.1** Procedural motions must be seconded.

**38.2** Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the in accordance with the following table:



## PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>1. Adjournment of debate to later hour, after a certain item on the agenda and/or date</b>	That this matter be adjourned to *am/pm and/or *date or after conclusion of the item at number.	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
<b>2. Adjournment of debate indefinitely</b>	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking or (c) When the motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>3. The closure (of debate)</b>	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>4. Deferral of a matter (to a future meeting)</b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor (b) During the election of a Chairperson or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
<b>5. Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the Agenda	No



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>6. Suspension of Meetings Procedure</b>	'That the Meetings Procedure be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion. No debate or decision on any matter, other than a decision to resume Meetings Procedure, is permitted	The meeting continues unaffected	No
<b>7. Resumption of Meetings Procedure</b>	'That the Meetings Procedure be resumed'	Any Councillor/or the Mayor	When Meeting Procedures have not been suspended	<p>The temporary suspension of the rules of the meeting is removed</p> <p>The Mayor retains the ability to determine to reinstate the meeting procedure</p>	The Mayor may determine to reinstate the procedure	No





Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>8. Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with Section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item (number) is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting continues to be open to the public	Yes
<b>9. Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The meeting is reopened to the public	The meeting remains closed to the public	No

## RESCISSION MOTIONS

### 39. Notice of Rescission

39.1 A Councillor may give notice of a motion to rescind a previous resolution of Council provided:

- (a) the resolution proposed to be rescinded has not been acted on
- (b) the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations and
- (c) the Notice of Rescission is delivered to the Chief Executive Officer within five business days of the resolution having been made setting out the resolution to be rescinded and the meeting and date when the resolution was carried.

39.2 Notices of rescission may include a further motion which may be moved if the rescission is carried and must have the support of one other councillor indicated by them via email or with a signature on a hardcopy or electronic signature on a digital notice.

39.3 A resolution will be deemed to have been acted on if:

- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it or
- (b) a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person.

39.4 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:

- (a) has not been acted on and
- (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with 39.1.

### 40. If Lost or if not moved

40.1 If a motion for rescission is lost or fails to be moved at the meeting for which it is lodged, a similar motion may not be put before Council for at least three months from the date it was last lodged, unless Council resolves that the notice of motion be re-listed at a future meeting.

### 41. May be Moved by any Councillor

41.1 A motion for rescission listed on an agenda may be moved by any Councillor present.



---

## POINTS OF ORDER

### **42. Valid Points of Order**

**42.1** A point of order may be raised in relation to a motion, amendment or statement made that:

- (a) is contrary to these Rules
- (b) is defamatory
- (c) is irrelevant to the matter under consideration or offensive
- (d) is outside Council's legal powers
- (e) constitutes improper behaviour
- (f) constitutes a tedious repetition of something already said
- (g) a motion, which, under rule 14 should not be accepted by the Chair
- (h) a question of procedure or
- (i) any act of disorder.

### **43. Procedure for Point of Order**

**43.1** A Councillor raising a point of order must:

- (a) state the point of order and
- (b) state any section, rule, paragraph or provision of these rules or the Councillor Code of Conduct relevant to the point of order.

**43.2** A Councillor who is interrupted by another Councillor calling for a point of order must immediately stop speaking and remain silent until the Councillor raising the point of order has been heard and the question disposed of by the Chair.

### **44. Chair May Adjourn to Consider**

**44.1** The Chair may adjourn the meeting to consider a point of order which has been raised but otherwise must rule on it as soon as it is raised.

**44.2** All other questions or matters before the meeting are suspended until the point of order is decided.

### **45. Chair to Decide**

**45.1** The Chair must decide all points of order by stating the provision, rule, practice, or precedent which they consider applicable to the point raised without entering into any discussion or comment.

### **46. Motion of dissent**

**46.1** A Councillor may move that the meeting disagree with a Chair's ruling on a point of order, by moving a motion that Council dissent from the Chair's ruling or part of a ruling.



**46.2** A Councillor moving a motion of dissent on a point of order must reference the provision, rule, practice or precedent in substitution for the Chair's ruling. Debate on a motion of dissent is allowed.

**46.3** A motion of dissent to a ruling on a point of order will take precedence over all other business and will be subject to a vote.

**46.4** If the vote is in the affirmative, that the Chair's ruling be dissented from, the Chair must reverse or vary (as the case may be) their previous ruling and proceed accordingly.

**46.5** The defeat of the Chair's ruling is not a motion of censure or no-confidence in the Chair.

---

#### PUBLIC QUESTION TIME

##### **47. Question Time**

**47.1** Unless Council resolves differently, there must be 30 minutes public question time at every Council meeting and 15 minutes question time at the beginning of unscheduled meetings. Question time is specifically for succinct questions in form and character, rather than forums for making statements and discussion.

**47.2** A time limit of five minutes per person applies regardless of the number of questions.

**47.3** Any member of the public addressing Council must address all questions to the Chair and extend due courtesy and respect to Council and the processes under which it operates. Any member of the public take direction from the Chairperson whenever called on to do so.

**47.4** The Chair has discretion to extend question time having regard to the agenda for the meeting and time available.

**47.5** Questions in writing and registrations received are managed in order of submission and registration. Time may be limited for questions from the gallery in some instances. To ensure their opportunity to speak, members of the public are encouraged to register their questions in advance. Members of the public may:

(a) submit a question (online, by post or hand delivered to our Customer Service centre) by no later than 5pm two days prior to the Scheduled Council meeting, to be read out at the meeting

(b) register by no later than 5pm two days prior to the scheduled meeting to join the meeting virtually or by phone to ask their question, the wording of which must be registered to support officers' preparation

(c) register at the meeting to ask a question from the public gallery by submitting the wording of their question in writing.

If the time allotted for public question time has expired the CEO will organise responses to be provided in writing to any remaining questions after the meeting.

**47.6** The Chief Executive Officer may take any question on notice and provide answers in writing.



- 47.7** The Chair of the meeting may disallow any question on the ground that it is repetitive of a question already asked (including at previous meetings), offensive, revealing or seeking to reveal confidential information (including questions relating to compliance or enforcement matters or other legal proceedings) or is asked to embarrass a Councillor or member of the administration.
- 47.8** Like questions may be grouped together and a single answer provided.

---

## VOTING

### **48. How Motion Determined**

- 48.1** Voting on any matter is by show of hands.
- 48.2** Any Councillors who abstain from voting will be counted as voting against the motion.
- 48.3** All votes cast by Councillors will be declared by the Chair and recorded in the minutes.

### **49. Silence**

- 49.1** Voting must take place in silence.

### **50. Recount**

- 50.1** Any Councillor including the Chair may ask that a vote be recounted to satisfy themselves of the result.

### **51. Casting Vote**

- 51.1** The provisions relating to use of the casting vote are advisory. Council acknowledges that the Chair is always free to exercise the casting vote as they see fit, notwithstanding the expectations outlined in these provisions.
- 51.2** Unless circumstances require an immediate decision, it is the expectation of Council that in the event of a tied vote, the Chair defer the item until the next meeting. Should the vote be tied, the Mayor may choose to not exercise their casting vote and may defer the item.
- 51.3** It is the expectation of Council that if the casting vote is being used, that it should support continuance of the status quo.

### **52. No Discussion Once Declared**

- 52.1** Once a vote on a motion has been taken, no further discussion relating to the motion is allowed unless the discussion involves foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.



---

## URGENT BUSINESS

### 53. Urgent Business

- 53.1 Business cannot be admitted as urgent business other than by resolution of Council.
- 53.2 When the Chair asks if the CEO or any Councillor has an item for consideration during urgent business, a Councillor may propose an item of business be admitted to the agenda.
- 53.3 The mover of an item of urgent business must first move a motion to admit an item to the agenda. If Council resolves to admit the item as urgent business, the Councillor may then put forward a substantive motion on that item.
- 53.4 Council may resolve to admit an item of business to the agenda if it is satisfied that it:
- (a) relates to or arises out of a matter which has arisen since the closing date to lodge a notice of motion and
  - (b) cannot safely or conveniently be deferred until the next Council meeting.

---

## MINUTES

### 54. Confirmation of Minutes

- 54.1 At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:
- (a) a copy of the draft minutes must be delivered to each Councillor no later than 48 hours before the meeting
  - (b) the Chair will confirm the version of the minutes being adopted if there have been multiple revisions made by the administration
  - (c) following the moving and seconding of the minutes, if no Councillor indicates an intention to move an amendment, the motion is put to the vote and
  - (d) if a Councillor intends to move a motion to adopt the minutes with amendment, they must clearly state the words to be added or removed from the draft minutes.
- 54.2 A resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.

### 55. Form and Availability of Minutes

- 55.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
- (a) the date, place, time and nature of the meeting
  - (b) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance





- (c) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Part 6
- (d) arrivals and departures (including temporary departures) of Councillors during the course of the meeting
- (e) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder)
- (f) the outcome of every motion, other than procedural motions, whether it is carried, lost, deferred, withdrawn, lapsed or amended
- (g) the vote cast by each Councillor
- (h) use of the casting vote
- (i) questions on notice
- (j) the failure of a quorum
- (k) any adjournment of the meeting and the reasons for that adjournment
- (l) the time at which standing orders were suspended and resumed
- (m) the full text of any public questions and the full responses provided by the Mayor, Chief Executive Officer or their nominee and
- (n) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the Council meeting or the recording of the minutes.

**55.2** The Chief Executive Officer must ensure that the confirmed minutes of any Council meeting are:

- (a) published on Council's website and
- (b) available for inspection at Council's office during normal business hours.

**55.3** Nothing in these rules requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

---

## BEHAVIOUR

### **56. Public Addressing the Meeting**

**56.1** Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.

**56.2** A member of the public present at a Council meeting must not disrupt the meeting.

### **57. Chair May Remove**

**57.1** The Chair may order and cause the removal of any person, other than a Councillor, who after being warned continues to disrupt a meeting or fails to comply with a direction given by the Mayor.



**58. Chair may adjourn disorderly meeting**

- 58.1** If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later day as the Chair thinks proper.

**59. Removal from Chamber**

- 59.1** The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of these rules and whom the Chair has ordered to be removed from the gallery under Rule 69.

**60. Criticism of members of Council staff**

- 60.1** The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising them or any member of Council staff.
- 60.2** A statement under sub-Rule 78.1 must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their seat.

---

**SUSPENSION OF MEETINGS PROCEDURE**

**61. Suspension of Meetings Procedure**

- 61.1** To expedite the business of a meeting, Council may suspend meetings procedure.
- 61.2** The suspension of meetings procedure should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:
- (a) "That meetings procedure be suspended to enable discussion on..."
- 61.3** No motion can be accepted by the Chair or lawfully be dealt with during any suspension of meetings procedure.
- 61.4** Once the discussion has taken place and before any motions can be put, the resumption of meetings procedure will be necessary. An appropriate proposal would be "That meetings procedure be resumed." The Chair retains the right to resume meeting procedure should that be necessary.



## PART 4 – MEETINGS CONDUCTED VIA ELECTRONIC MEANS OF COMMUNICATION

### ELECTRONIC COMMUNICATION

#### **62. Meeting requirements**

- 62.1** Council is permitted by the Act to hold meetings by electronic means of communication, and a Council meeting will be open to the public if members of the public are able to attend it in person, or if it is livestreamed (broadcast live) on Council's internet site.
- 62.2** Where a Councillor attends a Council meeting conducted by electronic means, the Councillor must be able to:
- (a) Hear the proceedings of the Council meeting and
  - (b) See all Councillors attending the Council meeting and
  - (c) Be seen all the time by Councillors and
  - (d) Be heard by all Councillors when they speak and
  - (e) Be seen and heard by members of the public on the livestream (or recording for Delegated Committee meetings).
- 62.3** If the conditions of sub-rule 74.2 cannot be met by one or more Councillors attending a Council meeting conducted by electronic means, whether because of technical difficulties or otherwise, but a quorum is still present, the:
- (a) Council meeting will continue and
  - (b) Councillor (or Councillors) will be treated as being absent from the Council meeting unless the Council meeting is adjourned in accordance with these Rules.
- 62.4** Nothing in this Rule prevents a Councillor from joining (or re-joining) a Council meeting conducted by electronic means at the time that they achieve compliance with sub-rule 74.2, even if the Council meeting has already commenced or continued in their absence.
- 62.5** The Chief Executive Officer must ensure that a Council meeting conducted via electronic means is livestreamed continuously on Council's website (or a recording made available to the public for Delegated Committee meetings).
- 62.6** Nothing in these rules requires any portion of a Council meeting conducted via electronic means that is closed to the public under section 66(1) of the Act to be livestreamed on Council's internet site.
- 62.7** If the livestream of a Council meeting conducted via electronic means is disrupted for any reason, the Chief Executive Officer must immediately inform the Chair of the meeting and the Council meeting will be adjourned for up to 30 minutes. If the technical issue cannot be resolved within 30 minutes and a quorum of in-person attendees cannot be maintained, an unscheduled meeting must be called as soon as practicable



following the meeting to deal with the remaining business on the agenda. If a quorum of in-person attendees can be maintained the Council will resolve how and when the remaining meeting items will be considered.

**63. Requesting and Approval of 'electronic' attendance**

- 63.1** Council and Delegated Committee meetings will be conducted face-to-face (in-person) at a set location, unless the Mayor approves an alternative in accordance with the following sub-rules.
- 63.2** A Councillor or member of a Delegated Committee may request to attend a meeting by electronic means of communication (virtually) by submitting a request to the Mayor and Chief Executive Officer, not less than six hours prior to the meeting commencement time.
- 63.3** A request to attend a meeting via electronic means of communication should only be made for a reason such as (but not limited to) health issues, caring responsibilities, any risk to the health and safety of Councillors, staff, or the community or where a level of travel restriction has been imposed or recommended by government. Approval of a request will be at the discretion of the Mayor. The Mayor will not unreasonably deny a Councillor request to attend a meeting electronically and will take into consideration all of the reasons provided.
- 63.4** The request must be made in writing and state the reasons the Councillor or member of a Delegated Committee wishes to attend the meeting via electronic means.
- 63.5** The Mayor, in consultation with the Chief Executive Officer, will provide a response to the request within 48 hours (if possible) within receipt of the request or no less than four hours prior to the meeting commencement time, whichever is the earlier time, and notify all Councillors or members of a Delegated Committee of the decision.
- 63.6** Requests to participate by electronic means of communication must specify the meeting date(s) and type(s) relevant to the request.
- 63.7** It is the responsibility of the Councillor or member attending the meeting via electronic means to ensure they have the required access and environment suitable for participation (including a secure location when deliberations involve confidential information).
- 63.8** The Councillor or member attending via electronic means will be deemed absent from the meeting for any time that they are unable to both be heard and seen by all participants and hear and see all participants.
- 63.9** If the Mayor is absent from a meeting conducted by electronic means of communication due to technical difficulties, the role of Chair will be filled in accordance with section 61(3) of the Act for the election period of the Chairperson's absence.
- 63.10** Despite anything in these Rules, the Mayor (in consultation with the Chief Executive Officer and Councillors) may determine that a meeting be conducted wholly by



electronic means of communication, with consideration of, but not limited to, the following:

- (a) any health or safety risk to Councillors, staff, and the community or
- (b) a request from an absolute majority of Councillors to hold the meeting wholly by electronic means or
- (c) any other extraordinary circumstances.

**64. Other matters not provided for**

- 64.1** Where any of these Rules has not been expressly modified, and requires modification, to operate at a Council meeting conducted via electronic means, the Chair with the cooperation of the meeting, may modify so much of these Rules as is necessary to permit the Council meeting conducted by electronic means to proceed and to facilitate the more efficient and effective transaction of the business.

**65. Recording Proceedings**

- 65.1** The proceedings of open Council meetings will be audio recorded to facilitate the preparation of the minutes of the meeting and to ensure their accuracy.
- 65.2** Where practicable, the proceedings of open Council meetings will be streamed live on Colac Otway Shire Council's website so that interested parties can watch the proceedings in real time. A recording of the live stream will be made available on the Colac Otway Shire's website the day following the meeting.
- 65.3** The Chief Executive Officer has the discretion and authority to delay publication of a recording in instances where comments made by members of the public at the meeting are considered to be objectionable, offensive, defamatory or inappropriate.
- 65.4** The Council is authorised to resolve that audio and live stream recordings of meetings be edited by the deletion of comments from the public which the Council considers to be objectionable, offensive, defamatory or inappropriate.



## PART 5 – MEETING PROCEDURE FOR DELEGATED COMMITTEES AND COMMUNITY ASSET COMMITTEES

### COMMITTEE MEETING PROCEDURE

#### 66. Appointing Chairs of Delegated Committees

- 66.1 The Act provides the Mayor with specific power to appoint a Councillor to be the Chair of a Delegated Committee.
- 66.2 The Council may also resolve to appoint a Councillor to be Chair of a Delegated Committee (in a case where the Mayor has not made the appointment).

#### 67. Meeting Procedure Generally

- 67.1 If Council establishes a Delegated Committee:
- (a) all the provisions of Part **two and three** apply to meetings of the Delegated Committee and any reference to:
    - a Council meeting is to be read as a reference to a Delegated Committee meeting
    - a Councillor is to be read as a reference to a member of the Delegated Committee and
    - the Mayor is to be read as a reference to the Chair of the Delegated Committee.

#### 68. Meeting Procedure Can Be Varied

- 68.1 Notwithstanding this Part, if Council establishes a Delegated Committee that is not composed solely of Councillors, the Council or the Delegated Committee may resolve that any or all of the provisions of Part two or three are not to apply to a meeting of the Delegated Committee.

#### 69. Requests to address a Delegated Committee

- 69.1 Where the Instrument of Delegation specifically permits, a person may request to be heard at a Delegated Committee meeting in relation to a matter listed on the Agenda.

#### 70. No Public Question Time

- 70.1 There will be no public question public time at Delegated Committee meetings.

#### 71. Community Asset Committee

- 71.1 Unless anything in the instrument of delegation provides otherwise, the conduct of a meeting of a Community Asset Committee is in the discretion of the Community Asset Committee.





## PART 6 – DISCLOSURE OF CONFLICTS OF INTEREST

The requirements to disclose conflicts of interest apply to Council meetings, delegated committees, community asset committees and meetings conducted under the auspices of Council. References to 'Council meeting' include all these meetings.

### CONFLICT OF INTEREST

#### 72. Disclosure of a Conflict of Interest

72.1 A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they:

- (a) are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered or
- (b) intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
  - advising of the conflict of interest
  - explaining the nature of the conflict of interest detailing whether it is a material or general conflict and
  - detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
    - name of the other person
    - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person and
    - nature of that other person's interest in the matter

and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

72.2 The Councillor must, in either event, leave the Council meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

#### 73. Disclosure by Members of Council Staff Preparing Reports for Meetings

73.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

- (a) Council meeting
- (b) Delegated Committee meeting
- (c) Community Asset Committee meeting



must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer disclosing the conflict of interest and explaining the nature of the conflict of interest.

**73.2** The Chief Executive Officer must ensure that the Report referred to in sub-Rule 8.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

**73.3** If the member of Council staff referred to in 73.1 is the Chief Executive Officer:

- (a) the written notice must be given to the Mayor and
- (b) the obligation imposed may be discharged by any other member of Council staff responsible for the preparation of the Report.

**74. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

**74.1** A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

**74.2** If the member of Council staff referred to in 74.1 is the Chief Executive Officer the written notice must be given to the Mayor.

**75. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

**75.1** A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

**75.2** If the member of Council staff referred to in sub-Rule 10.1 is the Chief Executive Officer, the written notice must be given to the Mayor.

**76. Retention of Written Notices**

**76.1** The Chief Executive Officer must retain all written notices received under this Part for a period of three years.



## PART 7 – ELECTION OF MAYOR

### ELECTION PROCEDURE

#### 77. Overseeing the Election

- 77.1 The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

#### 78. Method of Voting

- 78.1 The election of the Mayor must be carried out by a show of hands.

#### 79. Determining the election of the Mayor

- 79.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.
- 79.2 Any nominations for the office of Mayor must be seconded by another Councillor.
- 79.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
- (a) if there is only one nomination, the candidate nominated must be declared to be duly elected
  - (b) if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates
  - (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected
  - (d) in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates
  - (e) if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected
  - (f) in the event of there being three or more candidates and two or more candidates having an equality of votes, a lot will be drawn to reduce the candidate pool by one to no less than two candidates remaining
  - (g) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
    - each candidate will draw one lot



- the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names and
- as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. The word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate and
- a further vote must be taken on the remaining candidates under the provisions of (cross reference) until there is a successful election.

## **80. Election of Deputy Mayor and Chairs of Delegated Committees**

**80.1** Any election for:

- (a) any office of Deputy Mayor or
- (b) Chair of a Delegated Committee

will be regulated by Rules 4-6 (inclusive) of this Part, as if the reference to the:

- Chief Executive Officer is a reference to the Mayor and
- Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

## **81. Appointment of Acting Mayor**

**81.1** If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

- (a) resolving that a specified Councillor be so appointed or
- (b) following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

## **82. Appointment of a Temporary Chair**

**82.1** If the Council has not established an office of Deputy Mayor and if the Mayor or Deputy Mayor is unable to Chair a particular meeting, that meeting shall nominate a temporary Chair. The nomination and resolution process for determining the temporary Chair will be overseen by the CEO who will ask for nominations before conducting the vote.



# ELECTION PERIOD POLICY

## TABLE OF CONTENTS

1.	Introduction .....	40
2.	Purpose.....	40
3.	Definitions .....	40
4.	References And Related Documents .....	41
5.	Guidelines.....	41
6.	Role Of Chief Executive .....	41
7.	Decisions By Council.....	41
8.	Public Consultation & Events.....	42
9.	Council Publications.....	42
10.	Council Resources.....	44
11.	Media.....	45
12.	Information .....	46
13.	Assistance To Candidates.....	46



## 1. INTRODUCTION

The *Local Government Act 2020* (the Act) provides that during the 'election period' certain prohibitions apply on certain functions and powers of Council being performed and exercised. It is during this time that Council enters the 'election period'.

The 'election period' is defined by the Act as starting on the last day for nominations and ending at 6pm on Election Day.

## 2. PURPOSE

This Election period Policy has been developed in order to ensure that general elections for the Colac Otway Shire are conducted in a manner that is demonstrably ethical, fair and equitable.

The Policy will also facilitate the continuation of the ordinary business of local government in the Colac Otway Shire throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'election period' conventions.

This Policy also commits Council during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council and
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

## 3. DEFINITIONS

Where terms used in this Policy are defined in the Act, their use in this Policy is consistent with the definitions in the Act.

Definitions used in this Policy which are not defined by the Act are:

**Period** - the same meaning as 'election period' in section 3 (1) of the Act and means the period that starts on the close of nominations and ends at 6pm on Election Day.

**Publication** - includes any means of publication including letters and information on the internet and social media.

**Public consultation** - a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

**Significant decision** - an irrevocable decision that significantly affects the municipality and unreasonably binds the incoming Council.





#### **4. REFERENCES AND RELATED DOCUMENTS**

*Local Government Act 2020*

*Victorian Electoral Act 2002*

Councillor Code of Conduct

Election Period Procedures

#### **5. GUIDELINES**

Council will function in accordance with this Policy during the election period.

#### **6. ROLE OF CHIEF EXECUTIVE**

In addition to the Chief Executive Officer's (CEO) statutory responsibilities, the CEO or their delegate will ensure as far as possible, that:

- All Councillors and Officers are informed of the application of this Policy 30 days prior to the commencement of the election period
- Matters of Council business requiring major policy or significant decisions are scheduled for Council to enable resolution prior to the commencement of the Period, or deferred where appropriate for determination by the incoming Council and
- Guidelines to staff on the role and responsibilities of staff in the implementation of this Policy are issued, if appropriate.

#### **7. DECISIONS BY COUNCIL**

##### **7.1 Major policy decisions**

During the Period, Council cannot make a Prohibited Decision.

A Prohibited Decision is a decision referred to in section 69 (2) of the Act, and includes a decision:

- Relating to the employment or remuneration of a Chief Executive Officer (CEO), other than a decision to appoint or remunerate an acting CEO or
- Committing Council to expenditure which exceeds 1% of the Council's revenue from rates and charges levied in the preceding financial year
- that Council considers could be reasonably deferred until the next Council is in place
- that Council considers should not be made during an election period.

Any decision of the kind highlighted above (relating to the employment or remuneration of the CEO or commits Council to expenditure above the threshold) made during the election period is deemed to be invalid under the Act.

##### **7.2 Significant decisions**

- (a) During the Period, Council will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.



(b) Significant decisions to be avoided include but are not limited to:

- Allocating community grants
- Directing funding to community organisations
- Major planning scheme amendments
- Changes to strategies and strategic objectives in the Council Plan.

### **7.3 Council meetings**

Council meetings will not be held during the election period unless exceptional circumstances warrant it.

### **7.4 Council agenda items**

Should a Council meeting be required during the Period, papers prepared for the Council meeting will be carefully vetted to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering.

Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

## **8. PUBLIC CONSULTATION & EVENTS**

Public consultation during the election period will be limited.

Council events will not be scheduled to take place at all during the election period.

If consultation must be undertaken or an event held during this time, Council must justify to the community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

### **8.1 Statutory requirements**

The requirements of Clause 8 do not apply to public consultation required under the *Planning and Environment Act 1987*.

## **9. COUNCIL PUBLICATIONS**

### **9.1 Prohibition on publishing material during the election period**

**This policy in accordance with the Act prohibits** a Councillor or member of Council staff from printing, publishing or distributing any electoral material during the election period on Council's behalf unless the electoral material only contains information about the election process or is otherwise in accordance with or under any legislation. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

### **9.2 Prohibited material**

Electoral matter is defined in the Act and means any matter which is intended or likely to affect voting in an election, but does not include:



- Any electoral material produced by or on behalf of the Election manager or Victorian Electoral Commission for the purposes of conducting the election or
- An advertisement in a newspaper announcing the holding of a meeting.

A publication is taken to contain electoral material if it contains an express or implicit reference to, or comment on:

- The election or
- A candidate in the election or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral matter includes material which:

- Publicises the strengths or weaknesses of a candidate
- Advocates the policies of the Council or of a candidate
- Responds to claims made by a candidate
- Publicises the achievements of the elected Council.

### **9.3 Council publications including Councillor information**

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during the election period must not include promotional text.

### **9.4 Website**

Material published on Council's website in advance of the election period is not subject to restriction, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the Period.

Councillor contact information will remain available on the website during the election period, but Councillor profiles will be removed.

### **9.5 Annual report**

Council is required by the Act to produce and put on public display a copy of its Annual Report. The relevant Annual Report may be published during an election period. The Annual Report published during an election period will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

### **9.6 Council documents**

Items submitted for regular Council publications will be reviewed to ensure that they comply with the principles of the Act and this Policy and may be amended accordingly before publication.

### **9.7 Social media**

Any publication on Council-managed social media sites including but not limited to Facebook, Twitter and blogs during the election period will be approved by the CEO.



Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted.

Councillors' individual (personal) social media pages are not managed by Council so are not subject to the same provisions.

## **10. COUNCIL RESOURCES**

### **10.1 Application of resources**

It is an established democratic principle that public resources must not be used in any way that would influence the way people vote in elections, except regarding supporting the actual election process.

Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during the Period.

Council resources, including offices, vehicles, staff, hospitality, services, property, equipment and stationery, must be used exclusively for Council business during the election period and must not be used in connection with any election campaign or issue.

### **10.2 Role of officers**

The Executive Officer to the CEO, Mayor and Councillors, Governance staff, or any other staff member, will not, during the Period, be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

### **10.3 Use of Council resources by Councillors**

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns.

Photocopying for election campaigning proposes by Councillors or staff on office photo copiers is not permitted.

Databases and mailing lists held by the organisation remain the property of the Council and are subject to the principles of the *Privacy and Data Protection Act 2014* and are therefore not available to members of the public, candidates or Councillors.

The organisation will not prepare or produce any materials associated with Councillors' individual election campaigns.

No Council logos, letterheads or other Council branding should be used for, or linked in any way to, a candidate's election campaign.

Councillors will not use Council issued mobile phones and email addresses for election campaigning purposes.



The use of Council's internet or intranet sites for any activity to do with election campaigning is prohibited. This includes linking Council websites to private candidate websites.

Access to the voters' roll is subject to the requirements of the Act and *Privacy and Data Protection Act*. A copy of the voters' roll will be provided to candidates by the Election manager or Victorian Electoral Commission. The voters' roll will be available for inspection during the election period at advertised times.

Council facilities booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period will be made available at the same rate to all hirers.

#### **10.4 Officer's discretion**

Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard.

The organisation will continue to provide support to Councillors with respect to their day-to-day Council business. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the CEO or their delegate.

#### **10.5 Councillors' entitlement to reimbursement**

Reimbursements of Councillors' out of pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or relate to the candidate's election campaign.

### **11. MEDIA**

#### **11.1 Restriction on services**

Council's Communications services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate. During the election period this team's service must not be used in any way that might promote a Councillor as an election candidate.

Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

#### **11.2 Media releases/spokespersons**

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate. Where it is necessary to identify a spokesperson, the CEO or their delegate will be consulted.

Media releases will require approval by the CEO.

#### **11.3 Councillors**

Councillors will not use their position as an elected representative or their access to Council officers and other Council resources to gain media attention in support of an election campaign.



#### **11.4 Council employees**

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained by the CEO or their delegate.

### **12. INFORMATION**

#### **12.1 Candidates' access to information**

All election candidates have equal rights to information relevant to their election campaigns and from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections (which includes internal publications such as the weekly CEO Update and Councillor Newsletter).

There will be complete transparency in the provision of all information and advice during the Period.

#### **12.2 Information request register**

Governance will maintain an Information Request Register during the Period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

#### **12.3 Improper use of position**

Section 123 of the *Local Government Act 2020* prohibits Councillors from misusing or inappropriately making use of their position. A breach attracts serious penalties.

### **13. ASSISTANCE TO CANDIDATES**

#### **13.1 Role of election manager or Victorian Electoral Commission**

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election manager or Victorian Electoral Commission or, where the matter is outside the responsibilities of the Election manager or Victorian Electoral Commission, to the CEO or their delegate.

#### **13.2 Candidate information**

Council will provide candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council. This will include an outline of meeting dates and times for the first four weeks of Council meetings and Councillor Induction workshops.

Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Election manager or Victorian Electoral Commission, accompanied by the nomination fee.





Candidates will also be informed of the requirements to complete and submit an 'Election Campaign Return' to the CEO within 40 days after the Election Day. The return must contain details of any campaign donation or received within the donation period.



# GOVERNANCE RULES

Date adopted by Council:

Next review date:

CM reference		Responsible:	Manager Governance	Approval date:	
--------------	--	--------------	--------------------	----------------	--



## GOVERNANCE RULES

### TABLE OF CONTENTS

<b>Table of Contents .....</b>	<b>2</b>
<b>PART 1 – INTRODUCTION .....</b>	<b>5</b>
<b>Date of Commencement .....</b>	<b>5</b>
<b>Context.....</b>	<b>5</b>
<b>Principles.....</b>	<b>5</b>
<b>Decision Making .....</b>	<b>6</b>
<b>Confidential Information .....</b>	<b>6</b>
<b>Definitions.....</b>	<b>7</b>
<b>PART 2 – COUNCIL MEETINGS.....</b>	<b>8</b>
<b>Meeting preparation .....</b>	<b>8</b>
1. Dates and Times of Meetings Fixed by Council (Scheduled Meetings) .....	8
2. Council May Cancel or Alter Meeting Dates .....	8
3. Meetings Not Fixed in the schedule of annual meetings by Council (Unscheduled Meetings) ....	8
4. Notice of Meeting .....	8
5. Agenda and the Order of Business .....	9
6. Prohibition of Unauthorised Recording of Meetings.....	9
7. Availability of Council Meeting Documentation .....	9
8. Inability to Obtain a Quorum .....	9
9. Inability to Maintain a Quorum .....	10
10. Adjourned Meetings .....	10
11. Cancellation or Postponement of a Meeting .....	10
12. Informal Meetings of Councillors.....	10
13. Requirements relating to petitions and joint letters .....	11
<b>PART 3 – MEETING PROCEDURE.....</b>	<b>13</b>
<b>Debate And Decision Making .....</b>	<b>13</b>
14. Chair's Duty.....	13
15. Maintaining order.....	13
16. Change to Order of Business.....	13
17. Introducing a Report.....	13
18. Priority of address .....	14
19. Introducing a Motion or an Amendment .....	14
20. Moving an Amendment .....	14
21. Who May Propose an Amendment .....	14
22. How Many Amendments May be Proposed.....	14
23. An Amendment Once Carried .....	15
24. Foreshadowing Motions .....	15
25. Withdrawal of Motions .....	15
26. Voting in Parts .....	15



27.	Motions in Writing.....	15
28.	Repeating Motion and/or Amendment .....	16
29.	Debate Must Be Relevant to the Motion .....	16
30.	Right of Reply .....	16
31.	Speaking Times.....	16
32.	Time Limits for Meetings .....	16
33.	Addressing the Meeting .....	17
34.	Right to Ask Questions.....	17
35.	Councillors May Give Notice of Motions .....	17
36.	<b>Notice of Motion</b> .....	17
37.	Petitions and joint letters .....	18
	<b>Procedural Motions.....</b>	<b>19</b>
38.	<b>Managing procedural motions</b> .....	19
	<b>PROCEDURAL MOTIONS TABLE.....</b>	<b>20</b>
	<b>Rescission Motions.....</b>	<b>24</b>
39.	<b>Notice of Rescission</b> .....	24
40.	<b>If Lost or if not moved</b> .....	24
41.	<b>May be Moved by any Councillor</b> .....	24
	<b>Points of Order .....</b>	<b>25</b>
42.	Valid Points of Order .....	25
43.	Procedure for Point of Order .....	25
44.	Chair May Adjourn to Consider .....	25
45.	Chair to Decide.....	25
46.	<b>Motion of dissent</b> .....	25
	<b>Public Question Time.....</b>	<b>26</b>
47.	<b>Question Time</b> .....	26
	<b>Voting.....</b>	<b>27</b>
48.	<b>How Motion Determined</b> .....	27
49.	Silence.....	27
50.	Recount .....	27
51.	<b>Casting Vote</b> .....	27
52.	No Discussion Once Declared .....	27
	<b>Urgent business .....</b>	<b>28</b>
53.	<b>Urgent Business</b> .....	28
	<b>Minutes .....</b>	<b>28</b>
54.	Confirmation of Minutes .....	28
55.	Form and Availability of Minutes .....	28
	<b>Behaviour.....</b>	<b>29</b>
56.	Public Addressing the Meeting.....	29
57.	Chair May Remove.....	29
58.	Chair may adjourn disorderly meeting .....	30
59.	Removal from Chamber .....	30
60.	Criticism of members of Council staff.....	30
	<b>Suspension of Meetings Procedure.....</b>	<b>30</b>
61.	Suspension of Meetings Procedure .....	30



**PART 4 – MEETINGS CONDUCTED VIA ELECTRONIC MEANS OF COMMUNICATION 31**

<b>Electronic Communication .....</b>	<b>31</b>
62. Meeting requirements.....	31
63. Requesting and Approval of ‘electronic’ attendance .....	32
64. Other matters not provided for .....	33
65. Recording Proceedings .....	33

**PART 5 – MEETING PROCEDURE FOR DELEGATED COMMITTEES AND COMMUNITY ASSET COMMITTEES.....34**

<b>Committee Meeting Procedure.....</b>	<b>34</b>
66. Appointing Chairs of Delegated Committees .....	34
67. Meeting Procedure Generally .....	34
68. Meeting Procedure Can Be Varied .....	34
69. Requests to address a Delegated Committee .....	34
70. No Public Question Time .....	34
71. Community Asset Committee.....	34

**PART 6 – DISCLOSURE OF CONFLICTS OF INTEREST .....35**

<b>Conflict Of Interest .....</b>	<b>35</b>
72. Disclosure of a Conflict of Interest .....	35
73. Disclosure by Members of Council Staff Preparing Reports for Meetings.....	35
74. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power .....	36
75. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function.....	36
76. Retention of Written Notices .....	36

**PART 7 – ELECTION OF MAYOR.....37**

<b>Election Procedure.....</b>	<b>37</b>
77. Overseeing the Election .....	37
78. Method of Voting .....	37
79. Determining the election of the Mayor .....	37
80. Election of Deputy Mayor and Chairs of Delegated Committees.....	38
81. Appointment of Acting Mayor .....	38
82. Appointment of a Temporary Chair .....	38

**ELECTION PERIOD POLICY .....39**



## PART 1 – INTRODUCTION

### DATE OF COMMENCEMENT

These Governance Rules commence on (insert date on adoption).

### CONTEXT

The Governance Rules have been developed in accordance with section 60 of the *Local Government Act 2020* (the Act). Their purpose is to ensure that Council:

- makes decisions on any matter fairly on the merits and with accurate and adequate information considering the interests of anyone impacted by decisions and
- has decision-making processes that are transparent and robust, ensuring that all decision makers have the opportunity to express their views.

These Rules should be read in the context of and in conjunction with the overarching governance principles specified in section 9(2) of the Act and the following documents approved by Council:

- Council Plan
- Councillor Code of Conduct
- Public Transparency Policy and
- Livestreaming and Recording of Council and Planning Committee Meetings Policy

### PRINCIPLES

Council is committed to governing on behalf of the Colac Otway community in a transparent, consultative and outcomes-driven way, as outlined by the overarching governance principles set out at section 9(2) of the Act:

- decisions are to be made and actions taken in accordance with the relevant law and Council policies
- priority is to be given to achieving the best outcomes for the municipal community, including future generations
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
- the municipal community is to be engaged in strategic planning and strategic decision making
- innovation and continuous improvement is to be pursued
- collaboration with other councils and governments and statutory bodies is to be sought
- the ongoing financial viability of the Council is to be ensured
- regional, state and national plans and policies are to be considered in strategic planning and decision making and





- the transparency of Council decisions, actions and information is to be ensured

---

## DECISION MAKING

In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), this must be done:

- fairly, by giving consideration and deciding which is balanced, ethical and impartial and
- on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.

Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice. This includes ensuring that any person whose rights will be directly affected by a decision of Council is afforded an opportunity to communicate their views and have their interests considered.

If a report to be considered at a Council meeting or delegated committee concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has, or persons have been provided with an opportunity to communicate their views and have their interests considered.

If a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

---

## CONFIDENTIAL INFORMATION

Where the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may advise the information is confidential and advise Councillors and/or members of Council staff in writing accordingly. If not advised, then the information may still be confidential by virtue of the Act.

Information which has been advised by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing, accordingly, will be presumed to be confidential information.

Council may resolve to release information advised by the Chief Executive Officer as confidential information within the meaning of the Act.

The CEO will prepare a report twice yearly capturing all decisions made in meetings (including meetings of delegated committees) closed to the public and confidential attachments to reports presented in public meetings. This report will include advice on items which may be no longer confidential and are appropriate for release by Council resolution.



## DEFINITIONS

In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:

**Act** - the *Local Government Act 2020*

**Chief Executive Officer** - includes an Acting Chief Executive Officer

**Community Asset Committee** - a Community Asset Committee established under section 65 of the Act

**Council** - Colac Otway Shire Council

**Council meeting** - a meeting of the Council convened in accordance with the Act and these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Days** unless specified as 'business days' the use of the term 'days' in these rules includes all seven days of the week including those days on the weekend

**Delegated Committee** - a Delegated Committee established under section 63 of the Act

**Delegated Committee meeting** - a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Instrument of Delegation** - an instrument of delegation made by the Chief Executive Officer under section 47(1)(b) of the Act

**Mayor** - the Mayor of Council

**Meetings by electronic** - of communication include meetings where all members attend electronically, or where some members attend in-person and some attend via electronic means of communication



## PART 2 – COUNCIL MEETINGS

### MEETING PREPARATION

#### **1. Dates and Times of Meetings Fixed by Council (Scheduled Meetings)**

- 1.1 Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.

#### **2. Council May Cancel or Alter Meeting Dates**

- 2.1 Council may cancel or change the date, time and place of any Council meeting which has been fixed by it and must provide reasonable notice of the change to the public.

#### **3. Meetings Not Fixed in the schedule of annual meetings by Council (Unscheduled Meetings)**

- 3.1 The Council may by resolution, call an unscheduled meeting of the Council. The resolution must specify the date, time and place of the meeting and the business to be transacted.
- 3.2 In addition, the Mayor or at least three Councillors may by a written notice call an unscheduled Council meeting.
- 3.3 The notice must specify the date and time of the unscheduled Council meeting and the business to be transacted.
- 3.4 The Chief Executive Officer must convene the unscheduled Council meeting as specified in the notice.

#### **4. Notice of Meeting**

- 4.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 4.2 Notwithstanding 4.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the election period of their absence.
- 4.3 Reasonable notice of each Council meeting must be provided to the public at least seven days before the meeting. Council may do this:
- (a) for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting and



- (b) for any meeting by giving notice on its website and in each of its Customer Service Centres and in at least one newspaper generally circulating in the municipal district

**4.4** If urgent or extraordinary circumstances prevent Council from complying with the notice requirements in this section, the Council must:

- (a) give such notice as is practicable and
- (b) specify the urgent or extraordinary circumstances which prevented the Council from complying from the notice requirements in this section in the minutes of the meeting

**5. Agenda and the Order of Business**

- 5.1** The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer, following consultation with the Mayor, so as to facilitate and maintain open, efficient and effective processes of government.

**6. Prohibition of Unauthorised Recording of Meetings**

- 6.1** 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.

**7. Availability of Council Meeting Documentation**

- 7.1** All endeavours will be made to make Council meeting documentation available:

- (a) through section to Councillors and relevant staff members six days prior to a scheduled meeting
- (b) on Council's website five days prior to a scheduled meeting and hard copies provided at its Customer Service centres
- (c) to Councillors and relevant staff members seven days prior to a scheduled meeting when the Council meeting is to be held on a Wednesday and the Monday or Tuesday immediately prior to the scheduled meeting is a public holiday

- 7.2** Council may, on occasion, be unable to comply with sub-Rule 7.1 where the meeting is an unscheduled meeting.

**8. Inability to Obtain a Quorum**

- 8.1** If after 30 minutes from the scheduled starting time of any Council meeting, a quorum cannot be obtained:

- (a) the meeting will be deemed to have lapsed
- (b) the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting



- (c) the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor

## **9. Inability to Maintain a Quorum**

- 9.1 If during any Council meeting, a quorum cannot be maintained then the meeting will be considered adjourned. This does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered, or where prior notification has been given that the meeting will not proceed and there was no opportunity for Council to formally resolve to cancel it.

- 9.2 In the event that a quorum fails due to there being a predominant number of Councillors with a conflict of interest in a matter, Council will consider the alternative options outlined at s67 of the *Local Government Act 2020* including considering moving a motion to:

- (a) split the matter into parts and/or

- (b) delegate the decision to a person or committee not impacted by a conflict on the matter

- 9.3 A decision to delegate a matter under the above provision due to their being conflicts of interest which would cause a failure of a quorum is not itself a decision on which Councillors have a conflict.

## **10. Adjourned Meetings**

- 10.1 Council may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 10.2 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 10.3 If it is impracticable for the notice given be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

## **11. Cancellation or Postponement of a Meeting**

- 11.1 The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting.
- 11.2 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 11.1.

## **12. Informal Meetings of Councillors**

- 12.1 If there is an informal meeting of Councillors involving at least three Councillors that:



(a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors in advance of a Council meeting at which a related decision will be made and

(b) is attended by at least one member of Council staff and

(c) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

### **13. Requirements relating to petitions and joint letters**

**13.1** A petition or joint letter must be presented to the next available scheduled meeting of Council where the petition or joint letter is received at least 10 days before the Council meeting.

**13.2** Every petition or joint letter presented to Council:

- (a) must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people
- (b) must be addressed to the Council, Mayor, a Councillor or Councillors, containing a request for action to be taken by Council
- (c) may be submitted electronically, by post or delivered in person
- (d) must be in the English language, or accompanied by a translation, which will need to be certified by the Chief Executive Officer who will present it to be correct
- (e) must not be defamatory or objectionable in language or nature and
- (f) must not relate to matters outside the powers of Council or relate to neighbourhood disputes/issues
- (g) must be received by Council in its original form 10 days prior to a Council meeting and, if it is not, will be presented at the next Council meeting and
- (h) may, at the discretion of the Chief Executive Officer, be refused if the same, or substantially the same, petition is received more than once in a twelve (12) month election period during the course of a term of Council

**13.3** Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.

**13.4** Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.

**13.5** Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.





- 13.6** The Chief Executive Officer may accept electronic petitions received via online websites if they are satisfied that the petition is authentic and from a legitimate website and provided that the electronic petition has been closed and a copy has been forwarded to Council.
- 13.7** A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format. Only the wording of the request and the number of signatories will be included in the public agenda for a Council meeting.
- 13.8** A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or if it is not obvious who the intended contact person is, Council will reply to the first signatory who appears on the petition or joint letter.
- 13.9** Should a matter raised in a petition not be dealt with under 37.2 the CEO may bring an officer's report on the item to a subsequent Council meeting.



## PART 3 – MEETING PROCEDURE

### DEBATE AND DECISION MAKING

#### 14. Chair's Duty

14.1 Among other things, it is the Mayor's role to chair Council meetings and promote behaviour that meets the Councillors' Code of Conduct.

14.2 The Chair must not accept any motion that they determine to be:

- (a) defamatory
- (b) objectionable in language or nature
- (c) vague or unclear in intention
- (d) outside the powers of Council
- (e) a motion which if passed would result in Council otherwise acting invalidly
- (f) revealing or likely to reveal confidential information which has not been resolved to be made public by Council
- (g) irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not, or
- (h) breaching any provision at 36(2) in the absence of a Council report.

#### 15. Maintaining order

15.1 In addition to the duties and discretions provided in this Part, the Chair:

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community and
- (b) must call to order any person who is disruptive or unruly during any meeting.

#### 16. Change to Order of Business

16.1 Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered through resolution of Council.

#### 17. Introducing a Report

17.1 Before a written report is considered by Council and any motion moved, a member of Council staff may introduce the report if invited by the Chair by summarising its background and key analysis behind the officer's recommendation.

17.2 Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.



## **18. Priority of address**

**18.1** Outside of the specific application of rules relating to the priority given to the mover and seconder, in the case of competition for the right to speak, the Chair must decide the order in which the Councillors concerned will be heard.

## **19. Introducing a Motion or an Amendment**

**19.1** The procedure for moving any motion or amendment is:

- (a) the mover must state the motion without speaking to it.
- (b) the motion must be seconded, and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder.

**19.2** If a motion or an amendment is moved and seconded the Chair must ask:

- (a) "Does any Councillor wish to speak to the motion or amendment?"

**19.3** If a Councillor indicates a desire to speak to it, then the Chair must first call on the mover to address the meeting.

**19.4** After the mover has addressed the meeting, the seconder may address the meeting.

**19.5** After the seconder has addressed the meeting, or has reserved their address, the Chair must invite debate by calling on any Councillor who wishes to speak to the motion.

**19.6** If, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the Chair must put the motion to the vote.

## **20. Moving an Amendment**

**20.1** Once the mover and seconder of a motion have been offered the opportunity to speak, a motion may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

**20.2** An amendment must not be directly opposite to the motion.

## **21. Who May Propose an Amendment**

**21.1** An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

**21.2** Any one Councillor cannot move more than two amendments in succession without the agreement of the Chair and permission will not be unreasonably withheld.

## **22. How Many Amendments May be Proposed**

**22.1** Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.



- 22.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

**23. An Amendment Once Carried**

- 23.1 If the amendment is carried, the original motion as amended then becomes the substantive motion and may be further debated before it is put to the vote.

- 23.2 Only Councillors who didn't speak to the original motion have a right to speak to the substantive motion.

- 23.3 The mover of the original motion retains the right of reply to the substantive motion.

**24. Foreshadowing Motions**

- 24.1 At any time during debate a Councillor may foreshadow a motion to inform Council of their intention to move a motion on the item at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

- 24.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

- 24.3 The Chief Executive Officer is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

- 24.4 If an item of business concerns a matter that involves a statutory or contractual deadline or other obligation that cannot be safely or conveniently deferred, the Chair may call for subsequent motions if a motion has been moved and fails and where no further motions have been foreshadowed.

- 24.5 In this instance the Chair may also initiate a short adjournment to allow for a motion to be drafted.

**25. Withdrawal of Motions**

- 25.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder.

**26. Voting in Parts**

- 26.1 On request by a Councillor or to facilitate debate on a long and complex motion where appropriate, the Chair may put any motion to the vote in several parts.

**27. Motions in Writing**

- 27.1 The Chair may require that a complex or detailed motion be in writing.

- 27.2 The Chair may adjourn the meeting while the motion is being written or Council may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.



**28. Repeating Motion and/or Amendment**

- 28.1 The Chair may request the person taking the minutes of the Council meeting to read the motion or amendment to the meeting before the vote is taken.

**29. Debate Must Be Relevant to the Motion**

- 29.1 Debate must always be relevant to the motion before the Chair, and, if not, the Chair must request the speaker to confine debate to the motion.
- 29.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- 29.3 A speaker to whom a direction has been given must comply with that direction.

**30. Right of Reply**

- 30.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 30.2 After the right of reply has been taken the motion must be put to the vote without any further discussion or debate.

**31. Speaking Times**

- 31.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
- (a) the mover of a motion five minutes
  - (b) the mover of an amendment three minutes
  - (c) any other Councillor three minutes and
  - (d) Councillor exercising a right of reply/closing statement two minutes

**32. Time Limits for Meetings**

- 32.1 The Chair will pause a Council meeting after four hours and the Council will consider if it wants to continue. A majority of Councillors present must vote in favour of its continuance.
- 32.2 In the absence of a continuance, the meeting must stand adjourned to a time and date to be announced by the Chair, immediately prior to the meeting standing adjourned and where possible, within two business days.
- 32.3 No meeting is to continue past six hours. In that event, the meeting is considered adjourned.
- 32.4 The Council may adjourn for a short break every hour, after a period of two hours, or at the Chair's discretion.



### **33. Addressing the Meeting**

#### **33.1** If the Chair so determines:

(a) any person addressing the Chair must refer to the Chair as:

- Mayor or
  - Chair or Acting Chair
- as the case may be

#### **33.2** All Councillors, other than the Mayor, must be addressed as:

(a) Cr.....(surname).

#### **33.3** All members of Council staff, must be addressed by their official title.

### **34. Right to Ask Questions**

**34.1** A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

**34.2** The Chair has the right to limit questions and direct that debate be commenced or resumed.

### **35. Councillors May Give Notice of Motions**

**35.1** Councillors may ensure that a matter is considered by a scheduled Council meeting by giving Notice of a Motion.

### **36. Notice of Motion**

**36.1** A notice of motion must be in writing signed by a Councillor and be lodged with or sent to the Chief Executive Officer at least eight days prior to the Council meeting, to allow sufficient time for the Chief Executive Officer to include the notice of motion in the agenda papers for a Council meeting.

**36.2** A notice of motion must call for a Council report if it proposes any action which would:

- (a) commit Council to unbudgeted expenditure above \$20,000
- (b) materially impact Council service levels, the delivery of strategic priorities in the annual action plan and delivery of initiatives in the draft budget
- (c) commit Council to a contractual arrangement
- (d) potentially prejudice Council in any litigation in which Council is a party or which concerns any litigation or compliance matter

**36.3** Notices of motion put forward by a Councillor must not include multiple unrelated items. Where such a notice is received, the CEO may, without changing the content and in consultation with the submitting Councillor, separate a notice of motion into separate notices of motion.





**36.4 The Chief Executive Officer may reject any notice of motion which:**

- (a) is defamatory
- (b) is objectionable in language or nature
- (c) is vague or unclear in intention
- (d) reveals or is likely to reveal confidential information which has not been resolved to be made public by Council
- (e) is outside the powers of Council or
- (f) if passed would result in Council otherwise acting invalidly but must:
  - give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so and
  - notify in writing the Councillor who lodged it of the rejection and reasons for the rejection

**36.5** Once a notice of motion is accepted by the CEO for the register it must immediately be circulated by the CEO to all Councillors.

**36.6** The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and may include an officer comment.

**36.7** The Chief Executive Officer must cause all notices of motion to be numbered, dated, and entered in the notice of motion register in the order in which they were received.

**36.8** Except by resolution to change the order of business, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.

**36.9** Where a notice of motion is listed on an agenda, the Chair will first invite the Councillor who gave the notice of motion to move it. The Chair will offer an opportunity for the mover and seconder to speak in order before any other Councillor is offered an opportunity to speak.

**36.10** If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.

**36.11** If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

**36.12** Unless Council resolves to re-list at a future Council meeting a notice of motion which has been lost, a similar motion must not be put before Council for at least three months from the date it was lost.

**37. Petitions and joint letters**

**37.1** On tabling a petition or joint letter a Councillor must move a motion to note the petition or joint letter and refer it to the CEO for preparation of a response unless the provisions of 37.2 apply.



**37.2** If a petition relates to:

(a) a 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987* or

(b) a 'statutory matter' or matter relating to the budget which is the subject of a community engagement process

the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory' or 'budgetary process' (as the case may be).

**37.3** If the petition or joint letter relates to any item already on the agenda for the Council meeting at which the petition or joint letter is submitted, the Chair may decide that the petition or joint letter will be considered as part of Council's deliberations on that agenda item.

---

PROCEDURAL MOTIONS

**38. Managing procedural motions**

**38.1** Procedural motions must be seconded.

**38.2** Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the in accordance with the following table:



## PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>1. Adjournment of debate to later hour, after a certain item on the agenda and/or date</b>	That this matter be adjourned to *am/pm and/or *date or after conclusion of the item at number	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
<b>2. Adjournment of debate indefinitely</b>	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking or (c) When the motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>3. The closure (of debate)</b>	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>4. Deferral of a matter (to a future meeting)</b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor (b) During the election of a Chairperson or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
<b>5. Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the Agenda	No



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>6. Suspension of Meetings Procedure</b>	'That the Meetings Procedure be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion. No debate or decision on any matter, other than a decision to resume Meetings Procedure, is permitted	The meeting continues unaffected	No
<b>7. Resumption of Meetings Procedure</b>	'That the Meetings Procedure be resumed'	Any Councillor/or the Mayor	When Meeting Procedures have not been suspended	<p>The temporary suspension of the rules of the meeting is removed</p> <p>The Mayor retains the ability to determine to reinstate the meeting procedure</p>	The Mayor may determine to reinstate the procedure	No



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>8. Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with Section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item (number) is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting continues to be open to the public	Yes
<b>9. Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The meeting is reopened to the public	The meeting remains closed to the public	No





## RESCISSION MOTIONS

### **39. Notice of Rescission**

**39.1** A Councillor may give notice of a motion to rescind a previous resolution of Council provided:

- (a) the resolution proposed to be rescinded has not been acted on
- (b) the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations and
- (c) the Notice of Rescission is delivered to the Chief Executive Officer within five business days of the resolution having been made setting out the resolution to be rescinded and the meeting and date when the resolution was carried

**39.2** Notices of rescission may include a further motion which may be moved if the rescission is carried and must have the support of one other councillor indicated by them via email or with a signature on a hardcopy or electronic signature on a digital notice.

**39.3** A resolution will be deemed to have been acted on if:

- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it or
- (b) a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person

**39.4** The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:

- (a) has not been acted on and
- (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with 39.1

### **40. If Lost or if not moved**

**40.1** If a motion for rescission is lost or fails to be moved at the meeting for which it is lodged, a similar motion may not be put before Council for at least three months from the date it was last lodged, unless Council resolves that the notice of motion be re-listed at a future meeting.

### **41. May be Moved by any Councillor**

**41.1** A motion for rescission listed on an agenda may be moved by any Councillor present.



---

## POINTS OF ORDER

### **42. Valid Points of Order**

**42.1** A point of order may be raised in relation to a motion, amendment or statement made that:

- (a) is contrary to these Rules
- (b) is defamatory
- (c) is irrelevant to the matter under consideration or offensive
- (d) is outside Council's legal powers
- (e) constitutes improper behaviour
- (f) constitutes a tedious repetition of something already said
- (g) a motion, which, under rule 14 should not be accepted by the Chair
- (h) a question of procedure or
- (i) any act of disorder

### **43. Procedure for Point of Order**

**43.1** A Councillor raising a point of order must:

- (a) state the point of order and
- (b) state any section, rule, paragraph or provision of these rules or the Councillor Code of Conduct relevant to the point of order

**43.2** A Councillor who is interrupted by another Councillor calling for a point of order must immediately stop speaking and remain silent until the Councillor raising the point of order has been heard and the question disposed of by the Chair.

### **44. Chair May Adjourn to Consider**

**44.1** The Chair may adjourn the meeting to consider a point of order which has been raised but otherwise must rule on it as soon as it is raised.

**44.2** All other questions or matters before the meeting are suspended until the point of order is decided.

### **45. Chair to Decide**

**45.1** The Chair must decide all points of order by stating the provision, rule, practice, or precedent which they consider applicable to the point raised without entering into any discussion or comment.

### **46. Motion of dissent**

**46.1** A Councillor may move that the meeting disagree with a Chair's ruling on a point of order, by moving a motion that Council dissent from the Chair's ruling or part of a ruling.



**46.2** A Councillor moving a motion of dissent on a point of order must reference the provision, rule, practice or precedent in substitution for the Chair's ruling. Debate on a motion of dissent is allowed.

**46.3** A motion of dissent to a ruling on a point of order will take precedence over all other business and will be subject to a vote.

**46.4** If the vote is in the affirmative, that the Chair's ruling be dissented from, the Chair must reverse or vary (as the case may be) their previous ruling and proceed accordingly.

**46.5** The defeat of the Chair's ruling is not a motion of censure or no-confidence in the Chair.

---

#### PUBLIC QUESTION TIME

##### **47. Question Time**

**47.1** Unless Council resolves differently, there must be 30 minutes public question time at every Council meeting and 15 minutes question time at the beginning of unscheduled meetings. Question time is specifically for succinct questions in form and character, rather than forums for making statements and discussion.

**47.2** A time limit of five minutes per person applies regardless of the number of questions.

**47.3** Any member of the public addressing Council must address all questions to the Chair and extend due courtesy and respect to Council and the processes under which it operates. Any member of the public take direction from the Chairperson whenever called on to do so.

**47.4** The Chair has discretion to extend question time having regard to the agenda for the meeting and time available.

**47.5** Questions in writing and registrations received are managed in order of submission and registration. Time may be limited for questions from the gallery in some instances. To ensure their opportunity to speak, members of the public are encouraged to register their questions in advance. Members of the public may:

(a) submit a question (online, by post or hand delivered to our Customer Service centre) by no later than 5pm two days prior to the Scheduled Council meeting, to be read out at the meeting

(b) register by no later than 5pm two days prior to the scheduled meeting to join the meeting virtually or by phone to ask their question, the topic of which must be registered to support officers' preparation

(c) register at the meeting to ask a question from the public gallery by submitting the topic of their question in writing

If the time allotted for public question time has expired the CEO will organise responses to be provided in writing to any remaining questions after the meeting.

**47.6** The Chief Executive Officer may take any question on notice and provide answers in writing.



- 47.7** The Chair of the meeting may disallow any question on the ground that it is repetitive of a question already asked (including at previous meetings), offensive, revealing or seeking to reveal confidential information (including questions relating to compliance or enforcement matters or other legal proceedings) or is asked to embarrass a Councillor or member of the administration.
- 47.8** Like questions may be grouped together and a single answer provided.

---

## VOTING

### **48. How Motion Determined**

- 48.1** Voting on any matter is by show of hands.
- 48.2** Any Councillors who abstain from voting will be counted as voting against the motion.
- 48.3** All votes cast by Councillors will be declared by the Chair and recorded in the minutes.

### **49. Silence**

- 49.1** Voting must take place in silence.

### **50. Recount**

- 50.1** Any Councillor including the Chair may ask that a vote be recounted to satisfy themselves of the result.

### **51. Casting Vote**

- 51.1** The provisions relating to use of the casting vote are advisory. Council acknowledges that the Chair is always free to exercise the casting vote as they see fit, notwithstanding the expectations outlined in these provisions.
- 51.2** Unless circumstances require an immediate decision, it is the expectation of Council that in the event of a tied vote, the Chair defer the item until the next meeting. Should the vote be tied, the Mayor may choose to not exercise their casting vote and may defer the item.
- 51.3** It is the expectation of Council that if the casting vote is being used, that it should support continuance of the status quo.

### **52. No Discussion Once Declared**

- 52.1** Once a vote on a motion has been taken, no further discussion relating to the motion is allowed unless the discussion involves foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.



---

## URGENT BUSINESS

### 53. Urgent Business

- 53.1 Business cannot be admitted as urgent business other than by resolution of Council.
- 53.2 When the Chair asks if the CEO or any Councillor has an item for consideration during urgent business, a Councillor may propose an item of business be admitted to the agenda.
- 53.3 The mover of an item of urgent business must first move a motion to admit an item to the agenda. If Council resolves to admit the item as urgent business, the Councillor may then put forward a substantive motion on that item.
- 53.4 Council may resolve to admit an item of business to the agenda if it is satisfied that it:
- (a) relates to or arises out of a matter which has arisen since the closing date to lodge a notice of motion and
  - (b) cannot safely or conveniently be deferred until the next Council meeting

---

## MINUTES

### 54. Confirmation of Minutes

- 54.1 At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:
- (a) a copy of the draft minutes must be delivered to each Councillor no later than 48 hours before the meeting
  - (b) the Chair will confirm the version of the minutes being adopted if there have been multiple revisions made by the administration
  - (c) following the moving and seconding of the minutes, if no Councillor indicates an intention to move an amendment, the motion is put to the vote and
  - (d) if a Councillor intends to move a motion to adopt the minutes with amendment, they must clearly state the words to be added or removed from the draft minutes
- 54.2 A resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.

### 55. Form and Availability of Minutes

- 55.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
- (a) the date, place, time and nature of the meeting
  - (b) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance



- (c) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Part 6
  - (d) arrivals and departures (including temporary departures) of Councillors during the course of the meeting
  - (e) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder)
  - (f) the outcome of every motion, other than procedural motions, whether it is carried, lost, deferred, withdrawn, lapsed or amended
  - (g) the vote cast by each Councillor
  - (h) use of the casting vote
  - (i) questions on notice
  - (j) the failure of a quorum
  - (k) any adjournment of the meeting and the reasons for that adjournment
  - (l) the time at which standing orders were suspended and resumed
  - (m) the full text of any public questions and the full responses provided by the Mayor, Chief Executive Officer or their nominee and
  - (n) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the Council meeting or the recording of the minutes
- 55.2** The Chief Executive Officer must ensure that the confirmed minutes of any Council meeting are:
- (a) published on Council's website and
  - (b) available for inspection at Council's office during normal business hours
- 55.3** Nothing in these rules requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

---

## BEHAVIOUR

### **56. Public Addressing the Meeting**

- 56.1** Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- 56.2** A member of the public present at a Council meeting must not disrupt the meeting.

### **57. Chair May Remove**

- 57.1** The Chair may order and cause the removal of any person, other than a Councillor, who after being warned continues to disrupt a meeting or fails to comply with a direction given by the Mayor.





**58. Chair may adjourn disorderly meeting**

- 58.1** If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later day as the Chair thinks proper.

**59. Removal from Chamber**

- 59.1** The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of these rules and whom the Chair has ordered to be removed from the gallery under Rule 69.

**60. Criticism of members of Council staff**

- 60.1** The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising them or any member of Council staff.
- 60.2** A statement under sub-Rule 78.1 must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their seat.

---

**SUSPENSION OF MEETINGS PROCEDURE**

**61. Suspension of Meetings Procedure**

- 61.1** To expedite the business of a meeting, Council may suspend meetings procedure.
- 61.2** The suspension of meetings procedure should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:
- (a) "That meetings procedure be suspended to enable discussion on..."
- 61.3** No motion can be accepted by the Chair or lawfully be dealt with during any suspension of meetings procedure.
- 61.4** Once the discussion has taken place and before any motions can be put, the resumption of meetings procedure will be necessary. An appropriate proposal would be "That meetings procedure be resumed." The Chair retains the right to resume meeting procedure should that be necessary.



## PART 4 – MEETINGS CONDUCTED VIA ELECTRONIC MEANS OF COMMUNICATION

### ELECTRONIC COMMUNICATION

#### **62. Meeting requirements**

- 62.1** Council is permitted by the Act to hold meetings by electronic means of communication, and a Council meeting will be open to the public if members of the public are able to attend it in person, or if it is livestreamed (broadcast live) on Council's internet site.
- 62.2** Where a Councillor attends a Council meeting conducted by electronic means, the Councillor must be able to:
- (a) Hear the proceedings of the Council meeting and
  - (b) See all Councillors attending the Council meeting and
  - (c) Be seen all the time by Councillors and
  - (d) Be heard by all Councillors when they speak and
  - (e) Be seen and heard by members of the public on the livestream (or recording for Delegated Committee meetings)
- 62.3** If the conditions of sub-rule 74.2 cannot be met by one or more Councillors attending a Council meeting conducted by electronic means, whether because of technical difficulties or otherwise, but a quorum is still present, the:
- (a) Council meeting will continue and
  - (b) Councillor (or Councillors) will be treated as being absent from the Council meeting unless the Council meeting is adjourned in accordance with these Rules
- 62.4** Nothing in this Rule prevents a Councillor from joining (or re-joining) a Council meeting conducted by electronic means at the time that they achieve compliance with sub-rule 74.2, even if the Council meeting has already commenced or continued in their absence.
- 62.5** The Chief Executive Officer must ensure that a Council meeting conducted via electronic means is livestreamed continuously on Council's website (or a recording made available to the public for Delegated Committee meetings).
- 62.6** Nothing in these rules requires any portion of a Council meeting conducted via electronic means that is closed to the public under section 66(1) of the Act to be livestreamed on Council's internet site.
- 62.7** If the livestream of a Council meeting conducted via electronic means is disrupted for any reason, the Chief Executive Officer must immediately inform the Chair of the meeting and the Council meeting will be adjourned for up to 30 minutes. If the technical issue cannot be resolved within 30 minutes and a quorum of in-person attendees cannot be maintained, an unscheduled meeting must be called as soon as practicable



following the meeting to deal with the remaining business on the agenda. If a quorum of in-person attendees can be maintained the Council will resolve how and when the remaining meeting items will be considered.

**63. Requesting and Approval of 'electronic' attendance**

- 63.1** Council and Delegated Committee meetings will be conducted face-to-face (in-person) at a set location, unless the Mayor approves an alternative in accordance with the following sub-rules.
- 63.2** A Councillor or member of a Delegated Committee may request to attend a meeting by electronic means of communication (virtually) by submitting a request to the Mayor and Chief Executive Officer, not less than six hours prior to the meeting commencement time.
- 63.3** A request to attend a meeting via electronic means of communication should only be made for a reason such as (but not limited to) health issues, caring responsibilities, any risk to the health and safety of Councillors, staff, or the community or where a level of travel restriction has been imposed or recommended by government. Approval of a request will be at the discretion of the Mayor. The Mayor will not unreasonably deny a Councillor request to attend a meeting electronically and will take into consideration all of the reasons provided.
- 63.4** The request must be made in writing and state the reasons the Councillor or member of a Delegated Committee wishes to attend the meeting via electronic means.
- 63.5** The Mayor, in consultation with the Chief Executive Officer, will provide a response to the request within 48 hours (if possible) within receipt of the request or no less than four hours prior to the meeting commencement time, whichever is the earlier time, and notify all Councillors or members of a Delegated Committee of the decision.
- 63.6** Requests to participate by electronic means of communication must specify the meeting date(s) and type(s) relevant to the request.
- 63.7** It is the responsibility of the Councillor or member attending the meeting via electronic means to ensure they have the required access and environment suitable for participation (including a secure location when deliberations involve confidential information).
- 63.8** The Councillor or member attending via electronic means will be deemed absent from the meeting for any time that they are unable to both be heard and seen by all participants and hear and see all participants.
- 63.9** If the Mayor is absent from a meeting conducted by electronic means of communication due to technical difficulties, the role of Chair will be filled in accordance with section 61(3) of the Act for the election period of the Chairperson's absence.
- 63.10** Despite anything in these Rules, the Mayor (in consultation with the Chief Executive Officer and Councillors) may determine that a meeting be conducted wholly by



electronic means of communication, with consideration of, but not limited to, the following:

- (a) any health or safety risk to Councillors, staff, and the community or
- (b) a request from an absolute majority of Councillors to hold the meeting wholly by electronic means or
- (c) any other extraordinary circumstances

**64. Other matters not provided for**

- 64.1** Where any of these Rules has not been expressly modified, and requires modification, to operate at a Council meeting conducted via electronic means, the Chair with the cooperation of the meeting, may modify so much of these Rules as is necessary to permit the Council meeting conducted by electronic means to proceed and to facilitate the more efficient and effective transaction of the business.

**65. Recording Proceedings**

- 65.1** The proceedings of open Council meetings will be audio recorded to facilitate the preparation of the minutes of the meeting and to ensure their accuracy.
- 65.2** Where practicable, the proceedings of open Council meetings will be streamed live on Colac Otway Shire Council's website so that interested parties can watch the proceedings in real time. A recording of the live stream will be made available on the Colac Otway Shire's website the day following the meeting.
- 65.3** The Chief Executive Officer has the discretion and authority to delay publication of a recording in instances where comments made by members of the public at the meeting are considered to be objectionable, offensive, defamatory or inappropriate.
- 65.4** The Council is authorised to resolve that audio and live stream recordings of meetings be edited by the deletion of comments from the public which the Council considers to be objectionable, offensive, defamatory or inappropriate.



## PART 5 – MEETING PROCEDURE FOR DELEGATED COMMITTEES AND COMMUNITY ASSET COMMITTEES

### COMMITTEE MEETING PROCEDURE

#### 66. Appointing Chairs of Delegated Committees

- 66.1 The Act provides the Mayor with specific power to appoint a Councillor to be the Chair of a Delegated Committee.
- 66.2 The Council may also resolve to appoint a Councillor to be Chair of a Delegated Committee (in a case where the Mayor has not made the appointment).

#### 67. Meeting Procedure Generally

- 67.1 If Council establishes a Delegated Committee:
- (a) all the provisions of Part two and three apply to meetings of the Delegated Committee and any reference to:
    - a Council meeting is to be read as a reference to a Delegated Committee meeting
    - a Councillor is to be read as a reference to a member of the Delegated Committee and
    - the Mayor is to be read as a reference to the Chair of the Delegated Committee

#### 68. Meeting Procedure Can Be Varied

- 68.1 Notwithstanding this Part, if Council establishes a Delegated Committee that is not composed solely of Councillors, the Council or the Delegated Committee may resolve that any or all of the provisions of Part two or three are not to apply to a meeting of the Delegated Committee.

#### 69. Requests to address a Delegated Committee

- 69.1 Where the Instrument of Delegation specifically permits, a person may request to be heard at a Delegated Committee meeting in relation to a matter listed on the Agenda.

#### 70. No Public Question Time

- 70.1 There will be no public question public time at Delegated Committee meetings.

#### 71. Community Asset Committee

- 71.1 Unless anything in the instrument of delegation provides otherwise, the conduct of a meeting of a Community Asset Committee is in the discretion of the Community Asset Committee.



## PART 6 – DISCLOSURE OF CONFLICTS OF INTEREST

The requirements to disclose conflicts of interest apply to Council meetings, delegated committees, community asset committees and meetings conducted under the auspices of Council. References to 'Council meeting' include all these meetings.

### CONFLICT OF INTEREST

#### 72. Disclosure of a Conflict of Interest

72.1 A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they:

- (a) are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered or
- (b) intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
  - advising of the conflict of interest
  - explaining the nature of the conflict of interest detailing whether it is a material or general conflict and
  - detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
    - name of the other person
    - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person and
    - nature of that other person's interest in the matter

and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

72.2 The Councillor must, in either event, leave the Council meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

#### 73. Disclosure by Members of Council Staff Preparing Reports for Meetings

73.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

- (a) Council meeting
- (b) Delegated Committee meeting
- (c) Community Asset Committee meeting





must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer disclosing the conflict of interest and explaining the nature of the conflict of interest.

**73.2** The Chief Executive Officer must ensure that the Report referred to in sub-Rule 8.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

**73.3** If the member of Council staff referred to in 73.1 is the Chief Executive Officer:

- (a) the written notice must be given to the Mayor and
- (b) the obligation imposed may be discharged by any other member of Council staff responsible for the preparation of the Report.

**74. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

**74.1** A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

**74.2** If the member of Council staff referred to in 74.1 is the Chief Executive Officer, the written notice must be given to the Mayor.

**75. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

**75.1** A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

**75.2** If the member of Council staff referred to in sub-Rule 10.1 is the Chief Executive Officer, the written notice must be given to the Mayor.

**76. Retention of Written Notices**

**76.1** The Chief Executive Officer must retain all written notices received under this Part for a period of three years.



## PART 7 – ELECTION OF MAYOR

### ELECTION PROCEDURE

#### 77. Overseeing the Election

- 77.1 The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

#### 78. Method of Voting

- 78.1 The election of the Mayor must be carried out by a show of hands.

#### 79. Determining the election of the Mayor

- 79.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.
- 79.2 Any nominations for the office of Mayor must be seconded by another Councillor.
- 79.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
- (a) if there is only one nomination, the candidate nominated must be declared to be duly elected
  - (b) if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates
  - (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected
  - (d) in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates
  - (e) if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected
  - (f) in the event of there being three or more candidates and two or more candidates having an equality of votes, a lot will be drawn to reduce the candidate pool by one to no less than two candidates remaining
  - (g) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
    - each candidate will draw one lot



- the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names and
- as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. The word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate and
- a further vote must be taken on the remaining candidates under the provisions of (cross reference) until there is a successful election.

## **80. Election of Deputy Mayor and Chairs of Delegated Committees**

**80.1** Any election for:

- (a) any office of Deputy Mayor or
- (b) Chair of a Delegated Committee

will be regulated by Rules 4-6 (inclusive) of this Part, as if the reference to the:

- Chief Executive Officer is a reference to the Mayor and
- Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

## **81. Appointment of Acting Mayor**

**81.1** If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

- (a) resolving that a specified Councillor be so appointed or
- (b) following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

## **82. Appointment of a Temporary Chair**

**82.1** If the Council has not established an office of Deputy Mayor and if the Mayor or Deputy Mayor is unable to Chair a particular meeting, that meeting shall nominate a temporary Chair. The nomination and resolution process for determining the temporary Chair will be overseen by the CEO who will ask for nominations before conducting the vote.



## ELECTION PERIOD POLICY

### TABLE OF CONTENTS

1.	Introduction .....	40
2.	Purpose.....	40
3.	Definitions .....	40
4.	References And Related Documents .....	41
5.	Guidelines.....	41
6.	Role Of Chief Executive .....	41
7.	Decisions By Council.....	41
8.	Public Consultation & Events.....	42
9.	Council Publications.....	42
10.	Council Resources.....	44
11.	Media.....	45
12.	Information .....	46
13.	Assistance To Candidates.....	46



## 1. INTRODUCTION

The *Local Government Act 2020* (the Act) provides that during the 'election period' certain prohibitions apply on certain functions and powers of Council being performed and exercised. It is during this time that Council enters the 'election period'.

The 'election period' is defined by the Act as starting on the last day for nominations and ending at 6pm on Election Day.

## 2. PURPOSE

This Election period Policy has been developed in order to ensure that general elections for the Colac Otway Shire are conducted in a manner that is demonstrably ethical, fair and equitable.

The Policy will also facilitate the continuation of the ordinary business of local government in the Colac Otway Shire throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'election period' conventions.

This Policy also commits Council during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council and
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

## 3. DEFINITIONS

Where terms used in this Policy are defined in the Act, their use in this Policy is consistent with the definitions in the Act.

Definitions used in this Policy which are not defined by the Act are:

**Period** - the same meaning as 'election period' in section 3 (1) of the Act and means the period that starts on the close of nominations and ends at 6pm on Election Day.

**Publication** - includes any means of publication including letters and information on the internet and social media.

**Public consultation** - a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

**Significant decision** - an irrevocable decision that significantly affects the municipality and unreasonably binds the incoming Council.



#### **4. REFERENCES AND RELATED DOCUMENTS**

*Local Government Act 2020*

*Victorian Electoral Act 2002*

Councillor Code of Conduct

Election Period Procedures

#### **5. GUIDELINES**

Council will function in accordance with this Policy during the election period.

#### **6. ROLE OF CHIEF EXECUTIVE**

In addition to the Chief Executive Officer's (CEO) statutory responsibilities, the CEO or their delegate will ensure as far as possible, that:

- All Councillors and Officers are informed of the application of this Policy 30 days prior to the commencement of the election period
- Matters of Council business requiring major policy or significant decisions are scheduled for Council to enable resolution prior to the commencement of the Period, or deferred where appropriate for determination by the incoming Council and
- Guidelines to staff on the role and responsibilities of staff in the implementation of this Policy are issued, if appropriate.

#### **7. DECISIONS BY COUNCIL**

##### **7.1 Major policy decisions**

During the Period, Council cannot make a Prohibited Decision.

A Prohibited Decision is a decision referred to in section 69 (2) of the Act, and includes a decision:

- Relating to the employment or remuneration of a Chief Executive Officer (CEO), other than a decision to appoint or remunerate an acting CEO or
- Committing Council to expenditure which exceeds 1% of the Council's revenue from rates and charges levied in the preceding financial year
- that Council considers could be reasonably deferred until the next Council is in place
- that Council considers should not be made during an election period.

Any decision of the kind highlighted above (relating to the employment or remuneration of the CEO or commits Council to expenditure above the threshold) made during the election period is deemed to be invalid under the Act.

##### **7.2 Significant decisions**

- (a) During the Period, Council will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.





(b) Significant decisions to be avoided include but are not limited to:

- Allocating community grants
- Directing funding to community organisations
- Major planning scheme amendments
- Changes to strategies and strategic objectives in the Council Plan.

### **7.3 Council meetings**

Council meetings will not be held during the election period unless exceptional circumstances warrant it.

### **7.4 Council agenda items**

Should a Council meeting be required during the Period, papers prepared for the Council meeting will be carefully vetted to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering.

Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

## **8. PUBLIC CONSULTATION & EVENTS**

Public consultation during the election period will be limited.

Council events will not be scheduled to take place at all during the election period.

If consultation must be undertaken or an event held during this time, Council must justify to the community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

### **8.1 Statutory requirements**

The requirements of Clause 8 do not apply to public consultation required under the *Planning and Environment Act 1987*.

## **9. COUNCIL PUBLICATIONS**

### **9.1 Prohibition on publishing material during the election period**

This policy in accordance with the Act prohibits a Councillor or member of Council staff from printing, publishing or distributing any electoral material during the election period on Council's behalf unless the electoral material only contains information about the election process or is otherwise in accordance with or under any legislation. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

### **9.2 Prohibited material**

Electoral matter is defined in the Act and means any matter which is intended or likely to affect voting in an election, but does not include:



- Any electoral material produced by or on behalf of the Election manager or Victorian Electoral Commission for the purposes of conducting the election or
- An advertisement in a newspaper announcing the holding of a meeting.

A publication is taken to contain electoral material if it contains an express or implicit reference to, or comment on:

- The election or
- A candidate in the election or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral matter includes material which:

- Publicises the strengths or weaknesses of a candidate
- Advocates the policies of the Council or of a candidate
- Responds to claims made by a candidate
- Publicises the achievements of the elected Council.

### **9.3 Council publications including Councillor information**

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during the election period must not include promotional text.

### **9.4 Website**

Material published on Council's website in advance of the election period is not subject to restriction, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the Period.

Councillor contact information will remain available on the website during the election period, but Councillor profiles will be removed.

### **9.5 Annual report**

Council is required by the Act to produce and put on public display a copy of its Annual Report. The relevant Annual Report may be published during an election period. The Annual Report published during an election period will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

### **9.6 Council documents**

Items submitted for regular Council publications will be reviewed to ensure that they comply with the principles of the Act and this Policy and may be amended accordingly before publication.

### **9.7 Social media**

Any publication on Council-managed social media sites including but not limited to Facebook, Twitter and blogs during the election period will be approved by the CEO.



Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted.

Councillors' individual (personal) social media pages are not managed by Council so are not subject to the same provisions.

## **10. COUNCIL RESOURCES**

### **10.1 Application of resources**

It is an established democratic principle that public resources must not be used in any way that would influence the way people vote in elections, except regarding supporting the actual election process.

Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during the Period.

Council resources, including offices, vehicles, staff, hospitality, services, property, equipment and stationery, must be used exclusively for Council business during the election period and must not be used in connection with any election campaign or issue.

### **10.2 Role of officers**

The Executive Officer to the CEO, Mayor and Councillors, Governance staff, or any other staff member, will not, during the Period, be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

### **10.3 Use of Council resources by Councillors**

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns.

Photocopying for election campaigning purposes by Councillors or staff on office photo copiers is not permitted.

Databases and mailing lists held by the organisation remain the property of the Council and are subject to the principles of the *Privacy and Data Protection Act 2014* and are therefore not available to members of the public, candidates or Councillors.

The organisation will not prepare or produce any materials associated with Councillors' individual election campaigns.

No Council logos, letterheads or other Council branding should be used for, or linked in any way to, a candidate's election campaign.

Councillors will not use Council issued mobile phones and email addresses for election campaigning purposes.



The use of Council's internet or intranet sites for any activity to do with election campaigning is prohibited. This includes linking Council websites to private candidate websites.

Access to the voters' roll is subject to the requirements of the Act and *Privacy and Data Protection Act*. A copy of the voters' roll will be provided to candidates by the Election manager or Victorian Electoral Commission. The voters' roll will be available for inspection during the election period at advertised times.

Council facilities booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period will be made available at the same rate to all hirers.

#### **10.4 Officer's discretion**

Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard.

The organisation will continue to provide support to Councillors with respect to their day-to-day Council business. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the CEO or their delegate.

#### **10.5 Councillors' entitlement to reimbursement**

Reimbursements of Councillors' out of pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or relate to the candidate's election campaign.

### **11. MEDIA**

#### **11.1 Restriction on services**

Council's Communications services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate. During the election period this team's service must not be used in any way that might promote a Councillor as an election candidate.

Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

#### **11.2 Media releases/spokespersons**

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate. Where it is necessary to identify a spokesperson, the CEO or their delegate will be consulted.

Media releases will require approval by the CEO.

#### **11.3 Councillors**

Councillors will not use their position as an elected representative or their access to Council officers and other Council resources to gain media attention in support of an election campaign.



#### **11.4 Council employees**

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained by the CEO or their delegate.

### **12. INFORMATION**

#### **12.1 Candidates' access to information**

All election candidates have equal rights to information relevant to their election campaigns and from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections (which includes internal publications such as the weekly CEO Update and Councillor Newsletter).

There will be complete transparency in the provision of all information and advice during the Period.

#### **12.2 Information request register**

Governance will maintain an Information Request Register during the Period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

#### **12.3 Improper use of position**

Section 123 of the *Local Government Act 2020* prohibits Councillors from misusing or inappropriately making use of their position. A breach attracts serious penalties.

### **13. ASSISTANCE TO CANDIDATES**

#### **13.1 Role of election manager or Victorian Electoral Commission**

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election manager or Victorian Electoral Commission or, where the matter is outside the responsibilities of the Election manager or Victorian Electoral Commission, to the CEO or their delegate.

#### **13.2 Candidate information**

Council will provide candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council. This will include an outline of meeting dates and times for the first four weeks of Council meetings and Councillor Induction workshops.

Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Election manager or Victorian Electoral Commission, accompanied by the nomination fee.



Candidates will also be informed of the requirements to complete and submit an 'Election Campaign Return' to the CEO within 40 days after the Election Day. The return must contain details of any campaign donation or received within the donation period.



## Item: 9.6 Adoption of Flag Policy

<b>OFFICER</b>	Tamzin McLennan
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Attachment 1 - Flag Policy - 2024 - for adoption [9.6.1 - 6 pages]</li><li>2. Attachment 2 - Draft Flag Policy - 2024 - Tracked changes post exhibition period [9.6.2 - 6 pages]</li><li>3. Attachment 3 - Flag Protocol Policy - For Revocation [9.6.3 - 2 pages]</li></ol>

### 1. PURPOSE

To consider adoption of the revised Flag Policy following feedback from the community.

### 2. EXECUTIVE SUMMARY

At its February 2024 meeting, Council released a draft Flag Policy, inclusive of a flag schedule guiding the use of Council's ceremonial and community flag poles, for public exhibition seeking feedback from the community.

Thirteen submissions to the draft Flag Policy were received, and having considered the feedback, a number of changes are proposed to the draft Flag Policy.

The purpose of this report is to consider the amended policy for adoption (Attachment 1), as well as the revocation of the 2018 Flag Policy Protocol (Attachment 3).

### 3. RECOMMENDATION

**That Council:**

- 1. *Adopts the Flag Policy (Attachment 1), which includes a flag schedule guiding the use of Council's Community and Ceremonial flagpoles.***
- 2. *Revokes the Flag Protocol Policy 2018 (Attachment 3), which has been superseded by the Flag Policy adopted as per point 1.***
- 3. *Notes that an application process will be established to support community requests to fly other flags of significance on the Community Flagpole, or to fly flags at half-mast.***
- 4. *Writes to submitters thanking them for their feedback and advising them of the resolution of Council.***

### 4. KEY INFORMATION

#### Background

Council adopted a Flag Protocol Policy in 2018 with a focus on responding to requests to fly flags at half-mast as a sign of mourning.

Council has three existing ceremonial flagpoles at its Colac Customer Service Centre which have recently been illuminated. They fly the Australian Flag, Aboriginal Flag and Torres Strait Island Flag 24 hours a day.

Council allocated funds in its 2023-24 budget to install a new community flagpole to enable other flags of significance to be flown in the precinct. Installation of the community flagpole on the north-east corner of the COPACC lawn is complete.

The introduction of a new flagpole in the precinct creates the opportunity to establish a holistic flag policy that sets out how the various flagpoles will be used. A new policy has been developed and exhibited to serve this purpose, and if adopted the Flag Protocol Policy will be revoked.

Many Councils in Victoria have additional flagpoles on which they fly other flags to mark significant days or events such as IDAHOBIT. Community flagpoles provide opportunities for Council to demonstrate leadership in respect to inclusivity and make public and visible statements that the Colac Otway Shire is a place where people are welcome, safe and supported regardless of gender, age, race, culture, religion, beliefs, and socio-economic status. They also enable Council to continue to comply with the Australian Government's federal flag protocols as they relate to ceremonial flags.

The revised Flag Policy (Attachment 1) considers a broader remit than Council's previous Flag Policy Protocol, and includes but is not limited to:

- Compliance with the Australian Government's federal flag protocols.
- Guidelines for flying other flags of significance on the new Community Flagpole.
- A Flag Schedule governing the flying of other flags of significance on the Community Flagpole.
- An application process for community members to request that Council flies flags of significance other than those outlined in the Flag Schedule.

## Exhibition period

The draft Flag Policy was placed on public exhibition from 1 March 2024 to 12 April 2024 inclusive, for the purpose of inviting feedback from the community. Thirteen submissions were received and have been provided to Councillors confidentially in the supporting information section of the agenda. The submissions have been de-identified and summarised below in Table 1, which provides a summary of the key themes of each submission, including a recommendation as to whether the draft policy should be amended in response to the feedback received.

In addition, Councillors have also indicated a desire to fly the United Nations Flag on 24 October to mark United Nations Day. This has been added to the Flag Schedule for the Community Flagpole.

Submitter	Key themes	Changes to policy in response
1	-Submitter opposed to flag policy and fourth flag pole, believes it is too focussed on minorities.	Submitter's views acknowledged. No changes recommended to policy.
2	-Submitter opposed to flag policy and fourth flag pole. -Belief that the three ceremonial flags (Australian, Aboriginal, Torres Strait) are representative of community. -Concerns policy is weighted towards minorities. -Preference for Council to focus on services submitter considers to be core to Council business.	Submitter's views acknowledged. No changes recommended to policy.
3	-Supportive of Flag Policy. -Flying Pride or Transgender flag makes LGBTQIA+ people feel safe, accepted and valued. -Believes the Community Flagpole can be used to recognise other sectors of the community also. -Contributes to a diverse and inclusive community.	Submitter's views acknowledged. No changes recommended to policy.
4	-Supportive of Flag Policy. -Submission supported by 41 signatures.	Submitter's views acknowledged. No changes recommended to policy.
5	-Supportive of Flag Policy. -Supports Council's aim to be more respectful, diverse and inclusive. -Advice that Pride Flag is a more appropriate term to use than Rainbow Flag.  -Suggestion that Council considers using Community Flagpole other days of significance, being International Women's Day (March 8), Wear it Purple Day (last Friday in August) and World AIDS Day (December 1).	-References to Rainbow Flag changed to Pride Flag within policy.  -International Women's Day Flag added to the annual flag schedule.  -Pride Flag added to flag schedule for the last Friday in August to acknowledge Wear it Purple Day.  A separate application process will be put in place for special interest groups to fly flags on

Submitter	Key themes	Changes to policy in response
		days of significance to them, such as World AIDS Day.
6	<ul style="list-style-type: none"> <li>-Supportive of flag policy.</li> <li>-Supportive of flying Pride Flag and Transgender Flag.</li> <li>-Suggestion that Council considers flying the Scouts Australia or World Scout Flag on Founders' Day (February 22) and World Scout Day on 1 August.</li> </ul>	<p>Submitter's views acknowledged. No changes recommended to policy.</p> <p>A separate application process will be put in place for special interest groups to fly flags on days of significance to them, such as Scouting.</p>
7	<ul style="list-style-type: none"> <li>-Supportive of Flag Policy.</li> <li>-Believes it is an important and significant gesture to recognise diversity, and make LGBTQIA+ people feel seen, welcome and able to be their true selves, which is particularly important for small/regional communities.</li> </ul>	Submitter's views acknowledged. No changes recommended to policy.
8	<ul style="list-style-type: none"> <li>-Submitter suggests community flags should be flown for a maximum of seven days (not up to a month as proposed)</li> <li>-Submitter suggests Transgender Pride Flag should not be flown at half-mast at any time and should be removed from the flag schedule (November 20th).</li> <li>-Submitter believes that no community flags should be flown at half-mast and Council should only follow the Australian government protocols for flying the Australian, Aboriginal and Torres Straight Island flags at half-mast.</li> <li>-The Colac Otway Shire Flag should fly on the community flag pole each day other than days when another community flag has been approved.</li> </ul>	<ul style="list-style-type: none"> <li>-Statement of Policy section amended to indicate that flags other than those referred to in the Australian Flags Booklet shall be flown for no longer than seven consecutive days.</li> <li>-Flag schedule for Pride Flag amended to indicate it can be flown for up to seven days in May.</li> <li>-Policy amended to fly Transgender Flag at full height on Trans Day of Remembrance. This enables Council to observe a solemn day, without half-masting.</li> <li>-The Community Flagpole has been positioned separately to the Ceremonial Flagpoles so that there is no requirement to follow Australian Government flag protocols on the Community Flagpole.</li> <li>-Flag schedule amended to include provision for a custom Colac Otway Shire Council flag</li> </ul>

Submitter	Key themes	Changes to policy in response
	<p>-The CEO should not have full control of approving community flags, this decision should be made by the sitting Council of the day.</p>	<p>to be flown when Community Flagpole is not in use for other flags of significance.</p> <p>Submitter's views acknowledged, but no changes recommended to policy. It is intended that the policy shall provide the CEO sufficient guidance on Community Flagpole use and half-masting requests.</p>
9	<p>-Submitter opposed to the costs of additional flagpole/s and flags and drew attention to the condition of roads.</p> <p>-Submitter believes Australian Flag should be only flag flown.</p>	<p>-Submitter's views acknowledged. No changes recommended to policy.</p>
10	<p>-Submitter believes that only the Australian Flag should be flown, and only half masted when someone very important dies.</p>	<p>-Submitter's views acknowledged. No changes recommended to policy.</p> <p>-Note Council follows federal protocols for half-masting on Ceremonial Flagpoles.</p>
11	<p>-Submitter pleased to see ANZAC Day and Remembrance Day recognised via use of Community Flagpole.</p> <p>-Suggestion that the policy be amended so that the RSL flag displays five business days prior and during the days in question to raise awareness of RSL's work supporting veterans and their families.</p>	<p>-Policy amended to indicate the RSL will fly for five days in lead up, and on, ANZAC Day and Remembrance Day.</p>
12	<p>-Support for continuous flying of Aboriginal and Torres Strait Islander flags as a welcoming and comforting message to Traditional Owners.</p> <p>-Submitter wholly supportive of community flagpole to be inclusive of diversity.</p>	<p>Submitter's views acknowledged. No changes recommended to policy.</p>
13	<p>-Submitter believes Australian Flag is the only flag that should be displayed.</p> <p>-Submitter believes a Flag Policy is not core Council business.</p>	<p>Submitter's views acknowledged. No changes recommended to policy.</p>

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

This report aligns with the following Governance Principles in that it:

- Focuses on demonstrating leadership in creating a safe and inclusive community for people irrespective of Aboriginality, age, disability, ethnicity, gender identity, culture, race, religion, sexual orientation, and other attributes.
- Seeks to be transparent with the community about Council's commitment to promoting inclusivity at a community level.
- Aligns with Council's adopted Statement of Commitment to Gender Equality.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

This report discusses Council's commitment to inclusivity via the installation and use of a Community Flagpole, as well as ensuring Council continues to comply with the Australian Government's federal flag protocols.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Community groups have for many years advocated for Council to fly the Pride Flag on IDAHOBIT. In 2023 Council resolved to fly the flag and intends to continue this in subsequent years. A Flag Policy has been developed to guide Council's flying of other flags of significance and to provide a framework for compliance with the Australian Government's federal flag protocols.

The policy has been on public exhibition for a period of six weeks in line with Council's Community Engagement Policy, and a submissions hearing has taken place. This report outlines the changes made to the policy in response to submissions received.

### **Public Transparency (s58 LGA 2020)**

In line with Council's Community Engagement Policy, the draft Flag Policy has gone on six weeks' public exhibition to provide community members opportunities to enhance the policy via their feedback.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 3 – Healthy and Inclusive Community

Objective 1: All people have the opportunity to achieve and thrive in our shire

Objective 2: People are active and socially connected through engaging quality spaces and places

Objective 3: We are a safe, equitable and inclusive community

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Objective 4: We support and invest in our people

### **Financial Management (s101 Local Government Act 2020)**

Council has installed a new community flagpole in 2023-24 at a cost of approximately \$2,900, which will enable the flying of a range of flags in accordance with the Flag Policy.



### **Service Performance (s106 Local Government Act 2020)**

Council's progress towards creating a more safe, inclusive and gender equitable community and society aligns with all of the Local Government Act 2020 service performance principles.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The exhibition period for the draft Flag Policy was communicated via Council's typical channels such as local radio and print media, Council's website, social media channels and relevant email databases.

### **Human Rights Charter**

Feeling safe and included within one's community is a human right and precondition to social justice. This report seeks to progress Council's leadership in this space via the adoption of a Flag Policy that focuses on enabling the flying of a range of other flags of significance.

### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

### **Options**

#### Option 1 – Adopt the Flag Policy and rescind the previous Flag Protocol Policy.

This option is recommended as it provides a framework for guiding use of the new Community Flagpole as well as use of the three existing Ceremonial Flagpoles.

#### Option 2 – Adopt the Flag Policy with amendments.

This option is not recommended as submissions have already been considered by Council and changes proposed to the draft policy where Council deem it appropriate.

#### Option 3 – Do not adopt the Flag Policy.

This option is not recommended by officers as it means that Council will have to rely on the outdated 2018 Flag Protocol Policy, which mainly focuses on half-masting arrangements and does not make any provision for management of the Community Flagpole.



## Council Policy

### 18.12 FLAG POLICY

#### PURPOSE

The purpose of this policy is to govern the flying of flags at Council's municipal offices including at the Colac Otway Performing Arts and Cultural Centre precinct.

#### SCOPE

The Colac Otway Shire Council has three flag poles located at its Rae Street customer service centre.

Council has an additional flagpole installed outside the Colac Otway Performing Arts and Cultural Centre (COPACC).

This policy applies to the flags and flagpoles at the abovementioned locations. At other Council-owned locations where only one flagpole is located, when in use, the Australian National Flag will be flown.

#### STATEMENT OF POLICY

The Colac Otway Shire Council recognises that the flying of flags demonstrates pride of place and spirit, and acknowledges that the flying of flags should be undertaken with the utmost importance, respect and dignity.

This policy outlines the way Council will fly flags. A flag policy aims to ensure that Council's flying of flags adheres to federal protocols, and also aligns with Council Plan objectives around building a healthy and inclusive community. The general principles associated with this policy are:

- That Council acknowledges that the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag should be treated with respect and dignity. These flags will, as far as practicable, be flown in accordance with the Australian Government's flag protocols.
- Council will continuously fly the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag on the Ceremonial Flagpoles outside Council's Rae Street customer service centre if they are illuminated. Under circumstances where they are not illuminated, the abovementioned flags will be flown during standard business hours.
- The Community Flagpole shall generally be used to fly flags of significance, generally other than the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag.
- Council and COPACC may use the Community Flagpole to display flags when the flagpole is not being used for purposes outlined in this policy's flag schedule. On those occasions, approval from the Chief Executive Officer shall be sought first.

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



- The Community Flagpole will be used to accommodate community requests to fly flags. Community requests to fly flags on the Community Flagpole other than those outlined in this Policy shall be referred to the Chief Executive Officer for a decision to be made. In considering community requests, the Chief Executive Officer will have regard to Council resolutions, the Council Plan and any other relevant positions of Council. The Chief Executive Officer may consult the Mayor and Councillors and/or present a report at a Council meeting should they consider the matter is complex and a prevailing Council position is not clear.
- Flags other than those referred to in the Australian Flags Booklet will not fly any longer than seven consecutive days.
- Council will fly the national flags of other countries on the Community Flagpole during Council-sanctioned visits by dignitaries of the country or when directed by the federal or state government.
- In general, Council will not approve requests to fly other flags where a request is linked to:
  - Views that do not align with Council's views on promoting a diverse and inclusive community.
  - Are associated with activities for commercial gain or individual advancement.
  - Programs that may present a hazard to the community.

#### **Flying flags at half mast**

Under Australian Government protocols, flags are flown at half-mast position as a sign of mourning. The principles associated with flying flags at half-mast are:

- Council shall comply with directions given by the relevant federal and state departments to fly flags at half-mast; and under the conditions described in the Federal Government's Australian Flag Booklet.
- Examples of occasions when Council will be directed by the federal or state government to fly flags half-mast include the death of a Sovereign; the death of a member of the royal family; the death of the Governor-General or former Governor-General; on the death of a distinguished Australian citizen and on days of commemoration such as ANZAC Day and Remembrance Day.
- The Australian Flag Booklet states that "flags in any locality may be flown at half-mast on the death of a local citizen or on the day, or part of the day, of their funeral without the direction of the Australian Government", however unless specifically instructed to do so by the Chief Executive Officer, flags will only be lowered to half-mast on occasions where direction is received from the state or federal government.
- A flag should not be flown at half-mast at night, whether or not the flag is illuminated, unless direction to half-mast the flag for an extended period of time has been issued.
- When flying the Australian National Flag with other flags, all flags in the set should be flown at half-mast, with the Australian National Flag being raised first, and lowered last.

To bring the flag to the half-mast position, the flag must first be raised to the top of the mast (the 'peak'), then immediately lowered slowly to the half-mast position.

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



## RESPONSIBILITIES

The Chief Executive Officer is responsible for:

- Considering requests to fly alternative flags/flags of significance on the Community Flagpole in line with this policy. This includes considering community requests that may on occasion overlap with the flying of flags as outlined in Council's adopted Flag Schedule.
- Determining when it is appropriate to refer a request to fly an alternative flag to Council for a decision.
- Determining when it is appropriate to fly a flag at half-mast on the death of a local citizen or on the day, or part of the day, of their funeral.
- Ensuring flags flown under Council's control are never flown when in damaged, faded or dilapidated condition.

## DEFINITIONS

**Federal Government Australian Flags Booklet:** The protocols for the appropriate use and flying of the Australian flag as published by the Department of Prime Minister and Cabinet. The booklet can be viewed here:

<https://www.pmc.gov.au/publications/australian-flags-booklet>

**Council office:** The Council building and surrounding areas at 2-6 Rae Street Colac.

**Ceremonial Flagpoles:** The three flagpoles located outside of Council's Rae Street customer service centre.

**Community Flagpole:** The flagpole to be located outside the main entrance of the Colac Otway Performing Arts and Cultural Centre (COPACC), at 95-97 Gellibrand Street, Colac.

**Flag:** A piece of cloth, typically oblong in shape, attachable by one edge to a pole or rope and used as a symbol or emblem of a country, group or institution.

## RELATED DOCUMENTS

Federal Government Australian Flags Booklet: <https://www.pmc.gov.au/publications/australian-flags-booklet>

## REFERENCES

Federal Government Australian Flags Booklet: <https://www.pmc.gov.au/publications/australian-flags-booklet>

The Flags Act 1953

## DOCUMENT CONTROL

Policy owner	Manager Connected Communities	Division	Community and Economy
Adopted by Council		Policy Number	18.12
File Number		Review date	May 2028

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--




### Appendix 1: Flag Schedule

Title	Date(s) flag flies	As per National Protocols	Further information	Flag images
International Women's Day Flag	8 March	n/a	Acknowledges a global day celebrating the social, economic, cultural and political achievements of women, and raises awareness of gender discrimination.	 *indicative image only
Transgender Pride Flag – International Transgender Day of Visibility	31 March	n/a	Signifies International Transgender Day of Visibility which is an annual international celebration of trans pride and awareness, recognising trans and gender diverse experiences and achievements.	
Flags at half-mast – ANZAC Day	25 April	Yes	All flags are flown at half-mast until noon then at the peak until the usual time for closure of business or flags lowered.	All
RSL Flag to signify ANZAC Day	In the five days leading up to, and on, ANZAC Day	n/a	Flown for five days leading up to, and on, ANZAC Day in April.	
Pride Flag for IDAHOBIT (17 May)	Up to seven days during May	n/a	Flying the Pride Flag for up to seven days during May to show extended support to our LGBTQIA+ community.	
National Sorry Day	26 May	n/a	<p>Acknowledges the history and continued effect of the forced removal of Aboriginal and Torres Strait Islander people from their families, communities and culture.</p> <p>On this day, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag</p>	n/a

Uncontrolled when printed


CM reference		Date of adoption	
--------------	--	------------------	--

			shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with Sorry Day shall not be considered.	
National Reconciliation Week	27 May – 3 June	Yes	<p>In recognition of 27 May as the anniversary of the 1967 Referendum which successfully removed from the Constitution clauses that discriminated against Indigenous Australians and 3 June as the anniversary of the High Court decision in the Eddie Mabo land rights case of 1992.</p> <p>During this week, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with National Reconciliation Week shall not be considered.</p>	n/a
NAIDOC Week	From the first Sunday in July for one week	Yes	<p>NAIDOC Week is held annually to celebrate and promote a greater understanding of Aboriginal and Torres Strait Islander peoples and culture.</p> <p>During this week, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with NAIDOC Week shall not be considered.</p>	n/a
Pride Flag flown for Wear It Purple Day	30 August	n/a	Wear It Purple strives to foster supportive, safe, empowering and inclusive environments for rainbow young people.	

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



United Nations Flag flown for United Nations Day	24 October	n/a	Acknowledging the anniversary of the Charter of the United Nations.	
Remembrance Day – flags at half mast	11 November	Yes	Flags flown in accordance with national flag protocols. Flags are flown at the peak from 8am; at half-mast from 10.30am to 11.02am; and at the peak again from 11.02am.	All
RSL Flag – Remembrance Day	In the five days leading up to, and on, Remembrance Day, November 11.	n/a	RSL Flag flown for the five days leading up to, and on, Remembrance Day to signify armed forces members who have died in the line of duty.	
Transgender Pride Flag flown for Trans day of Remembrance	20 November	n/a	Flying the Transgender Flag to signify Trans Day of Remembrance which is an annual observance that honours the memory of the trans lives lost to acts of transphobia and discrimination.	
Colac Otway Shire Council standard	On days when the Community Flagpole is not in use for other flags	n/a	Colac Otway Shire Council flag indicates arrival at the shire's main municipal precinct.	 Colac Otway SHIRE *indicative image only

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



## Council Policy

### 18.12 FLAG POLICY

#### PURPOSE

The purpose of this policy is to govern the flying of flags at Council's municipal offices including at the Colac Otway Performing Arts and Cultural Centre precinct.

#### SCOPE

The Colac Otway Shire Council has three flag poles located at its Rae Street customer service centre.

Council has an additional flagpole installed outside the Colac Otway Performing Arts and Cultural Centre (COPACC).

This policy applies to the flags and flagpoles at the abovementioned locations. At other Council-owned locations where only one flagpole is located, when in use, the Australian National Flag will be flown.

#### STATEMENT OF POLICY

The Colac Otway Shire Council recognises that the flying of flags demonstrates pride of place and spirit, and acknowledges that the flying of flags should be undertaken with the utmost importance, respect and dignity.

This policy outlines the way Council will fly flags. A flag policy aims to ensure that Council's flying of flags adheres to federal protocols, and also aligns with Council Plan objectives around building a healthy and inclusive community. The general principles associated with this policy are:

- That Council acknowledges that the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag should be treated with respect and dignity. These flags will, as far as practicable, be flown in accordance with the Australian Government's flag protocols.
- Council will continuously fly the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag on the Ceremonial Flagpoles outside Council's Rae Street customer service centre if they are illuminated. Under circumstances where they are not illuminated, the abovementioned flags will be flown during standard business hours.
- The Community Flagpole shall generally be used to fly flags of significance, generally other than the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag.
- Council and COPACC may use the Community Flagpole to display flags when the flagpole is not being used for purposes outlined in this policy's flag schedule. On those occasions, approval from the Chief Executive Officer shall be sought first.
- The Community Flagpole will be used to accommodate community requests to fly flags. Community requests to fly flags on the Community Flagpole other than those outlined in this Policy shall be referred to the Chief Executive Officer for a decision to be made. In considering community requests, the Chief Executive Officer will have regard to Council resolutions, the Council Plan and any other relevant positions of Council. The Chief

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--

Executive Officer may consult the Mayor and Councillors and/or present a report at a Council meeting should they consider the matter is complex and a prevailing Council position is not clear.

- Flags other than those referred to in the Australian Flags Booklet will not fly any longer than ~~a calendar month~~ or a maximum of 31 days seven consecutive days.
- Council will fly the national flags of other countries on the Community Flagpole during Council-sanctioned visits by dignitaries of the country or when directed by the federal or state government.
- In general, Council will not approve requests to fly other flags where a request is linked to:
  - Views that do not align with Council's views on promoting a diverse and inclusive community.
  - Are associated with activities for commercial gain or individual advancement.
  - Programs that may present a hazard to the community.

### Flying flags at half mast

Under Australian Government protocols, flags are flown at half-mast position as a sign of mourning. The principles associated with flying flags at half-mast are:

- Council shall comply with directions given by the relevant federal and state departments to fly flags at half-mast; and under the conditions described in the Federal Government's Australian Flag Booklet.
- Examples of occasions when Council will be directed by the federal or state government to fly flags half-mast include the death of a Sovereign; the death of a member of the royal family; the death of the Governor-General or former Governor-General; on the death of a distinguished Australian citizen and on days of commemoration such as ANZAC Day and Remembrance Day.
- The Australian Flag Booklet states that "flags in any locality may be flown at half-mast on the death of a local citizen or on the day, or part of the day, of their funeral without the direction of the Australian Government", however unless specifically instructed to do so by the Chief Executive Officer, flags will only be lowered to half-mast on occasions where direction is received from the state or federal government.
- A flag should not be flown at half-mast at night, whether or not the flag is illuminated, unless direction to half-mast the flag for an extended period of time has been issued.
- When flying the Australian National Flag with other flags, all flags in the set should be flown at half-mast, with the Australian National Flag being raised first, and lowered last.

To bring the flag to the half-mast position, the flag must first be raised to the top of the mast (the 'peak'), then immediately lowered slowly to the half-mast position.

### RESPONSIBILITIES

The Chief Executive Officer is responsible for:

- Considering requests to fly alternative flags/flags of significance on the Community Flagpole in line with this policy. This includes considering community requests that may on occasion overlap with the flying of flags as outlined in Council's adopted Flag Schedule.
- Determining when it is appropriate to refer a request to fly an alternative flag to Council for a decision.
- Determining when it is appropriate to fly a flag at half-mast on the death of a local citizen or on the day, or part of the day, of their funeral.
- Ensuring flags flown under Council's control are never flown when in damaged, faded or dilapidated condition.

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



## DEFINITIONS

**Federal Government Australian Flags Booklet:** The protocols for the appropriate use and flying of the Australian flag as published by the Department of Prime Minister and Cabinet. The booklet can be viewed here:

<https://www.pmc.gov.au/publications/australian-flags-booklet>

**Council office:** The Council building and surrounding areas at 2-6 Rae Street Colac.

**Ceremonial Flagpoles:** The three flagpoles located outside of Council's Rae Street customer service centre.

**Community Flagpole:** The flagpole to be located outside the main entrance of the Colac Otway Performing Arts and Cultural Centre (COPACC), at 95-97 Gellibrand Street, Colac.

**Flag:** A piece of cloth, typically oblong in shape, attachable by one edge to a pole or rope and used as a symbol or emblem of a country, group or institution.

## RELATED DOCUMENTS

Federal Government Australian Flags Booklet: <https://www.pmc.gov.au/publications/australian-flags-booklet>

## REFERENCES

Federal Government Australian Flags Booklet: <https://www.pmc.gov.au/publications/australian-flags-booklet>

The Flags Act 1953





## DOCUMENT CONTROL

Policy owner	Manager Connected Communities	Division	Community and Economy
Adopted by Council		Policy Number	18.12
File Number		Review date	May 2028

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--

## Appendix 1: Flag Schedule

Title	Date(s) flag flies	As per National Protocols	Further information	Flag images
<u>International Women's Day Flag</u>	<u>8 March</u>	<u>n/a</u>	<u>Acknowledges a global day celebrating the social, economic, cultural and political achievements of women, and raises awareness of gender discrimination.</u>	 <u>*indicative image only</u>
Transgender Pride Flag – International Transgender Day of Visibility	31 March	n/a	Signifies International Transgender Day of Visibility which is an annual international celebration of trans pride and awareness, recognising trans and gender diverse experiences and achievements.	
Flags at half-mast – ANZAC Day	25 April	Yes	All flags are flown at half-mast until noon then at the peak until the usual time for closure of business or flags lowered.	All
RSL Flag to signify ANZAC Day	<del>On</del> <u>In the five days leading up to, and on,</u> ANZAC Day	n/a	Flown <del>for a day</del> <u>in the five days leading up to, and on ANZAC Day</u> to signify ANZAC Day in April.	
<u>Rainbow Pride</u> Flag <del>in May</del> for IDAHOBIT (17 May)	Up to <del>a month</del> <u>seven days</u> during May	n/a	Flying the <u>Rainbow Pride</u> Flag for up to <del>a month</del> <u>seven days</u> during May to show extended support to our LGBTQIA+ community.	

Uncontrolled when printed






CM reference		Date of adoption	
--------------	--	------------------	--

National Sorry Day	26 May	n/a	<p>Acknowledges the history and continued effect of the forced removal of Aboriginal and Torres Strait Islander people from their families, communities and culture.</p> <p>On this day, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with Sorry Day shall not be considered.</p>	n/a
National Reconciliation Week	27 May – 3 June	Yes	<p>In recognition of 27 May as the anniversary of the 1967 Referendum which successfully removed from the Constitution clauses that discriminated against Indigenous Australians and 3 June as the anniversary of the High Court decision in the Eddie Mabo land rights case of 1992.</p> <p>During this week, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with National Reconciliation Week shall not be considered.</p>	n/a
NAIDOC Week	From the first Sunday in July for one week	Yes	<p>NAIDOC Week is held annually to celebrate and promote a greater understanding of Aboriginal and Torres Strait Islander peoples and culture.</p> <p>During this week, the Australian National Flag, Aboriginal Flag and Torres Strait Islander Flag shall fly from Council's Ceremonial Flag Poles. Requests to fly flags other than those associated with NAIDOC Week shall not be considered.</p>	n/a

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



<u>Pride flag flown for Wear It Purple Day</u>	<u>30 August</u>	<u>n/a</u>	<u>Wear It Purple strives to foster supportive, safe, empowering and inclusive environments for rainbow young people.</u>	
<u>United Nations flag flown for United Nations Day</u>	<u>24 October</u>	<u>n/a</u>	<u>Acknowledging the anniversary of the Charter of the United Nations.</u>	
Remembrance Day – flags at half mast	11 November	Yes	Flags flown in accordance with national flag protocols. Flags are flown at the peak from 8am; at half-mast from 10.30am to 11.02am; and at the peak again from 11.02am.	All
RSL Flag – Remembrance Day	<u>In the five days leading up to, and on, Remembrance Day, November 11.</u>	<u>n/a</u>	RSL Flag flown <u>for one day on the Community Flagpole in the five days leading up to, and on, Remembrance Day</u> to signify armed forces members who have died in the line of duty.	
Transgender Pride flag <u>at half-mast—flown for</u> Trans day of Remembrance	20 November	<u>n/a</u>	Flying the Transgender flag <u>at half-mast</u> to signify Trans Day of Remembrance which is an annual observance that honours the memory of the trans lives lost to acts of transphobia and discrimination.	
<u>Colac Otway Shire Council standard</u>	<u>On days when the Community Flagpole is not in use for other flags</u>	<u>n/a</u>	<u>Colac Otway Shire Council flag indicates arrival at the shire's main municipal precinct.</u>	 <u>*indicative image only</u>

Uncontrolled when printed

CM reference		Date of adoption	
--------------	--	------------------	--



# Council Policy

## FLAG PROTOCOL

### PURPOSE

The purpose of this policy is to state Council's position on flag protocol, particularly with regards to the flying of flags at half-mast as a sign of mourning.

Colac Otway Shire Council recognises the significance of certain flags connected to its governance responsibilities. The flags that are to be flown permanently at its Rae Street Colac Offices, pursuant to this policy, are the Australian National Flag and the Aboriginal Flag, except in inclement weather.

Flags flown in response to Council's governance responsibilities will be flown in accordance with the relevant legislation and protocol guidelines in force at the time.

### SCOPE

From time-to-time, it is requested of Council that one or both flags are lowered to half-mast to mark the death of a community member or to commemorate the anniversary of their death. This policy will state Council's position on the lowering of flags in order to remove uncertainty for officers when asked to make such a decision.

### REFERENCES

*Flags Act 1953*

Attached:

*Australian flags – Part 2: The protocols for the appropriate use and the flying of the flag*  
Commonwealth of Australia 2006

### GUIDELINES/POLICY DETAILS

The most common request of Council with respect to flying the flag is as a sign of mourning.

Even though the national reference resource (as above) states on page 20:

*Flags in any locality may be flown at half-mast on the death of a local citizen or on the day, or part of the day, of their funeral...*

unless specifically instructed to do so by the Chief Executive Officer, the Council flags will only be lowered to half-mast on occasions when direction is given by the Australian Government or the State Government for all flags to be flown at half-mast.



These include but are not limited to:

- On the death of the Sovereign (King or Queen);
- On the death of a member of the royal family;
- On the death of the Governor-General or a former Governor-General;
- On the death of a distinguished Australian citizen;
- On the death of the head of state of another country with which Australia has diplomatic relations; and
- On days of national commemoration such as Anzac Day and Remembrance Day.

Requests from members of the public for variances to this protocol will be referred to the Chief Executive Officer for a decision to be made at his or her discretion.

More broadly, Council will follow the protocols set out in the attached reference published by the Commonwealth of Australia.

#### CARE AND CONTROL OF FLAG POLE AND FLAG

The Customer Service division is responsible for the control of all flags under Council's care and control.

Flags flown under Council's care and control should never be flown when in damaged, faded or dilapidated condition.

The care and control of the flag pole / flag on non-Council owned buildings is the responsibility of the building owner.

#### FILE MANAGEMENT

Policy owner	Manager, Governance & Customer Service	Division	Corporate Services
Adopted by Council	28 March 2018	Policy Number	18.12
File Number	11/96037	Review date	28 March 2021

Item: 9.7

## Update on Implementation of the Cat Curfew

<b>OFFICER</b>	Rhassel Mhasho
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To provide an update on implementation of the Cat Confinement Order that was introduced in November 2023.

### 2. EXECUTIVE SUMMARY

Council resolved at its 25 October 2023 meeting to introduce a night-time Confinement Order for cats, which came into effect on 1 November 2023. The purpose of the Order is for cat owners to keep their cats confined within the property between the hours of sunset and sunrise. Council in its resolution had requested that a review be conducted within six months on the effectiveness of the Order and community sentiments on the potential to implement a 24-hour curfew.

A review of the indicators relevant to management of cats by the Local Laws team during the six-months period immediately after its implementation with the corresponding six-months period in 2022/23 indicates that there has been a significant reduction in complaints relating to cats since the curfew, and that the number of cats trapped in cages has similarly reduced significantly. Given these results, and that there has not been any community feedback received since introduction of the Order, it is not recommended that the curfew be extended to 24 hour or that further community engagement be undertaken at this time. The current curfew appears to be achieving its objectives without the more onerous obligations on cat owners associated with a 24 hour curfew.

### 3. RECOMMENDATION

***That Council.***

- 1. Notes the results of the review as outlined in this report, and that no formal feedback has been received from the community in this period aside from positive feedback immediately after its introduction.***
- 2. Affirm its position as per the current Cat Confinement Order that cats are to be confined from 7pm to 7am and agrees that no further specific engagement regarding a 24-hour 'cat curfew' is needed at this time.***

### 4. KEY INFORMATION

At its meeting held on 25 October 2023, Council resolved to introduce a night-time cat curfew, to be implemented through a Cat Confinement Order under Section 26(2) of the *Domestic Animals Act 1994*. The Confinement Order came into force on 1 November 2023.

The purpose of the Order is for cat owners to keep cats confined to the owner's dwelling or another building on the property; or an escape-proof structure located outside any dwelling or other building on the property between the hours of sunset and sunrise (i.e. between 7pm and 7am).

The Order had been introduced following feedback received to the Local Law review in 2023. Members of the community has raised concerns about the negative environmental impact cats were causing on the native animals and neighbouring pets.

Some of the submissions received from the community in response to exhibition of the draft Cat Confinement Order requested that Council adopt a 24 hour curfew in lieu of the 12 hour curfew that was then proposed. Whilst Council determined to support the nighttime curfew only, it resolved when endorsing introduction of the Confinement Order that officers conduct a review and a report back to Council on the effectiveness of the Order and community sentiments on the implementation of a 24-hour curfew after six months of operation.

The following is the resolution from the 25 October 2023 Council meeting:

***"That Council***

- 1) Expresses its appreciation to those who made submission to the proposed Cat Confinement order. Minutes - Council Meeting - 25 October 2023***
- 2) Adopts the cat confinement order (attachment 1) requiring all cats within the municipality to be securely confined to the owner's property, between the hours of sunset and sunrise.***
- 3) Notes that upon execution by the Chief Executive Officer, the order will come into force on 1 November 2023.***
- 4) Places a notice in the Government Gazette and a local newspaper in accordance with legislative requirements.***

**5) Conduct a review and report back to Council after approximately six months of operation to reassess effectiveness and community sentiment to a 24-hour curfew”.**

There had been some positive feedback received immediately after Council’s introduction of the Order by persons who had made submissions to exhibition of the draft Order, but no formal community feedback has been received since its introduction.

The adoption of a Cat Confinement Order was widely advertised at the time to ensure that the community was aware of the new obligations on cat owners. Whilst owners were not notified directly of the changes and there may still be some that are unaware of the new requirements, the lack of feedback does indicate a general level of acceptance.

Below is a table showing an overview of records relating to Local Law activities concerning cats in the six-month period immediately after its implementation compared with the corresponding six-months period in 2022/23:

Month	Impounded	Euthanised (not feral)	Euthanised (Feral)	Returned Directly to owner	Rehoused
November 22	6	0	2	4	0
December 22	23	4	9	3	7
January 23	25	8	10	0	7
February 23	32	9	13	2	8
March 23	42	7	25	2	8
April 23	21	11	2	4	4
<b>TOTAL 22/23</b>	<b>149</b>	<b>39</b>	<b>61</b>	<b>15</b>	<b>34</b>
November 23	16	5	6	2	3
December -23	22	4	2	4	13
January 24	36	10	12	1	12
February 24	14	2	6	5	1
March 24	28	7	12	4	5
April 24	11	7	0	2	2
<b>TOTAL 23/24</b>	<b>127</b>	<b>35</b>	<b>38</b>	<b>18</b>	<b>36</b>

*# Reasons for euthanising the cats include medical conditions (diseased or injured), age (old or young) and unfit for rehoming (behavioural problems).*



#### Indicators directly related to the introduction of cat curfew

Themes relevant to the curfew	Prior to confinement order	Since introduction of order
Requests for 24-hour curfew	2	0
Number of complaints about cats 'at large' at night	45	18
People handing in cats	149	127
Cats trapped using the cages hired from Council	49	30

The above indicators suggest that there has been a significant reduction in complaints relating to cats since the curfew, and that the number of cats trapped in cages and cats impounded by Council has similarly reduced significantly. Whilst these results are not definitive, they do indicate a positive trend in the data which could be a result of the curfew introduced.

Given these results, and that there has not been any community feedback received since introduction of the Order in November 2023, it is considered that there is no short-term justification to extend the curfew beyond the night-time restriction in place.

Council will take increased steps to further promote the current Confinement Order obligations, including future advice with registration renewals. The aim will be to further increase the effectiveness of the current curfew requirements.

## 5. CONSIDERATIONS

### **Overarching Governance Principles** (s(9)(2) LGA 2020)

The introduction of the Cat Confinement Order has assisted in mitigating the negative environmental impact cats were causing on the native animals and neighbouring pets. The review after six months indicates that the night-time curfew has been effective.

### **Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

The introduction of the Order was in response to community concerns raised during consultation to develop a new General Local Law.

### **Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

The introduction of the Order has helped in reducing the negative environmental impact cats were causing on native animals and neighbouring pets.

### **Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

The adoption of a Cat Confinement Order was widely advertised upon its introduction to ensure that the community was aware of the new obligations on cat owners. There had been some positive feedback received immediately after Council's introduction of the Order by persons who had made submissions to the draft Confinement Order, but no formal community feedback has been received since its introduction.

## **Public Transparency (s58 LGA 2020)**

The Cat Confinement Order is accessible to the community on the Council's website, and the review of its effectiveness after six months is being considered at a public meeting.

## **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 2 - Valuing the Natural and Built Environment

Objective 3: Protect and enhance the natural environment

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

## **Financial Management (s101 Local Government Act 2020)**

Implementation of the Cat Confinement Order has not resulted in any financial impact to Council.

## **Service Performance (s106 Local Government Act 2020)**

The management of cats is a core responsibility of the Local Laws team. Local Laws staff have implemented the Cat Confinement Order through their normal duties.

## **Risk Assessment**

Not applicable.

## **Communication/Implementation**

Local Laws staff will continue to look at ways to progressively maximise the community's awareness of the Order and cat owner obligations. This may include future reminders with Cat Registration renewals and through social media.

## **Human Rights Charter**

No impact.

## **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

## **Options**

Option 1 – Accept the results of the review and retain the current night-time curfew (ie not change the Cat Confinement Order to a 24-hour curfew)

This option is recommended by officers as the Order appears to have been well accepted by the community and achieving the outcomes it sought to deliver. As noted in this report, there has been an identifiable decrease in the number of complaints received concerning cats and the number of cats being caught in cages. There have been no public requests for the curfew to be extended to 24 hours.

Option 2 – Amend the Confinement Order to a 24 hour curfew

This option is not recommended by officers as no further request has been made by the community to have a 24 hour curfew introduced. The current night-time curfew appears to have been successful. A 24 hour curfew would have a more significant impact on cat owners and is not considered to be warranted at the current time.

Item: 9.8

## Apollo Bay Aquatic Centre Funding Agreement Review

<b>OFFICER</b>	James Myatt
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	1. CONFIDENTIAL REDACTED - Funding Agreement - Apollo Bay Aquatic Centre - Colac Otway Shire Council - Department of Education [9.8.1 - 18 pages]

### 1. PURPOSE

To review the Apollo Bay Aquatic Centre Funding Agreement in accordance with the resolution of Council at its 28 March 2018 meeting.

### 2. EXECUTIVE SUMMARY

At its 28 March 2018 meeting, Council resolved to negotiate a new funding agreement with Apollo Bay P-12 College (the College) for community use of the Apollo Bay Pool and confirmed an ongoing operational funding commitment of \$200,000 plus CPI. Point 14 of the 28 March 2018 resolution stated that Council “*reviews the Joint Use Agreement no greater than four years from the opening of the facility to the public, and no greater than every five years thereafter.*”

Since opening in Spring 2020, the College has operated the Apollo Bay Aquatic Centre within Council’s budget allocation, with patronage steadily increasing. Overall, the funding agreement is working as intended by providing community access to an aquatic facility in Apollo Bay for more than the stipulated 20 hours per week.

### 3. RECOMMENDATION

***That Council notes that:***

- 1. It decided at its 28 March 2018 meeting to establish a Funding Agreement to enable the Apollo Bay community to access the Apollo Bay Aquatic Centre and to undertake an initial review of the agreement within four years of the centre opening.***

2. *A review of the operations demonstrates that the Apollo Bay P-12 College continues to operate the Apollo Bay Leisure Centre in accordance with the Funding Agreement.*
3. *The Apollo Bay P-12 College has accumulated unspent funds during the life of the Funding Agreement that are intended for supporting operating costs, however the College could seek a specific decision of Council to allow these funds to be used for capital or other pool-related expenses.*

## 4. KEY INFORMATION

At its 28 March 2018 meeting, Council resolved to negotiate a new funding agreement with Apollo Bay P-12 College (the College) for community use of the Apollo Bay Pool and confirmed an ongoing operational funding commitment of \$200,000. Point 14 of the 28 March 2018 resolution stated that Council: *“reviews the Joint Use Agreement no greater than four years from the opening of the facility to the public, and no greater than every five years thereafter.”*

A draft funding agreement was presented to Council and endorsed on 23 October 2019 before being executed in December 2019. The centre opened to the public in Spring 2020.

Funding via the agreement was intended to be provided when the aquatic centre re-opened post redevelopment. In 2020 the College approached Council requesting early funding access for capital construction costs due to budget over-runs. Council executed a deed of variation on 14 August 2020 to allocate the following funding amounts towards the cost of carrying out the construction of the facility:

- The 2019-20 financial contribution.
- An amount of \$15,000 from each annual contribution during the 5 years starting on 1 July 2021 and ending on 30 June 2026.

After completion of construction works, the Apollo Bay Aquatic Centre opened in Spring 2020. As per the 28 March 2018 resolution, a review of the funding agreement is to be completed prior to Spring 2024.

The funding agreement has worked as intended to facilitate the community’s access to an indoor pool in Apollo Bay. Since the indoor facility opened, the opening hours per week continues to be much more than the minimum 20 hours per week as stipulated in the funding agreement. In addition, the number of users has steadily increased, and the College has maintained operating expenditure within Council’s contribution as displayed in Table 1.

**Table 1 – Apollo Bay Leisure Centre Funding Agreement key statistics.**

	2020-21	2021-22	2022-23
# of Patrons	3,471	6,326	8,215
Average Weekly Opening Hours	28	35.5	43
Operating Expenditure	\$184,977	\$188,748	\$195,575
Council Funding	\$200,000	\$203,427	\$215,836
Unspent Funding	\$15,023	\$14,679	\$20,261

The College has met all requirements of the funding agreement except for clause 5.2 (f) (annual reporting) where the College usually provides the information after 30 September, however this has no material impact on service delivery, the Apollo Bay community or Council.

Whilst the agreement has worked as intended, the College has continued to accumulate unspent funds totalling \$49,963. Under clause 5.2 (g) in the funding agreement, *'The School Council is not required to spend all money paid to it by Colac Otway Council during a year in that year,'* hence the ability to accumulate funds. The funding agreement provides no capacity for reimbursement of unspent funds, and no method for expenditure other than on annual operating expenses.

Unspent funds create a buffer for the College should future operating costs increase as Council's annual contribution is capped. Whilst the funding agreement is clear that Council's funding cannot be allocated to capital expenditure, this could be achieved through a resolution of Council.

Council representatives met with the College to receive feedback on the funding agreement. The College stated that they believe the funding agreement works extremely well as it provides an appropriate level of funding and flexibility for the College to operate the facility for the community without too much hassle.

The College stated if they could re-write the agreement, they would add a clause enabling them to apply to Council to use accumulated unspent funds on specific unexpected projects, likely to be of a capital nature. Officers recommend not editing the agreement as this can be achieved through consideration and resolution of Council.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The overarching governance principles are:

1. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
2. Collaboration with other Councils and Governments and statutory bodies is to be sought.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

Not applicable.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Not applicable.

### **Public Transparency (s58 LGA 2020)**

This report is being presented to Council in a public forum.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 3 – Healthy and Inclusive Community

Objective 2: People are active and socially connected through engaging quality spaces and places

### **Financial Management** (s101 *Local Government Act 2020*)

Council provided a \$228,786 financial contribution to the College under the funding agreement in the 2023-24 financial year.

### **Service Performance** (s106 *Local Government Act 2020*)

The service is performing as intended as discussed in the body of this report.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

Not applicable.

### **Human Rights Charter**

No impact.

### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

### **Options**

Option 1 – Notes the review of the Apollo Bay Aquatic Centre funding agreement and determines not to alter the agreement.

This option is recommended as the current Apollo Bay Aquatic Centre Funding Agreement is working as intended by Council. The Apollo Bay P-12 College is operating the facility in accordance with the funding agreement resulting in access to this important health and wellbeing facility by the community.

Option 2 – Resolves to negotiate changes to the Apollo Bay Aquatic Centre funding agreement with the College.

This option is not recommended as the current funding agreement is working as intended by Council, enabling access to an important health and wellbeing facility by the Apollo Bay community.



Item: 9.9

## Quarter 3 Performance Report against 2023-24 Annual Plan

<b>OFFICER</b>	Louise Harvey
<b>CHIEF EXECUTIVE OFFICE</b>	Anne Howard
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. 2023-24 Quarterly Performance Report - January to March 2024 PDF [9.9.1 - 49 pages]

### 1. PURPOSE

To provide the Quarterly Performance Report for the period 1 January 2024 to 31 March 2024.

### 2. EXECUTIVE SUMMARY

Pursuant to section 97 of the Local Government Act 2020, the Chief Executive Officer is required to present a quarterly budget report (which includes a comparison of the actual and budgeted results to date and an explanation of any material variations), to a Council meeting which is open to the public. The Chief Executive Officer has reviewed the quarterly budget report and deems that there is no need for Council to consider a revised budget at this time.

Explanation of budget and/or project performance variances to budget must provide information to Council and the public about allocation of financial resources to achieve Council Plan and Budget Outcomes.

This the Quarterly Performance Report also includes a progress report against the Council Plan objectives (via the 2023-24 Annual Plan).

### 3. RECOMMENDATION

***That Council notes the Quarterly Performance Report for the third quarter 2023-24, for the period 1 January – 31 March 2024.***

## 4. KEY INFORMATION

This Quarterly Performance Report provides Council with a progress report for the third quarter of the financial year (January to March 2024) and is structured in the following sections:

- Introduction by the Chief Executive Officer
- Annual Plan Progress Report (including links to the Health and Wellbeing Plan)
- Budget Report for the quarter ending 31 March 2024
- Capital Works and Major Initiatives Performance Report

The Annual Plan Progress Report shows:

- 15 actions have been completed
- 42 actions are in progress
- 6 actions have not started
- 1 action will be ongoing

The Budget Report for the three months ending 31 March 2024 includes analysis of full year forecast and year-to-date results compared to the 2023-24 adopted budget, including:

Financial Statements:

- Comprehensive Income Statement
- Balance Sheet
- Cash Flow Statement
- Capital Work Statement.

Council's total comprehensive result (actual) for the three months ended 31 March 2024 is a surplus of \$7.21 million.

The year-to-date operating surplus is \$3.87 million favourable to the budgeted operating surplus for the same period, this is a reflection of the following variances

- Greater amount of user fees revenue \$1.22 million received for the first nine months than expected,
- Less materials and services expenses (\$1.95) million spend due underspend in;
  - Consultants relating to Operating Projects \$1.14 million
  - Insurance \$414,000
  - Utilities \$330,000
  - Training Costs \$231,000

**Further details of these results are provided in Attachment 1**

## 5. CONSIDERATIONS

**Overarching Governance Principles (s(9)(2) LGA 2020)**

A number of relevant governance principles under section 9 of the Local Government Act 2020 apply to this report, specifically:

- Council decisions are to be made and actions taken in accordance with the relevant law:
  - I. The Chief Executive Officer must ensure that a quarterly budget report is presented to the Council at a Council meeting which is open to the public that includes a comparison

of the actual and budgeted results to date, and an explanation of any material variations. The quarterly report must also include a statement by the Chief Executive Officer as to whether a revised budget is, or may be, required (S97 LGA 2020).

- Priority is to be given to achieving the best outcomes for the municipal community, including future generations:
  - I. Explanation of budget and/or project performance variances to budget that provides information to Council and the public about allocation of financial resources to achieve Council Plan and Budget outcomes.
- Innovation and continuous improvement is to be pursued:
  - I. Continuous development of financial reporting information and systems to enable more useful information for Council decision making.
- The ongoing financial viability of the Council is to be ensured:
  - I. Regular monitoring of permanent and timing variances to Budget by the Executive Management Team and quarterly monitoring of Budget performance by the Audit and Risk Committee and Council to enable mitigation of identified financial risks.
- The transparency of Council decisions, actions and information is to be ensured:
  - I. Presentation of the quarterly performance report, including budget statements, provides the community with relevant information about Council's progress against key plans and adopted budget.

#### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

Section 97 of the LGA 2020 requires quarterly statements to be presented to Council, comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date. (S97 LGA 2020).

#### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

#### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Comprehensive community consultation and engagement was undertaken during the development of the Council Plan 2021-2025 and 2023-24 Budget.

#### **Public Transparency (s58 LGA 2020)**

Council information on Council Plan progress, capital works and major initiatives performance and budget performance is scheduled to be reported quarterly to an open Council meeting. Full year budget forecasts are updated regularly to transparently show the impact on Council's financial position of all material permanent variances forecast compared to the adopted Budget with explanations.

#### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Objective 2: We are a financially robust organisation

### **Financial Management** (s101 *Local Government Act 2020*)

The financial and budgetary implications are disclosed in the attached report and show the anticipated financial impacts on Council's financial position. This information aims to:

- (a) Explain the financial operations and performance compared to the adopted budget for the financial year and forecast Council's financial position to 30 June 2024.
- (b) Assist Council to effectively manage its revenue, expenses, assets, liabilities, investments, and financial transactions in accordance with a Council's financial policies and strategic plans.
- (c) Assist Council to monitor and mitigate any financial risks identified during the financial year.

### **Service Performance** (s106 *Local Government Act 2020*)

Not applicable.

### **Risk Assessment**

Council needs to continue to closely monitor and manage its financial sustainability and performance considering the current economic conditions. Inflation in Australia continues to be a persistent and major challenge and Council, like all sectors, faces a tight labour market and capacity constraints. These financial pressures are generally outside Council's control and influence and will continue to represent a significant financial risk throughout the year

### **Communication/Implementation**

The quarterly Budget Report to 31 March 2024, including the Capital Works and Major Initiatives Performance Report, will be presented to the Audit and Risk Committee on 6 June 2024, in accordance with the Committee's functions and responsibilities under S54 LGA 2020.

### **Human Rights Charter**

No impact.

### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

### **Options**

Option 1 – Note the Quarterly Budget Report 2023-24 for the third quarter 2023-24, for the period January to March 2024

This option is recommended by officers as this report meets Council's statutory requirement for the Chief Executive Officer to ensure that a quarterly budget report is presented to the Council at a Council meeting which is open to the public (S97 LGA 2020).

Option 2 – Do not note the Quarterly Performance Report 2023-24 for the third quarter 2023-24, for the period January to March 2024

This option is not recommended by officers as it would be inconsistent with the intent of the reporting requirements in the LGA 2020.



# **Quarterly Performance Report 2023-24**

***Third Quarter***

**1 January to 31 March 2024**

## Contents

<b>Chief Executive Officer Report</b>	<b>1</b>
<b>Annual Plan Progress Report</b>	<b>2</b>
<b>Budget Report</b>	<b>37</b>
<b>Capital Works Report</b>	<b>46</b>
<b>Operational Projects Report</b>	<b>50</b>

### Acknowledgement

The Colac Otway Shire Council respectfully acknowledges the Gulidjan and Gadubanud peoples of the Maar Nation as the Traditional Custodians of the Colac Otway region, the land and waterways upon which the activities of the Colac Otway Shire Council are conducted on.

We pay our respects to their ancestors and elders, past, present and emerging. We recognise and respect their unique cultural heritage, beliefs and uphold their continuing relationship to this land.



# Chief Executive Report

The regular meeting cycle of Council paused over the new year, allowing our executive team to work remotely in some of our small communities starting in Forrest in early January. This has kicked off a series of opportunities for 'Community Conversations' where locals can drop in, meet the team in person, and talk about their local issues and opportunities. We love spending time out of the office and seeing what is happening across the Shire and look forward to continuing these sessions through the year.



Council also got to showcase one of Colac Otway's success stories when the Board of the G21 Geelong Region Alliance was given a tour of the AKD operations by its CEO Shane Vicary who always speaks with passion and pride about his team and the business that they've developed here in Colac. The Board got to see a highly professional operation, advanced technology in use and were all very impressed.

Our Youth Engagement team was busy across the Shire, with Apollo Bay serving up beautiful weather for the Colac Otway instalment of the Skate Park Leagues, delivered by the YMCA in partnership with our youth team. The event had healthy participation and heaps of onlookers participated in the All Aboard (come and try), scooter, BMX and skate competitions, and has set the tone for an engaging and exciting year of youth activities.

The Youth Engagement team also wove creativity into their program of events, partnering with Gavan Serle from GavArt to hold four workshops to help young artists prepare their own unique canvas for entry in the Colac Otway Arts Trail Showcase and Exhibition this April. This was a chance for keen young artists to elevate their artistic skills and showcase their work in a local exhibition.

Council saw progress with a number of strategic land use projects, including the establishment of the Deans Creek Precinct Structure Plan (PSP) Community Reference Group which will guide the development of Colac's key growth area. The review of the Birregurra Structure Plan and a master plan for growth of the Northern Towns of Beeac, Cressy, Cororooke, Alvie and Coragulac also kicked off and will explore how these towns can accommodate future residential growth.

Council has a large capital works program in 2023-24 due to a number of projects being carried forward from the prior year, as well as large disaster recovery programs to rectify landslips following 2021 and 2022 storm events, and a number of contracts were approved by Council in March to enable these works to get underway.

Significant progress has been made in constructing a new amenities block at the western end of Memorial Square in Colac. The project is almost complete, and contractors will be looking to demolish the old toilet block before the end of June. This will be a significant new public facility for visitors and residents of Colac.

Works also commenced at the Apollo Bay Harbour with a value of approximately \$3.2 million to remediate the Lee Breakwater Wall and install new sheet piling on the northern breakwall. These projects are complex and are being delivered to improve the resilience of the harbour for its fishing and recreational activities. The Harbour management team has also been preparing for handover of port management responsibility to the Great Ocean Road Coast and Parks Authority on 1 July 2024.

The quarter was also busy with consultation and community engagement activity on a range of topics including early input into the development of the draft Budget 2024-25, the review of the Flag Policy, proposed changes to speed limits at Kennet River and the redevelopment of the Donaldson Street Playspace. Council is committed to giving people the opportunity to have a say on things that influence or impact them and it was great to get feedback on these topics.

I am regularly reminded that our large and diverse workplace is full of many different experiences and events and this quarter was no different. We had a significant mental health event at the February Council Meeting that highlighted that we always need to respond to health issues with care, respect and a focus on safety and support. We also farewelled Nola McGuane after 25 years of service to Council and community in the OPASS team and is well known to many in the community, and celebrated Harmony Day with a wonderful morning tea where four of our team shared stories of their own cultural backgrounds, all adding to the richness of our workplace.

**Anne Howard**  
Chief Executive Officer

# Annual Plan Progress Report

## Council Plan 2021-2025

Council formally adopted the Council Plan 2021-25 at a Council meeting held on 27 October 2021. The Council Plan is a document developed in partnership with the community to guide Council's strategic direction over the next four years.

The key issues faced by our community, identified through the development of the Community Vision 2050, informs the choice of major projects and activities that Council identifies as its highest priorities.

### Community Engagement

Development of the Council Plan 2021-25 included a comprehensive community engagement process, which conducted alongside development of the Community Vision 2050. The engagement process included:

- Regional roadshows at 12 community locations
- Online community sessions
- Community survey
- Stakeholder interviews
- Youth summit
- Community panel sessions
- Councillor workshops
- Exhibition of draft Community Vision 2050 and Council Plan 2021-25.

The Community Vision 2050 and Council Plan 2021-2025 is available for download from Council's website, or hard copies are available for viewing at Council offices in Colac and Apollo Bay.

### Council Plan 2021-25 Strategic Themes

There are four themes in the Council Plan:

#### Theme One: Strong and Resilient Economy

We are committed to expanding our diverse industries, vibrant arts community, world-renowned tourism, and professional health services. A healthy, growing economy will provide sustainable industries and jobs, and opportunities for all ages.

#### Theme Two: Valuing the Natural and Built Environment

We will protect our natural environment and communities, by maintain and providing resilient infrastructure, and being leaders in sustainable living, modelling innovation and best practice.

#### Theme Three: Healthy and Inclusive Community

We will continue to be a great place to live. We embrace our diverse community, take care of our older community and prepare our children for success. We care for each other, are friendly and welcoming, and enjoy a vibrant and active lifestyle. We are a small population with big hearts.

#### Theme Four: Strong Leadership and Management

We will be leaders in good governance, transparency and strive for ongoing improvement.

### Links to the Public Health and Wellbeing Plan

The following legend indicates actions that are linked to the Public Health and Wellbeing Plan

Preventing Violence	Climate Change	Active Living	Mental Health Wellbeing	Gender Equity	Panel Recommendation
---------------------	----------------	---------------	-------------------------	---------------	----------------------

# Annual Plan Progress Report

## Annual Plan 2023-24

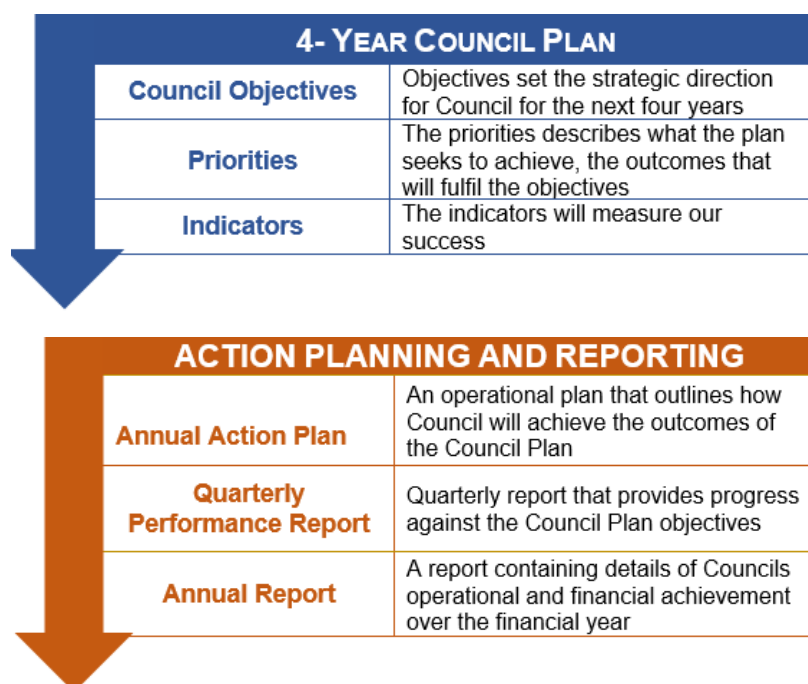
The Annual Plan 2023-24 is an operational plan that outlines how Council will work towards achieving the outcomes of the Council Plan 2021-25.

As part of the Council Plan 2021-25, Council commits to generating an annual action plan to demonstrate how we will deliver on our commitments, evaluating our own performance, and publishing results within the annual report each October.

In addition, the development and implementation of the annual plan is informed by ongoing partnerships with agencies, community and other levels of government.

Each quarter, Council will produce a quarterly report showing progress against each of the actions in the annual plan, in addition Council produces an Annual Report, which outlines the work undertaken for the financial period.




## Integrated Planning Framework



## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>1.1 Affordable and available housing will support our growing community and economy</b>						
1.1.1	<b>Deliver a strategic growth plan for the shire and settlement strategy for all small towns and rural living areas ●</b>	<ul style="list-style-type: none"> <li>Strategic Growth Plan and Settlement Strategy developed</li> <li>Relevant Planning Scheme Amendments adopted</li> </ul>	<b>Commence Birregurra structure plan review ●</b>	Conway Planning was appointed and commenced work on the review of the Birregurra Structure Plan in February 2024. An Expression of interest process has been commenced for members of the community to join a Community Reference Group to provide guidance to Council on the review of the structure plan.	75%	In Progress
			<b>Commence Northern Towns Growth Plan projects ●</b>	Conway Planning has been appointed and is in the early stages of commencing the project.	75%	In Progress
1.1.2	<b>Deliver a refreshed Apollo Bay Structure Plan ●</b>	<ul style="list-style-type: none"> <li>Refreshed Apollo Bay Structure Plan delivered by 2022-23</li> <li>Relevant Planning Scheme Amendments adopted</li> </ul>	<b>Prepare information for Council to consider funding this as a 2024-25 project</b>	Information has been presented and Council has circulated a draft budget for 2024/2025 that includes funding for the review of the Apollo Bay Structure Plan	100%	Completed
1.1.3	<b>Facilitate the delivery of more diverse housing stock in Colac and Apollo Bay ●●</b>	<ul style="list-style-type: none"> <li>Increase land supply by 200 new lots annually</li> <li>Increased availability of affordable housing</li> <li>Levels of housing stress including rental and mortgage stress</li> </ul>	<b>Continue to work with Developers to promote greater diversity in housing stock, particularly developers of Great Ocean Road subdivision at Apollo Bay, Bruce Street in Colac and the two sites being rezoned at Elliminyt in Irrewillipe Road and Harris Road/Colac Lavers Hill Road ●●</b>	Council is working with developers at Colac West, Bruce Street (subdivision permit approved), the Hillview Estate and Elliminyt progressing development plans that will increase and diversify the residential land supply for Colac. These Development Plans will facilitate approval of planning permits for residential subdivision.	75%	In progress

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
1.1.4	<b>Increase residential land supply in Colac</b> 	<ul style="list-style-type: none"> <li>Number of hectares rezoned</li> <li>Number of residential lots approved by planning permits</li> </ul>	<b>Continue to progress the Deans Creek Precinct Structure Plan</b> 	<p>The Deans Creek Precinct Structure Plan is progressing well and remains on track. Phase one technical assessments are being completed for Biodiversity, Post Contact Heritage, Arboricultural, and Landscape and Visual Assessments, Aboriginal Cultural Heritage and Impact assessment, Aboriginal Cultural Values assessment, Land Capability and Soils assessment. Work is progressing well on technical reports for the Integrated Water Management and Stormwater Assessment, Retail and Employment Land Assessment and Community Infrastructure Plan.</p> <p>A tender process is underway for the completion of a Development Contributions Plan, Transport Assessment and Services Assessment that are all planned to commence beyond the middle of 2024.</p> <p>An expression of interest process has been completed and resulted in the appointment of a Community Reference Group (CRG) by Council at its March meeting.</p>	75%	In progress
			<b>Finalise the Colac West Development Plan</b> 	<p>The development plan has been submitted, with a Shared Infrastructure Funding Plan yet to be submitted by the main developer in the precinct. Council intends to advertise both the revised Development Plan and Shared Infrastructure Funding Plan and to progress the assessment of the Development Plan. A Stage 1 subdivision permit application is being assessed concurrently with the Development Plan.</p>	90%	In progress

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
			<b>Progress Planning Scheme Amendments for rezoning land to residential in Colac</b> ●●●	Planning scheme amendments C123cola and C127cola were approved late in 2024 and will deliver a combined future lot yield of approx. 900 residential lots.  The Panel hearing for planning scheme amendment C124cola has been completed and will lead to the approval of a residential subdivision of 65 lots at 154 Sinclair Street Colac.	75%	In progress
1.1.5	<b>Deliver a Social Housing Strategy</b> ●●●	<ul style="list-style-type: none"> <li>Number of dwellings made available for social housing</li> <li>Social Housing Strategy completed and implemented</li> </ul>	<b>Continue to work with Homes Victoria to advocate for social housing projects in the Shire</b>	Officers continue to advocate to Homes Victoria in relation to potential public housing projects at Pound Road, Colac and in Apollo Bay.	75%	In progress
1.1.6	<b>Increase access to affordable accommodation for essential workers</b> ●●	<ul style="list-style-type: none"> <li>Level of rental and mortgage stress</li> <li>More accommodation options are available in towns including Apollo Bay, Birregurra, Forrest and Colac, specifically for workers</li> </ul>	<b>Commence Stage 1 exploration of Key Worker Housing Feasibility on Council owned land at Nelson Street Apollo Bay</b> ●●	Not yet commenced as waiting on outcome of funding application to the Commonwealth Government.	0%	Not started



## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
			<b>Continue to advocate to State and Federal Government for funding support towards provision of key worker accommodation</b>	Discussions are ongoing with the State Government to maintain an awareness of local housing issues and identify potential funding streams.	75%	In progress
<b>1.2 Attract, retain and grown business in our Shire</b>						
1.2.1	<b>Deliver Economic Development Strategy</b>	<ul style="list-style-type: none"> <li>At least 80% of actions from Strategy completed</li> <li>Community satisfaction with business and tourism increases annually from current result of 59%</li> <li>Increased level of investment in the region by 2025</li> <li>Number of commercial and industrial lots approved by planning permits</li> </ul>	<b>Prepare targeted accommodation investment prospectus for Colac and present to industry stakeholders</b>	Development of prospectus on hold with focus directed to funding application to undertake accommodation feasibility/concept designs as part of the development of Colac Cultural and Tourism Precinct (CCTP).	50%	In progress
1.2.2	<b>Attract and retain a diverse range of businesses and industries, particularly those with green credentials</b> ●●●	<ul style="list-style-type: none"> <li>Gross Regional product increased</li> <li>Greenfield industrial land in Colac developed</li> </ul>	<b>No year 3 action planned</b>			

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
1.2.3	<b>Deliver City Deals project in Colac Otway Shire's coastal towns</b> ●	<ul style="list-style-type: none"> <li>All three City Deals projects delivered on time and on budget</li> </ul>	<b>NOTE: Council no longer has a delivery responsibility but will continue to support the implementation of the City Deals projects to achieve the community's aspirations</b>			
1.2.4	<b>Develop the Apollo Bay Harbour precinct for community activity, commerce and tourism</b> ● ●	<ul style="list-style-type: none"> <li>Doubled berthings for recreational and commercial boats (currently 33 combined)</li> <li>Funding secured from private sector or government for commercial development of the harbour waterfront</li> </ul>	<b>Support GORCAPA/s delivery of Great Ocean Road City Deal projects</b> ●●	City Deal governance structure includes Council representation on the Project Steering Committee and Project Working Groups for the Apollo Bay Harbour and Kennett River Tourism Infrastructure Improvements.	75%	In progress


## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>1.3 Key infrastructure investment supports our economy and livability</b>						
1.3.1	Attract investment to implement key master plans and projects that will drive economic growth including but not limited to Lake Colac Foreshore Masterplan, Public Toilet Strategy, CBD and Entrances Plan, Apollo Bay, Marengo and Skenes Creek CIP, Murray Street upgrades, township masterplans, Colac Civic Health and Rail Precinct, Memorial Square Masterplan Tourism Traffic and Parking Strategy ●●●	<ul style="list-style-type: none"> <li>Number of projects that have attracted funding</li> <li>\$ funding received</li> </ul>	<b>Complete Memorial Square Toilets project</b> ●●●●	Construction underway, with project completion expected by June 2024.	75%	In Progress
1.3.2	Deliver improvements to Colac and Apollo Bay CBD's to support their role as a hub for commerce, tourism and the community	<ul style="list-style-type: none"> <li>Grant funds secured for Colac and Apollo Bay CBD streetscape upgrades</li> </ul>	<b>Finalise the Colac Civic Precinct Master Plan</b>	A final draft plan is being completed for public exhibition mid 2024, with the aim of completing the precinct plan by September 2024. This will guide future redevelopment options for the precinct including the upgrade of streetscapes and car parking.	75%	In progress

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
1.3.3	Advocate to relevant authorities for new and upgraded infrastructure to support business growth e.g. roads, utilities, NBN	<ul style="list-style-type: none"> <li>Priority upgrades are achieved (e.g. mobile black spots)</li> </ul>	Seek grant funding to upgrade Mooleric Road	Funding application has been submitted to the Federal Government's Heavy Vehicle Safety and Productivity Program.	100%	Completed
1.3.4	Advocate for implementation of the Forrest Wastewater scheme	<ul style="list-style-type: none"> <li>Funding secured to deliver Wastewater Scheme in Forrest</li> </ul>	Support efforts by Barwon Water to introduce reticulated wastewater to Forrest ●	Officers are working with Barwon Water staff to support their efforts in scoping the sewerage reticulation project, including the identification of a site for sewerage treatment.	75%	In progress
1.3.5	Include consideration of arts and culture in strategic processes and projects	<ul style="list-style-type: none"> <li>Arts and culture groups are actively engaged as part of consultation processes for relevant strategic projects</li> </ul>	Engage with arts groups as the Civic Precinct Plan progresses ●	Further engagement with Arts groups will be undertaken once the draft plan is released for public consultation mid-2024.	50%	In progress
1.4 Colac Otway Shire is a destination to visit						
1.4.1	Promote the Shire as a destination, not a gateway ●	<ul style="list-style-type: none"> <li>Increased visitor spend and stay</li> </ul>	Continue to participate with GORRT promotions ●	Participated in all relevant GORRT promotions, campaigns and workshops. VTIC Pause Stop campaign launched at Apollo Bay Visitor Information centre.	75%	In progress

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
1.4.2	Maximise our key tourist attractions	<ul style="list-style-type: none"> <li>Increased total visitor overnight stays</li> </ul>	<b>Forrest Mountain Bike trails</b> 	Launch event for newly completed trails held and all trails opened in Q2.	100%	Completed
1.4.3	Work with our community to promote our towns as places to stop, visit and explore	<ul style="list-style-type: none"> <li>Delivery of Destination Actions Plans</li> <li>In partnership with GORA, achieve Ecotourism Certification</li> </ul>	<b>Consult with community stakeholders to complete the visitor servicing review</b> ●	Community and business survey undertaken to understand community perception of visitor servicing.	75%	In progress
1.4.4	Facilitate development of sustainable visitor infrastructure and accommodation	<ul style="list-style-type: none"> <li>Increased availability of visitor accommodation</li> <li>Public Toilet Strategy completed and 60% of actions delivered by 2025</li> </ul>	<b>No year 3 action planned</b>			

## Theme 1 – STRONG AND RESILIENT ECONOMY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>1.5 Grow the Colac Otway Shire's permanent population by at least 1.5%</b>						
1.5.1	<b>Support business growth through population attraction and retention</b> <ul style="list-style-type: none"> <li>●</li> </ul>	<ul style="list-style-type: none"> <li>• Increase total population of working-aged people and young families</li> <li>• 1.5% annual population growth achieved</li> <li>• Reduced seasonality impacts on businesses by having stable permanent population</li> </ul>	<b>NOTE: Council is not actively promoting population growth as this is currently self-driven but constrained by accommodation access</b>			



## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>2.1 We mitigate impacts to people and property arising from climate change</b>						
2.1.1	<b>Deliver a Climate Change Action Plan in partnership with other organisations</b> ●●●●	<ul style="list-style-type: none"> <li>Action Plan completed by 2022</li> </ul>	<b>Finalise the Climate Change Action Plan for Council Adoption</b> ●●●●	Climate Change Action Plan formally adopted by Council at October 2023 council Meeting.	100%	Completed
2.1.2	<b>Green our streets and public places</b> ●●●●	<ul style="list-style-type: none"> <li>Number of trees planted in public spaces (open space and streetscape)</li> <li>Development of an urban cooling strategy and canopy target as part of the reviewed environmental strategy</li> <li>Review the quality of street trees and streetscapes when planting appropriate trees in the future</li> </ul>	<b>Deliver Council's Street Tree planting program to identified candidate streets</b> ●●●●	<p>The planting program for 2023-24 has commenced, candidate streets identified, and appropriate species have been selected for each location.</p> <p>A number of trees have been planted in Spring 2023 with the remaining program to be delivered in autumn 2024 (May).</p>	75%	In progress
			<b>Complete the Colac Botanic Gardens Master Plan</b> ●●●●	<p>The review of the Colac Botanic Masterplan commenced in September 2023 following appointment of a specialist landscape consultant.</p> <p>A draft plan has been developed and is expected to be presented to Council In June 2024 prior to further public consultation.</p>	75%	In progress

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
2.1.3	Minimise the effects of climate change and extreme weather events on our community ●●	<ul style="list-style-type: none"> <li>Emergency Management Plan regularly reviewed</li> <li>Community satisfaction with emergency and disaster management increases annually from current result of 71%</li> <li>Upgrades completed in vulnerable locations</li> </ul>	Finalise the Climate Change Action Plan for Council Adoption ●●●	Climate Change Action Plan formally adopted by Council at the October 2023 Council meeting.	100%	Completed
2.2 We operate sustainably with a reduced carbon footprint						
2.2.1	Improve Council's sustainability practices through the reduction of Council's carbon emissions and/or need to pay for carbon offsets ●●●	<ul style="list-style-type: none"> <li>Maintain Council's net zero carbon emissions and reduce dependence on carbon offsets through implementation of emission education projects</li> <li>Community satisfaction with environmental sustainability increases annually from current result of 61%</li> </ul>	Investigate further the electrification of heat pumps and other plant at Bluewater Leisure Centre including exploration of external funding programs ●●●	The Bluewater Heat Pump Concept Report 2021 was updated for 2024 prices and technology. Site investigations regarding key project risk of electrical supply capacity and land access carried out with Powercor and the Department of Education. A funding opportunity through the Community Energy Upgrade Fund presented to Council.	100%	Complete

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
2.2.2	Council supports the community to reduce carbon emissions ●●	<ul style="list-style-type: none"> <li>Raised awareness of whole-of-community climate change mitigation/adaptation focused activities</li> <li>Reduction in CO2 emissions for Colac Otway (Source: Victorian Greenhouse Gas Emissions Report)</li> <li>Council has considered opportunities for regional partnerships in relation to climate change</li> </ul>	<b>Progress actions prioritised in the adopted Climate Change Action Plan (duplicate of action against priority 2.1.1) – will be subject to funding ●●●</b>	<p>A mapping project has commenced plotting the percentage tree coverage within the towns of the Shire with the intention of providing base line data to measure the success of future urban greening projects.</p> <p>Projects are also progressing under the Geelong Sustainability Electric Homes Program that is replacing gas appliances in favour of solar based heating sources within Council buildings.</p>	75%	In progress
			<b>Support community initiated environmental projects through the Colac Otway Shire Grant Program</b>	<p>For the 2023-24 financial year, Council's community grants program funded approximately \$65,000 for a number of environmental, sustainability and climate change related programs and projects (under its three existing streams - events, environmentally sustainable business grants and general community grants). The funded projects include: solar installations; energy efficient appliance upgrades; environmental education, events and forums; invasive species reduction and biodiversity protection enhancement.</p>	100%	Completed
2.2.3	Educating and assisting our community to act on climate change by reducing waste, emissions and water usage ●	<ul style="list-style-type: none"> <li>Reduced waste to landfill, emissions and water usage in the community</li> </ul>	No year 3 action planned			

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>2.3 Protect and enhance the natural environment</b>						
2.3.1	<b>Environment Strategy reviewed</b> ●	<ul style="list-style-type: none"> <li>Reviewed Environment Strategy adopted by Council and implementation commenced by 2022</li> </ul>	<b>Finalise and adopt an Environmental Sustainability Strategy 2023-2033</b> ●	An Environmental Sustainability Strategy was adopted at the October 2023 Council meeting.	100%	Completed
2.3.2	<b>Protect native vegetation, ecosystems, flora and fauna</b> ●	<ul style="list-style-type: none"> <li>Number of community activities and education initiatives that promote stewardship of the natural environment</li> </ul>	<b>Finalise and adopt an Environmental Sustainability Strategy 2023-2033</b> ●	An Environmental Sustainability Strategy was adopted at the October 2023 Council meeting.	100%	Completed
2.3.3	<b>Undertake pest plant and animal management control programs and community education to target and reduce invasive species in natural systems</b> ●	<ul style="list-style-type: none"> <li>Connecting and supporting Landcare and environmental interest groups</li> <li>Kilometres or hectares of roadside weed control conducted</li> </ul>	<b>No Year 3 actions planned beyond BAU</b>			

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>2.4 We will satisfy our community's reasonable expectations to reduce waste going to landfill, increase resource recovery and minimise waste charges</b>						
2.4.1	<b>Increase community satisfaction by community education, phone apps, reducing waste to landfill, pursuing joint waste contracts and other innovative approaches in partnership with our community and business sectors ●</b>	<ul style="list-style-type: none"> <li>Community satisfaction survey (waste management components)</li> <li>Waste management charges</li> </ul>	<b>Support the roll out of the Victorian Government reforms including the Container Deposit Scheme</b>	<p>Council is continuing to promote the GoodSort waste and recycling App with approximately 50% of the community now using the App every week.</p> <p>Council successful supported the Container Deposit Scheme by the Victorian Government</p>	90%	On going
2.4.2	<b>Reduce the % of food and organic (FOGO) waste in the landfill waste stream (red bin) by awareness raising and innovative approaches ●</b>	<ul style="list-style-type: none"> <li>% of FOGO waste diverted from landfill stream and composted</li> </ul>	<b>Finalise the Events in a Public Place Policy</b>	The Events in a Public Policy was adopted by Council in November 2023. The revised policy provides clear guidance and expectations for waste management and environmental sustainability at events.	100%	Completed
2.4.3	<b>Reduce the % of contamination of the recycling waste stream (yellow bin) by awareness raising and innovative approaches ●</b>	<ul style="list-style-type: none"> <li>% of contamination in recycling stream</li> </ul>	<b>No year 3 action planned</b>			

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
2.4.4	Divert glass from landfill by rollout of glass recycling bins (purple bin) and public awareness raising and innovative approaches ●	<ul style="list-style-type: none"> <li>% of glass diverted from landfill stream</li> </ul>	No year 3 action planned			
2.4.5	Trial a hard waste collection service	<ul style="list-style-type: none"> <li>Trial conducted, evaluated and recommendations made to Council</li> </ul>	No year 3 action planned			
<b>2.5 Provide and maintain an attractive and safe built environment</b>						
2.5.1	Maintain road and drainage assets to ensure they are safe and reliable	<ul style="list-style-type: none"> <li>Community satisfaction with sealed roads increases annually from current result of 50%</li> <li>Community satisfaction with unsealed roads increases annually from current result of 44%</li> <li>Development of a Road Safety Strategy</li> <li>Road safety funding attracted and priority improvements implemented</li> <li>Road Management Plan compliance 100%</li> </ul>	No Year three actions planned beyond BAU			

## Theme 2 – VALUING THE NATURAL AND BUILT ENVIRONMENT

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
2.5.2	Deliver a relevant Capital Works Program	<ul style="list-style-type: none"> <li>Complete 85% or more of capital projects annually against allocated budget</li> <li>Greater than 85% of renewal work for sealed and unsealed roads annually</li> </ul>	<b>No Year 3 actions planned beyond BAU</b>  <i>(Note, Capital Works progress is reported separately)</i>			
2.5.3	Council meets annual infrastructure renewal gap	<ul style="list-style-type: none"> <li>Asset Management Plans completed</li> <li>Capital funding allocated annually in accordance with levels identified in AMPs</li> </ul>	<b>Update Buildings AMP based on new condition data</b>	A building condition assessment has been completed for all Council buildings, including updated building valuations. This data is informing the draft 2024/25 budget and used as a basis for development of the annual renewal program.	90%	In progress
2.5.4	Ensure planning processes and policies for new developments meet the intent of this objective	<ul style="list-style-type: none"> <li>Landscape Guidelines for developers completed</li> <li>Conditions relating to quality landscape, open space, streetscape and urban design outcomes developed and enforced</li> </ul>	<b>Consider the principles of the Safer Design Guidelines for Victoria and other relevant guidance documents when assessing planning application for new developments</b>	Guidelines considered when assessing planning applications as appropriate.	75%	In progress



## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>3.1 All people have the opportunity to achieve and thrive in our Shire</b>						
3.1.1	Advocate for access to and provision of education, employment and lifelong learning opportunities ●●●●	<ul style="list-style-type: none"> <li>Reduced youth unemployment rate</li> <li>Reduced total unemployment rate</li> <li>Links facilitated between employers and educators to ensure workforce skills meet community needs</li> <li>Increase Year 12 or equivalent completion rate to at least the Victorian average (43.5% as at the 2016 census)</li> </ul>	No year 3 action planned			
3.1.2	Create environments where children can be happy, healthy, supported, educated and safe ●●●●●	<ul style="list-style-type: none"> <li>Funding for early years infrastructure secured (\$)</li> <li>Increased childcare options/availability</li> <li>Partner with agencies to decrease 23.3% children developmentally vulnerable in more than one domain</li> <li>Increase in 3 and 4-year-old kindergarten participation rates</li> </ul>	Continue to work towards securing long-term childcare solutions for Apollo Bay and Colac ●●	Advocacy to state and federal government has continued.	Ongoing	In progress
			Complete Early Years Infrastructure Plan to guide facility maintenance and investment decisions across the shire ●●	Data projections for Kindergarten Infrastructure Services Plan being workshopped with Department of Education.	60%	In progress

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
3.1.3	Provide services to enable lifelong health and wellbeing from the early to senior years ●●●	<ul style="list-style-type: none"> <li>Community satisfaction for Family Support Services increases annually from current result of 66%</li> <li>Community satisfaction for Elderly Support Services increases annually from current result of 68%</li> <li>Participation rates in Maternal and Child Health checks</li> </ul>	Complete Community Care Best Value Review	This review is well-progressed and has already provided valuable insights into the views of the clients and community to inform this important work. The consultant has finalised its reports and these will be presented as confidential reports at the Council Meeting in April 2024 to demonstrate the achievement of this milestone. Council will consider its future role, informed by these reports, at a meeting later in Quarter 4.	75%	In progress
3.2 People are active and socially connected through engaging quality spaces and places						
3.2.1	Provide safe, inclusive, accessible and integrated transport networks that support active transport ●●●	<ul style="list-style-type: none"> <li>New or upgraded priority footpath, trail and cycling connections and improvements delivered annually (meters)</li> <li>Review strategic footpath plans for Apollo Bay and Colac</li> </ul>	No Year 3 actions planned beyond BAU			

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
3.2.2	Plan for and supply quality public open space to meet community needs ●●●	<ul style="list-style-type: none"> <li>Council-managed open space provision aligns with standards for development outlined in the Public Open Space Strategy</li> </ul>	Complete Birregurra Play Space redevelopment project ●●	First-phase community engagement complete. Some challenges sourcing replacement/upgrade parts for existing play tower. Concept design underway.	15%	In progress
			Complete Donaldson's Play Space renewal works ●●	Concept design complete and supported by community. Grant application lodged with Sport and Recreation Victoria seeking state funding contribution.	50%	In progress
3.2.3	Provide fit for purpose accessible and well-utilised recreation, arts and community facilities and services ●●●●	<ul style="list-style-type: none"> <li>Colac Otway Playspace Strategy developed and adopted</li> <li>Community satisfaction for recreation facilities increases annually from current result of 68%</li> <li>Community satisfaction for arts, centres and libraries increases annually from current result of 73%</li> <li>Increased participation rates at libraries; and increased visitation to COPACC programs</li> <li>All new and upgraded Council facilities are universally accessible</li> </ul>	Undertake Birregurra Hall and streetscape works ●	Birregurra Hall painting underway.	40%	In Progress
			Undertake Kitchen renewal at Colac Central Bowling Club ●●	Contractor engaged and works commenced.	50%	In Progress
			Undertake key renewal works at Lavers Hill Hall ●	Finalising scope of works required as asbestos cladding materials have been identified on site.	20%	In Progress

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
3.2.4	Plan, design and maintain attractive and safe public spaces in partnership with our community and key agencies ●●●	<ul style="list-style-type: none"> <li>Community satisfaction for appearance of public spaces increases annually from current result of 70%</li> <li>Perceptions of safety during the day greater than 97.6% and after dark greater than 65.5%</li> </ul>	No year 3 action planned			
3.2.5	Increase participation in physical activity throughout the shire through direct service provision and partnerships with health services and the wider community ●●●	<ul style="list-style-type: none"> <li>Increased visitation and memberships at Bluewater Leisure Centre and Apollo Bay Aquatic Centre</li> <li>Level of community grants funding directed to projects that encourage physical activity</li> </ul>	Community grants process scheduled for review in 2024-25, to encourage projects that encourage physical activity ●●	Review will commence first quarter of 2024-25.	0%	Not started
3.2.6	Promote and demonstrate gender equity ●●●	<ul style="list-style-type: none"> <li>Gender Equity Plan for Council adopted and implemented</li> <li>New and upgraded community facilities accommodate gender neutral design principles</li> <li>Community facility fees and charges structures encourage facility users to embrace gender equity</li> </ul>	Report GEAP implementation to Gender Equality Commissioner ●●●	The report to the Gender Equity Commissioner was lodged in March 2024 in compliance the reporting deadline.	100%	Completed

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>3.3 We are a safe, equitable and inclusive community</b>						
3.3.1	Support stakeholders such as Colac Area Health, Great Ocean Road Health, Barwon Health, Hesse Rural Health, Headspace and other community groups to improve mental health and wellbeing in our community ●	<ul style="list-style-type: none"> <li>• Accessibility of services that lead to reduced rates of:               <ul style="list-style-type: none"> <li>➢ Suicide and self-inflicted injuries (101 per 100,000 people)</li> <li>➢ Psychological distress (20.3%)</li> <li>➢ Anxiety or depression (31.7%)</li> </ul> </li> </ul>	No year 3 action planned			
3.3.2	Support relevant stakeholders to improve healthy eating and living in our community ●	<ul style="list-style-type: none"> <li>• Reduced rates of diet-related chronic disease</li> <li>• Community facility fees and charges structures encourage facility users to embrace healthy eating, reduced tobacco, alcohol and other drug use</li> <li>• Increased partnerships and advocacy with relevant organisations</li> </ul>	No year 3 action planned			

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
3.3.3	Diversity is embraced ●●●	<ul style="list-style-type: none"> <li>Greater than 45% of residents support multiculturalism as measured by Department of Health data</li> <li>Contribute to greater than 57% of residents feel valued by society</li> <li>Key council documents and communications are provided in accessible formats and multiple languages</li> <li>Increase in number of community events that celebrate diversity</li> </ul>	Install Ceremonial/ Recognition Flagpole at Civic Precinct Colac ●●●	Flagpole installed in COPACC gardens.	100%	Completed
3.3.4	Deliver a Reconciliation Action Plan in consultation with Eastern Maar Aboriginal Cooperative ●●	<ul style="list-style-type: none"> <li>Reflect level Reconciliation Action Plan delivered by 2022</li> </ul>	No year 3 action planned			
3.3.5	Provide community safety services that enhance the liveability of our shire ●●●	<ul style="list-style-type: none"> <li>Community satisfaction for enforcement and local laws increases annually from current result of 64% Local Law reviewed by 2023</li> </ul>	Complete General Local Law review ●●●●	The General Local Law was completed and adopted by Council on 23 August 2023.	100%	Completed

### Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicator	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
3.3.6	Support health, enforcement and other services to support initiatives to reduce all forms of violence ●●●	<ul style="list-style-type: none"> <li>Decrease family violence incident rates</li> </ul>	No year 3 action planned			
3.3.7	Reduce gambling-related harm in the Colac Otway Shire ●●	<ul style="list-style-type: none"> <li>Gambling Policy developed for inclusion in the planning scheme</li> </ul>	No year 3 action planned			



## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>4.1 We commit to a program of best practice and continuous improvement</b>						
4.1.1	<b>Identify and embrace best practice and modernise systems to realise efficiencies</b>	<ul style="list-style-type: none"> <li>Community satisfaction for Councils overall performance increases annually from current result of 58%</li> </ul>	<b>Undertake an internal audit relating to cybersecurity controls</b>	An internal audit was conducted and the results were tabled at the Audit and Risk Committee on 14 March 2024.	100%	Completed
4.1.2	<b>Digital transformation to improve customer experience and interactions with community</b>	<ul style="list-style-type: none"> <li>Number of services that can be accessed by customers online</li> </ul>	<b>No year 3 action planned</b>			
4.1.3	<b>Building and Planning services are customer and solution focussed</b>	<ul style="list-style-type: none"> <li>Community satisfaction for Planning and Building services greater than 50% by 2025</li> <li>85% of planning applications, and 100% of Vic Smart applications determined in 60 days</li> </ul>	<b>Undertake service specific feedback activity to identify opportunities to improve community perception</b>	Survey responses from planning permit applicants are being used to provide a more genuine indicator of service satisfaction levels and opportunities for improvement. Processes have been refined utilising this feedback, including information available on the Council web site.	75%	In progress
4.1.4	<b>Undertake a rolling program of service reviews</b>	<ul style="list-style-type: none"> <li>Conduct at least two service reviews annually and implement decisions made by</li> </ul>	<b>Complete Best Value Review of Community Care Review</b>			

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
		Council, with a view to saving at least \$250,000 per year	<b>Complete a service review of Colac Regional Saleyards</b>	Review of existing business complete. Public consultation to occur in Q4.	50%	In Progress
			<b>Complete a service review of Services and Operations</b>	Light fleet management is the first area to be reviewed from service and operations.  The review is at final report stage.	90%	In Progress
			<b>Complete visitor servicing review</b>	A discussion paper that summarises current service performance, the market and future service options is being developed for community feedback.	80%	In progress
<b>4.2 We are a financially robust organisation</b>						
4.2.1	<b>Plan for sustainable portfolio of assets to deliver the services the community needs within our financial constraints</b> ●	<ul style="list-style-type: none"> <li>Asset Management Policy reviewed to address asset decommissioning and divestment</li> <li>Asset Management Strategy and Plans adopted</li> </ul>	<b>Implement Asset Management Strategy actions</b> ●	Condition assessment cycles and valuation of assets has been formalised. Building Condition assessment completed for Council buildings.	75%	In progress

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
4.2.2	Adopt a policy and approach to guide the disposal of assets no longer required ●	<ul style="list-style-type: none"> <li>Asset Management Plans include strategic service planning recommendations</li> <li>Capital Funds Allocation and Prioritisation Policies adopted</li> </ul>	No year 3 action planned			
4.2.3	Manage procurement to get best value for the community	<ul style="list-style-type: none"> <li>Agreed audit recommendations are implemented within defined timelines</li> <li>Rolling internal audit program implemented</li> </ul>	Implement Internal Audit into Procurement	Internal audit recommendations have commenced being implemented with revised procurement policy being presented at May Council meeting	60%	In progress
4.2.4	Council businesses maximise community utilisation and minimise council subsidy ratios	<ul style="list-style-type: none"> <li>Reduced subsidy ratio for Council businesses (airports, saleyards, COPACC, Bluewater and Visitor Information Centres)</li> </ul>	Undertake strategic fee review for COPACC and Bluewater	Yet to commence.	0%	Not Started

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
4.2.5	Financial and risk management practices are responsible and sustainable	<ul style="list-style-type: none"> <li>• Deliver ten-year financial plan</li> <li>• VAGO LGPRF financial sustainability measures</li> </ul>	Develop Statutory and Discretionary Reserve Policy	Yet to commence.	0%	Not Started
			Review Council's Borrowing Policy	Yet to commence.	0%	Not Started
			Review Council's Investment Policy	Yet to commence.	0%	Not Started

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>4.3 We provide exceptional customer service</b>						
<b>4.3.1</b>	<b>Council service delivery is efficient, accessible, solution-focused and responsive to the needs of the community</b>	<ul style="list-style-type: none"> <li>Community satisfaction for Customer Service increases annually from current result of 68%</li> <li>Seek to understand factors contributing to the community's perception of Council's performance in Apollo Bay and surrounds</li> </ul>	<b>Establish Customer Experience improvement program</b>	<p>Monthly Customer Experience continues to track responsiveness and opportunities for improvement.</p> <p>A Customer Experience Strategy is being developed.</p>	75%	In progress.
			<b>Review Complaints Policy</b>	<p>A revised Complaints Policy is to be reviewed by the Risk and Audit Committee and considered by Council at the May Council meeting.</p> <p>Complaints Procedure training is being rolled out across the organisation.</p>	75%	In progress

## Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
<b>4.4 We support and invest in our people</b>						
4.4.1	We respect and invest in our employees and continue to strengthen our workplace culture ●●	<ul style="list-style-type: none"> <li>Employee satisfaction and engagement</li> </ul>	Develop action plan based on People Matters Survey results ●●	People Matters Survey results were received in Quarter 3 and work will shortly commence on the action plan.	80%	In progress
4.4.2	We commit to safe work practices and take a positive approach to our work ●	<ul style="list-style-type: none"> <li>Delivery of targets and measures as outlined in the OHS Strategic Plan</li> </ul>	Implement actions from Internal Audit into WHS systems ●	Actions are being progressively implemented, including on-line WHS learning and improved reports to executive, audit and risk and councillors, and is ongoing.	60%	In progress
4.4.3	Develop a skilled and diverse workforce by investing in training and development ●●	<ul style="list-style-type: none"> <li>Attraction and retention of skilled workforce</li> <li>Number of secondments within the organisation</li> <li>Number of internal promotions</li> <li>Number of hours of training</li> <li>Number of traineeships/apprenticeships</li> <li>Development of a Workforce Plan</li> </ul>	Develop an organisation wide training program for mandatory and compliance training ●●●●	Council's new e-Learning platform was launched in February 2024, with a suite of core training modules implemented.	65%	In progress

### Theme 3 – HEALTHY AND INCLUSIVE COMMUNITY

	Four-year Priorities	Indicators	Year 3 Annual Actions	Progress Against Quarter 3 (January to March)	% Complete	Status (Not started, In progress or Completed)
4.4.4	<b>Council provides clear, accessible communication and opportunities for the community to participate in decisions that affect them in line with the Community Engagement Framework</b>	<ul style="list-style-type: none"> <li>Community satisfaction for Consultation and Engagement increases annually from current result of 54%</li> <li>Rolling program of Community Conversations implemented</li> </ul>	<b>Conduct two 'community conversations' in small towns</b>	Community conversations were launched in January 2024 and have taken place in Forrest, Gellibrand River and Cororooke in Quarter 3.	100%	Complete
4.4.5	<b>Council decisions are open and transparent and the public has access to relevant Council information</b>	<ul style="list-style-type: none"> <li>Number of decisions made in closed Council meetings</li> <li>Community satisfaction for Council's community decision making increases annually from current result of 54%</li> <li>Compliance with Public Transparency Policy</li> </ul>	<b>Review decisions made in closed Council meetings and develop further guidance to maximise public decision-making</b>	In Quarter 3 only 1 decision was made in a meeting closed to the public, with only two scheduled meetings held during this period.	75%	In progress



## Budget Report for Quarter 3 ending 31 March 2024

### Executive Summary

The year-to-date (YTD) financial performance for the quarter ending March 2024 is favourable as compared to the adopted budget 2023-24 for the same period.

After taking the 2022-23 actual financial results into consideration (including the carry forward balances relating to incomplete works for projects funded in 2022-23), the following summary is provided in relation to the 2023-24 forecast financial results.

Council's total comprehensive result (**actual**) for the nine months ended 31 March 2024 is a surplus of \$7.21 million.

The year-to-date operating surplus is \$3.87 million favourable to the budgeted operating surplus for the same period, this is a reflection of the following variances:

- Greater amount of user fees revenue **\$1.22 million** received for the first nine months than expected,
- Less materials and services expenses (**\$1.95**) million spend due underspend in;
  - Consultants relating to Operating Projects \$1.14 million
  - Insurance \$414,000
  - Utilities \$330,000
  - Training Costs \$231,000

### Cash Position

The Annual Budget has a cash balance of \$52.64 million at end of financial year.

The YTD cash balance is \$33.83 million comprising an opening balance of \$34.07 million at 1 July 2023 and year to date net cash outflows of \$0.24 million.

The forecast year end cash balance is \$52.64 million, being \$27.31 million greater than the Original Annual Budget. This position is driven by the opening cash balance at 1st July 2022, being \$14.35 million higher than budget, Cash out-flows from operating activities being \$14.39 million less than budget, and Cash out-flows from investing activities being \$1.44 million greater than budget.

### Capital Performance

The 2023-24 Current Annual Budget is \$33.26 million, comprising of \$9.71 million of Capital Works projects, \$23.33 million carried forward from the 2022-23 financial year and \$0.22 million of additional capital works approved by Council during the year.

YTD Capital Works actual expenditure is \$5.62 million against a budget of \$26.80 million. This is a variance of \$21.18 million, driven mainly by Roads \$7.48 million and Other Infrastructure \$7.69 million.

Further breakdowns of these above results are provided below.

## Budget Report for Quarter 3 ending 31 March 2024

### OPERATING RESULT

Colac Otway Shire Council

Comprehensive Income Statement

For the period ended 31 March 2024

	Year-To-Date				Full Year			
	Actual	Current Budget	Variance	Variance	Original Budget	Current Budget	Variance	Variance
	\$'000	\$'000	\$'000	%	\$'000	\$'000	\$'000	%
<b>Revenue</b>								
Rates and charges	35,515	35,440	76	0%	35,365	35,515	150	0%
Statutory fees and fines	771	711	60	8%	917	922	5	1%
User fees	6,146	4,927	1,219	25%	6,745	6,745	-	0%
Other income	981	958	23	2%	333	1,300	967	290%
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	-	-	-		-	-	-	
Share of net profits/(loss) of associates and joint ventures	-	(75)	75	(100%)	(100)	(100)	-	0%
Total own-sourced revenue	43,413	41,960	1,453	3%	43,260	44,382	1,122	3%
Grants - operating	3,404	3,404	-	0%	11,734	12,792	1,058	9%
Grants - capital	4,904	4,904	-	0%	4,389	21,535	17,146	391%
Contributions - monetary	245	197	48	24%	67	245	178	266%
Total grants and contributions	8,553	8,505	48	1%	16,190	34,572	18,382	114%
<b>Total revenue</b>	<b>51,966</b>	<b>50,465</b>	<b>1,501</b>	<b>3%</b>	<b>59,450</b>	<b>78,954</b>	<b>19,504</b>	<b>33%</b>
<b>Expenses</b>								
Employee costs	18,351	17,861	(490)	(3%)	24,271	24,271	-	0%
Materials and services	14,770	16,724	1,954	12%	20,527	22,623	(2,096)	(10%)
Depreciation and amortisation	10,399	10,869	470	4%	14,493	14,493	-	0%
Amortisation - right of use assets	76	76	-	0%	101	101	-	0%
Bad and doubtful debts	2	-	(2)		20	20	-	0%
Borrowing costs	-	-	-		-	-	-	
Finance costs - leases	9	9	-	0%	12	12	-	0%
Other expenses	1,149	1,272	123	10%	1,457	1,547	(90)	(6%)
<b>Total expenses</b>	<b>44,756</b>	<b>46,811</b>	<b>2,055</b>	<b>4%</b>	<b>60,881</b>	<b>63,067</b>	<b>(2,186)</b>	<b>(4%)</b>
<b>Surplus for the year</b>	<b>7,210</b>	<b>3,654</b>	<b>3,556</b>	<b>97%</b>	<b>(1,431)</b>	<b>15,887</b>	<b>17,318</b>	<b>(1210%)</b>
<b>Other comprehensive income</b>								
<b>Items that will not be reclassified to surplus or deficit in future periods</b>								
Net asset revaluation increment/(decrement)	-	-	-		-	-	-	
Share of other comprehensive income of associates and joint ventures	-	-	-		-	-	-	
<b>Total comprehensive result</b>	<b>7,210</b>	<b>3,654</b>	<b>3,556</b>	<b>97%</b>	<b>(1,431)</b>	<b>15,887</b>	<b>17,318</b>	<b>(1210%)</b>

\*The above table does not include project carry forwards (income or expenses) in Budget columns.

Council's total comprehensive result (**actual**) for the quarter ended 31 March 2024 is surplus of \$7.21 million.

Council's adopted budget for the full year accounts for a net loss or deficit of (\$1.43) million.

The full year **forecast** reflects carry forward allocations for grant funding, including unspent funds received in a prior year for approved projects not completed at 30 June 2023. These funds were set aside in Council's working capital at 30 June 2023 and are forecast to be spent in 2023-24.

## Budget Report for Quarter 3 ending 31 March 2024

Further information is provided below:

### Income

#### ***Rates and charges***

Rates and charges forecast no change to the adopted budget.

#### ***User fees***

Greater amount of user fees \$1.22 million received for the first nine months than expected, mainly in aged care services (OPASS) \$889,000. This is a permanent variance but is offset by additional employee costs and materials and services in the same service area.

#### ***Contributions - monetary***

Unbudgeted public open space contributions \$188,700 received.

#### ***Other Income***

The result in 'Other income', being \$154,000 favourable to Budget YTD, is driven in the most part by greater interest on investments earned YTD.

### Expenses

#### ***Employee costs***

The unfavourable variance of (\$490,000) to YTD current budget is driven in the most part by;

- Upfront Payment of WorkCover Premiums (\$214,000), which is budgeted for as quarterly payments.
- OPASS - Home Care Packages (\$302,000) greater than budget, driven by the provision of additional services as a result of increased funding provided under the grant, as mentioned in 'User Fees' above.
- Fringe benefits tax paid in quarterly instalments (\$114,000) against a full year budget of \$175,000, this is only a temporary variance.
- Greater than budgeted spend on Casual Staff of (\$295,000), that is mostly in Financial Services (\$96,000), Bluewater Leisure Centre (\$89,000), Planning and Strategic Focus (\$78,000), and Waste Management (\$36,000). Casual Staff overspend in each of these areas is mostly offset by underspend in Salary and Wages.

Offset by net favourable underspend in Salaries and Wages of \$396,000 driven in the most part by:

- Services and Operations underspend of \$673,000. This position is driven by favourable underspend in Transport Infrastructure of \$552,000, Parks, Gardens and Open Space of \$256,000, and budget overspend in Services & Operations Depot of (\$110,000) and Buildings Maintenance of (\$25,000).
- Governance 'Risk & Insurance Operations' overspend of (\$242,000), which is mostly made up of WorkCover Salaries payments.

#### ***Material and Services***

The favourable variance of \$1.95 million to YTD budget is driven in the most part by temporary variances in material underspend relating to;

- Consultants \$1,142,000
- Insurance \$414,000, temporary variance where the full amount will match budget by 30 June
- Utilities \$330,000, temporary variance driven by timing difference in payment of invoices
- Training Costs \$231,000,

Offset by YTD overspend in;

- Subscriptions and memberships (\$323,000), temporary variance and will meet budget by end of the year and

## Budget Report for Quarter 3 ending 31 March 2024

- Legal Costs (\$175,000) driven by Rates debt collection (\$134,000) that will be fully recoverable over time as rate payers with arrears pay their accounts in full. \$34,000 of the amount relates to Legal advice in relation to waste charges.

### ***Other expenses***

The favourable variance of \$123,000 to YTD budget is driven by a net underspend in Community Grants (that are yet to be paid but are anticipated to be by 30 June 2024).

## Budget Report for Quarter 3 ending 31 March 2024

### BALANCE SHEET

Colac Otway Shire Council

Balance Sheet

As at 31 March 2024

	March 2024	Full Year		
	Actual	Original Budget	Current Budget	Variance
	\$'000	\$'000	\$'000	\$'000
<b>Assets</b>				
<b>Current assets</b>				
Cash and cash equivalents	33,834	25,335	52,640	27,305
Trade and other receivables	13,577	1,607	1,607	-
Inventories	196	191	191	-
Non-current assets held for sale	-	-	-	-
Prepayments	-	-	-	-
Other assets	406	242	242	-
<b>Total current assets</b>	<b>48,013</b>	<b>27,375</b>	<b>54,680</b>	<b>27,305</b>
<b>Non-current assets</b>				
Right of use assets	2,907	2,959	5,917	2,958
Property, infrastructure, plant and equipment	485,034	443,136	444,718	1,582
Investments in associates, joint arrangements and subsidiaries	147	147	147	-
<b>Total non-current assets</b>	<b>488,088</b>	<b>446,242</b>	<b>450,782</b>	<b>4,540</b>
<b>Total assets</b>	<b>536,101</b>	<b>473,617</b>	<b>505,462</b>	<b>31,845</b>
<b>Liabilities</b>				
<b>Current liabilities</b>				
Trade and other payables	8,378	5,055	5,055	-
Trust funds and deposits	938	1,600	2,170	(570)
Lease liabilities	8	6	6	-
Provisions	4,335	4,226	4,226	-
<b>Total current liabilities</b>	<b>13,659</b>	<b>10,887</b>	<b>11,457</b>	<b>(570)</b>
<b>Non-current liabilities</b>				
Lease liabilities	10	9	9	-
Provisions	4,857	4,881	4,881	-
<b>Total non-current liabilities</b>	<b>4,867</b>	<b>4,890</b>	<b>4,890</b>	<b>-</b>
<b>Total liabilities</b>	<b>18,526</b>	<b>15,777</b>	<b>16,347</b>	<b>(570)</b>
<b>Net assets</b>	<b>517,575</b>	<b>457,840</b>	<b>489,115</b>	<b>31,275</b>
<b>Equity</b>				
Accumulated Surplus	153,840	147,480	178,616	(31,136)
Reserves	363,735	310,360	310,499	139
<b>Total Equity</b>	<b>517,575</b>	<b>457,840</b>	<b>489,115</b>	<b>31,275</b>

## Budget Report for Quarter 3 ending 31 March 2024

### STATEMENT OF CASH FLOWS

**Colac Otway Shire Council**  
**Statement of Cash Flows**  
**For the period ended 31 March 2024**

	March 2024	Full Year		
	Actual \$'000	Original Budget \$'000	Current Budget \$'000	Variance \$'000
<b>Cash flows from operating activities</b>				
Rates and charges	26,028	35,624	37,980	2,356
Statutory fees and fines	771	924	922	(2)
User fees	6,146	6,794	6,745	(49)
Grants - operating	(4,598)	11,820	4,873	(6,948)
Grants - capital	4,904	4,421	21,535	17,114
Contributions - monetary	245	67	245	178
Trust funds and deposits received/(paid)	(183)	-	1,049	1,049
Other receipts	1,137	336	1,538	1,202
Payments for Employees	(18,351)	(24,271)	(24,271)	(0)
Payments for materials and services (Incl GST)	(9,375)	(19,768)	(20,133)	(365)
Other payments	(1,149)	(1,403)	(1,547)	(144)
<b>Net cash provided by/(used in) operating activities</b>	<b>5,575</b>	<b>14,544</b>	<b>28,935</b>	<b>14,391</b>
<b>Cash flows from investing activities</b>				
Payments for property, infrastructure, plant and equipment	(5,802)	(8,811)	(10,350)	(1,539)
Proceeds from sale of property, infrastructure, plant and equipment	-	(100)	-	100
<b>Net cash provided by/(used in) investing activities</b>	<b>(5,802)</b>	<b>(8,911)</b>	<b>(10,350)</b>	<b>(1,439)</b>
<b>Cash flows from financing activities</b>				
Finance costs	-	-	-	-
Proceeds from borrowings	0	-	0	-
Repayment of borrowings	-	-	-	-
Interest paid - lease liability	(9)	(12)	(12)	-
Repayment of lease liabilities	1	(3)	(2)	1
<b>Net cash provided by/(used in) financing activities</b>	<b>(8)</b>	<b>(15)</b>	<b>(14)</b>	<b>1</b>
Net increase (decrease) in cash and cash equivalents	(235)	5,618	18,571	12,953
Cash and cash equivalents at the beginning of the period	34,069	19,717	34,069	14,352
<b>Cash and cash equivalents at the end of the period</b>	<b>33,834</b>	<b>25,335</b>	<b>52,640</b>	<b>27,305</b>

### Cash balance

The current actual cash balance is \$33.83 million as at 31 March 2024.

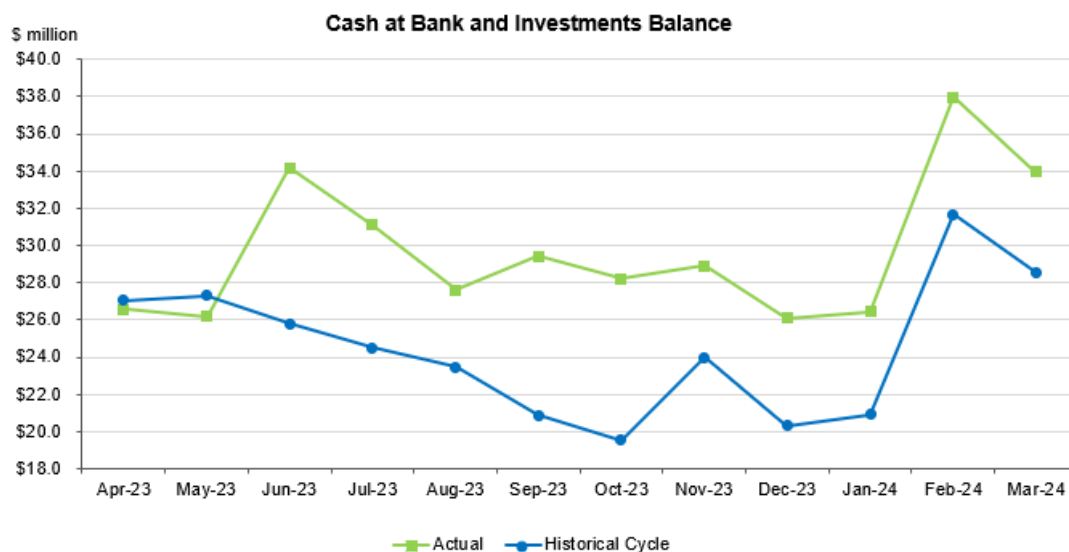
The net increase in the forecasted cash flows from operating activities at end of year is expected to reach \$28.44 million. Net decrease in cash from the investing activities is forecasted to be \$10.35 million during the year at end of year.

Graph 2 below shows how the Council's cash balance has trended to 31 March 2024. The graph portrays:

- Historical Cycle – which is an estimation derived from 2022-23 actual cash balances that are expected to be achieved at the end of each month.
- The Actual – this is the actual balance at the end of each month from April'23 to March'24.

## Budget Report for Quarter 3 ending 31 March 2024

**Graph 2: Cash balance performance**



Every opportunity is taken to invest surplus cash to maximise investment returns in accordance with Council's investment policy. Investment income (term deposits) received for the nine months to 31 March 2024 was \$580,000 which has already exceeded the income budget for the year. Investment income is subject to availability of cash flow and has been steadily increasing as a result of successive interest rates rises announced by the Reserve Bank.

Our investments were within the investment and risk rating limits set-out in the investment policy.

### Local Authorities Superannuation Fund - Defined Benefits

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



## Budget Report for Quarter 3 ending 31 March 2024

Date	Vested Benefits Index
June 2019	107.10%
September 2019	107.30%
December 2019	107.70%
March 2020	102.10%
June 2020	104.60%
September 2020	104.50%
December 2020	109.60%
March 2021	111.50%
June 2021	109.70%
September 2021	109.90%
December 2021	111.20%
March 2022	108.50%
June 2022	102.20%
September 2022	101.50%
December 2022	101.70%
March 2023	104.20%
June 2023	104.10%
September 2023	102.30%
December 2023	103.80%
March 2024	TBA

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

A VBI must generally be kept above the nominated shortfall threshold of 97% when a full actuarial investigation is conducted every three years and interim actuarial investigations are conducted for each intervening year.

At the time of preparing this report there was no information available regarding the final VBI estimations as at 31 March 2024.

At 31 December 2023, the updated VBI for the sub-plan decrease to 103.80%, which presents an increase of 0.3% from prior quarter. The VBI is primarily impacted by:

- The level of investment returns which impacts the asset pool supporting the defined benefit liabilities of the sub-plan; and
- The level of active member salary increases advised to Vision Super and pension increases in line with the CPI, which impacts the defined benefit liabilities of the sub-plan.

## Budget Report for Quarter 3 ending 31 March 2024

### CAPITAL WORKS

Colac Otway Shire Council Statement of Capital Expenditure as at 31 March 2024				
	March YTD		Full Year	
	Actual YTD \$	Current Budget YTD \$	Original Budget \$'000	Current Budget \$'000
<b>Property</b>				
Land	-	-	-	-
Building	448	2,312	1,126	3,081
<b>Total Property</b>	<b>448</b>	<b>2,312</b>	<b>1,126</b>	<b>3,081</b>
<b>Plant and Equipment</b>				
Plant, machinery and equipment	481	2,009	800	2,606
Fixtures, fittings and furniture	-	-	-	-
Computers and telecommunications	106	298	310	406
<b>Total Plant and Equipment</b>	<b>587</b>	<b>2,306</b>	<b>1,110</b>	<b>3,012</b>
<b>Infrastructure</b>				
Roads	2,592	10,076	4,479	11,732
Bridges	17	152	244	221
Footpaths and cycleways	43	1,157	40	1,605
Drainage	129	1,298	320	1,504
Other infrastructure	1,806	9,499	2,388	12,102
<b>Total Infrastructure</b>	<b>4,587</b>	<b>22,182</b>	<b>7,471</b>	<b>27,164</b>
<b>Total</b>	<b>5,622</b>	<b>26,800</b>	<b>9,708</b>	<b>33,257</b>

The Capital Works program has a variance of \$21.18 million against the year to date current budget for the first nine months to 31 March 2024.

The current programme allocation to the Capital Works program is higher than the adopted Budget due to \$23.33 million projects carried forward from 2022-23.

Capital Works Projects 2023-24 for Quarter 3 ending 31 March 2024

Project Name	Expenses							Income				Comments by exception
	Annual Original Budget	Annual Current Budget	YTD Actuals	Committed	Estimate to Complete	Total Estimated Project Cost	Estimated Variance to Budget	Annual Original Budget	Annual Current Budget	YTD Actuals		
ASSET RENEWAL PROGRAM												
2022 - 2023 Capital Works - Western Reserve Netball Court Resurfacing	0	74,900	53,189	0	0	53,189	-21,711	0	-29,900	-29,900		Project Complete
2023 - 2024 Capital Works Active Reserve Renewals - Netball court resurfacing, Alvie Recreation Reserve Colac	0	60,000	46,873	0	0	46,873	-13,127	0	-10,000	0		Project Complete
2022 -2023 Capital Works - Bridge Replacement Program - Devondale Road Culvert Replacement	0	20,405	16,555	0	0	16,555	-3,850	0	0	0		Project Complete
2023 - 2024 Capital Works Bridge Renewal Program - Boundary Road	65,000	65,000	0	0	65,000	65,000	0	0	0	0		Scope being reviewed
2023 - 2024 Capital Works Bridge Renewal Program - De La Rues Rd	60,000	0	0	0	0	0	0	0	0	0		Project Closed
2023 - 2024 Capital Works Bridge Renewal Program - Forrest Road South (0.5 from Woodrovale Rd)	55,000	0	0	0	0	0	0	0	0	0		Project Closed
2023 - 2024 Capital Works Bridge Renewal Program - Hordern Vale Road	64,000	64,000	0	1,785	62,215	64,000	0	0	0	0		
2020-21 Capital Works - Building Renewal Programe - Bluewater Roof Replacement	0	1,028,092	61	0	1,028,031	1,028,092	-0	0	0	0		Project review underway to confirm procurement and construction approach.
2022 - 2023 Capital Works - Colac Otway Building Roof Compliance - OHS Renewal	0	27,050	0	0	27,050	27,050	0	0	0	0		
2022 -2023 Capital Works - Building Renewal Program - Bluewater Toddler Pool Tile Replacement	0	143,425	2,924	0	140,501	143,425	-0	0	0	0		
2022 - 2023 Capital Works - Building Upgrade Program - Winifred Nance Playground Project	0	371,200	279,466	5,487	86,247	371,200	-0	0	-282,200	-132,200		
2022 - 2023 - Capital Works - Buildings Renewal Program - Bluewater, Resurface Concourse	0	222,000	475	0	221,525	222,000	0	0	0	0		On Hold - waiting for resolution of roof
2022 - 2023 - Capital Works - Buildings Renewal Program - Elliminyt Recreation Reserve Pavilion - Detailed Design	0	40,890	8,765	33,856	-1,730	40,891	1	0	0	0		Financial journal required to reflect actual costs to this project.
2022 - 2023 - Capital Works - Buildings Renewal Program - Reactive Building Renewal Works	0	4,000	0	0	4,000	4,000	0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Colac Mallet Sports Club	75,000	0	0	0	0	0	0	0	0	0		Project Closed
2023 - 2024 Capital Works Buildings Renewal Program - COPACC, replace auditorium chairs, phase 1	66,200	66,200	0	0	66,200	66,200	0	-66,200	-66,200	0		Scope being reviewed
2023 - 2024 Capital Works Buildings Renewal Program - COPACC, re-surfacing and painting of main stage	47,000	47,000	1,581	26,735	18,684	47,000	-0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Cororooke Maternal and Child Health Centre, plumbing renewal	7,500	3,360	3,360	0	0	3,360	0	0	0	0		Project Complete
2023 - 2024 Capital Works Buildings Renewal Program - Emergency Building renewal/compliance Works	40,000	40,000	0	0	40,000	40,000	0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Kitchen renewal, Colac Central Bowling Club	48,500	111,380	155	57,164	54,061	111,380	-0	0	-62,880	0		
2023 - 2024 Capital Works Buildings Renewal Program - Rae Street Office - Top Level roof replacement	150,000	150,000	1,034	0	148,966	150,000	-0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Sale Yards Septic system	45,000	47,000	912	8,500	37,588	47,000	-0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Winifred Nance Kindergarten	85,000	85,000	188	56,092	28,720	85,000	-0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Wydinya Kindergarten roof replacement	91,000	91,000	1,228	0	89,772	91,000	0	0	0	0		
2023 - 2024 Capital Works - Repair works to the Apollo Bay Recourse Recovery Centre building	55,000	55,000	0	0	55,000	55,000	0	0	0	0		
2023 - 2024 Capital Works Buildings Renewal Program - Building Condition Assessments	30,000	30,000	0	0	30,000	30,000	0	0	0	0		
2022 - 2023 Capital Works - Asset Condition Assessment	0	133,171	63,872	15,968	53,311	133,151	-20	0	0	0		Buildings are asset class for condition assessment in 2023-24.
Crack Sealing Programme Total	80,000	80,000	44,241	25,152	10,608	80,000	0	0	0	0		
Footpath Programme Total	28,000	28,116	32,051	0	-3,295	28,756	640	0	0	0		
Furniture Programme Total	20,000	26,263	3,740	0	22,523	26,263	0	0	0	0		
Capital Works - ICT Device Renewals	110,000	206,428	105,749	77,544	23,135	206,428	0	0	0	0		
2022 - 2023 Capital Works - CRM Replacement Renewal	0	0	0	0	0	0	0	0	0	0		Project Complete
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Hazel Court (Gerard Avenue to Court Bowl)	25,000	95,000	12,651	0	82,349	95,000	0	-702,996	-132,218	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Carta Crescent (Gerard Avenue to Gibson Avenue)	47,346	47,346	0	0	47,346	47,346	0	0	0	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Gerard Avenue (Hawdon Avenue to Cartra Crescent)	10,000	10,000	0	0	10,000	10,000	0	0	0	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Gerard Avenue ( Cartra Crescent to Dead End)	12,000	12,000	1,312	0	10,688	12,000	-0	0	0	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Pound Road (Hart Street to Pound Road)	4,000	4,000	0	0	4,000	4,000	0	0	0	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Rae Street (Gellibrand Street to Hesse Street)	3,500	3,500	0	0	3,500	3,500	0	0	0	0		
2023 - 2024 Capital Works Kerb & Channel Replacement Program - Scott Street (Murray Street to Connor Street)	7,500	7,500	0	0	7,500	7,500	0	0	0	0		
Light Fleet Programme Total	200,000	502,269	148,135	0	354,134	502,269	0	0	0	0		
Major Plant Programme Total	600,000	1,878,604	139,729	1,466,179	272,696	1,878,604	0	0	0	0		

Capital Works Projects 2023-24 for Quarter 3 ending 31 March 2024

Project Name	Expenses							Income				Comments by exception
	Annual Original Budget	Annual Current Budget	YTD Actuals	Committed	Estimate to Complete	Total Estimated Project Cost	Estimated Variance to Budget	Annual Original Budget	Annual Current Budget	YTD Actuals		
Budget Work Order - Other Infrastructure	40,000	11,800	0	0	11,800	11,800	0	0	0	0		
Open Space Programme Total	40,000	33,000	0	14,511	18,489	33,000	0	0	0	0		
Reseal Programme Total	1,000,000	910,847	732,439	0	178,408	910,847	-0	0	-674,500	0		
Resheet Programme Total	1,000,000	1,030,000	766,854	15,890	247,256	1,030,000	-0	0	0	0		
Road Reconstruction Programme Total	1,150,000	2,692,216	10,035	425,052	2,257,129	2,692,216	-0	0	0	0		Includes \$300k major patching, \$850k Mooleric Rd, \$762k Strachan St, and \$780k Forest St (J Barrys-Pound)
2023 - 2024 Capital Works - Public Street Litter Bin Replacement Program	120,000	120,000	0	101,463	18,537	120,000	0	0	0	0		
2023 - 2024 Capital Works Road Safety Program Guard Rail Replacement - Warncoort Cemetery Road	23,000	22,423	22,543	0	0	22,543	120	0	0	0		
2023 - 2024 Capital Works Road Safety Program Guard Rail Replacement - Irrewillipe Road	12,000	6,440	6,440	0	0	6,440	0	0	0	0		
2022 - 2023 Capital Works - Minor Culvert Renewals - Various	0	30,000	0	0	30,000	30,000	0	0	0	0		
2023 - 2024 Capital Works Drainage Renewal Program - 12 Murrell Street, Birregurra Strachan and Murrell corner	44,000	44,000	2,723	0	41,277	44,000	-0	0	0	0		
2023 - 2024 Capital Works Drainage Renewal Program - 45 Scenic Drive, Apollo Bay	30,000	0	0	0	0	0	0	0	0	0		
2023 - 2024 Capital Works Drainage Renewal Program - Armstrong Street Outlet Renewal	125,000	125,000	614	0	124,386	125,000	0	0	0	0		
2023 - 2024 Capital Works Drainage Renewal Program - Kennett River Wetlands Sediment Removal Project	50,000	50,000	1,101	0	48,899	50,000	-0	0	0	0		
2023 - 2024 Capital Works Drainage Renewal Program - Yacht club Pipe replacement	24,000	15,667	15,999	0	0	15,999	332	0	0	0		
ASSET RENEWAL PROGRAM - TOTAL	5,749,546	10,960,692	2,526,993	2,331,378	6,064,706	10,923,077	-37,615	-769,196	-1,293,898	-162,100		
LRCI												
2023 - 2024 Capital Works Buildings Renewal Program - Birregurra Hall Renewal - Painting	70,000	70,000	669	3,250	66,081	70,000	-0	-70,000	-70,000	-110,000		
2023 - 2024 Capital Works Buildings Renewal Program - Birregurra Hall (renewal works to support painting works)	20,000	20,000	1,707	0	18,293	20,000	-0	-20,000	-20,000	0		
2023 - 2024 Capital Works Buildings Renewal Program - Street Furniture and Landscaping	20,000	20,000	0	0	20,000	20,000	0	-20,000	-20,000	0		
2023 - 2024 Capital Works Buildings Renewal Program - Lavers Hill Hall	70,000	70,000	669	0	69,331	70,000	-0	-70,000	-70,000	-70,000		
2023 - 2024 Capital Works Buildings Renewal Program - Small Halls program	190,000	190,000	26,313	0	163,687	190,000	-0	-190,000	-190,000	-190,000		
2020-21 Capital Works - LRCI Round 2 - Great Ocean Road Path. Stage 1 & 2	0	269,293	293,310	18,487	0	311,797	42,504	0	-344,383	0		Journals to be completed to LRCI Phase 3 GOR Footpath Project. Works complete.
2021 - 2022 Capital Works - LRCI Fund Round 3 - Playground Program - Beeac Park Playground	0	32,106	5,420	10,031	16,655	32,106	-0	0	-110,000	0		Majority of works were completed in 2022-23
2021 - 2022 Capital Works - LRCI Funding Round 3 - Western Oval Drainage Improvements	0	207,696	112,289	19,841	75,565	207,696	-0	0	-207,696	-32,696		Drainage works complete. Finalising project acquittal
2021 - 2022 Capital Works - LRCI Funding Round 3 - Road Reconstruction Colanda Street to Forest Road	0	1,439,419	1,925	821,978	615,516	1,439,419	-0	0	-283,419	-137,219		
2021 - 2022 Capital Works - LRCI Funding Round 3 - Stormwater Program Elliminyt Wetlands Development	0	4,151,246	214,659	184,406	3,752,181	4,151,246	-0	0	-4,151,246	-1,745,246		
2021 - 2022 Capital Works - LRCI Funding Round 3 - Open Space Cororooke Masterplan Implementation - New Picnic Area	0	117,423	84,108	110	33,205	117,423	0	0	-117,423	-57,423		
2022 - 2023 Capital Works - LRCI - Memorial Square Toilet Redevelopment	0	1,321,037	375,955	466,316	478,766	1,321,037	-0	0	-1,211,037	-651,037		
2022 - 2023 Capital Works - LRCI - COPACC Civic Hall Floor Renewal	0	302,454	23,340	270,968	8,146	302,454	0	0	-79,454	-33,454		
2022-2023 Capital Works - LRCI Funding Round 4	982,440	0	0	0	0	0	0	-982,440	0	0		Morley Avenue nominated as project - refer to this project for details.
Capital Works - Forrest Caravan Park Waste Water Upgrade	450,000	860,666	1,960	1,773	856,933	860,666	-0	-450,000	-450,000	0		Scope being reviewed with Barwon Water and EPA, due to sewerage of Forrest
2023 - 2024 Capital Works Footpath Program - GOR footpath stage 3	120,000	120,000	0	0	120,000	120,000	0	-120,000	-120,000	-60,000		Journal required from LRCI Phase 2 GOR Footpath
2023 - 2024 Capital Works Footpath Program - Walking connection from Old Coach Road to Hickeys Cutting, Skenes Creek	22,000	22,000	0	0	22,000	22,000	0	-22,000	-22,000	0		
2023 - 2024 Capital Works Open Space Upgrade - Birregurra play space redevelopment	275,000	275,000	180	0	274,820	275,000	0	-275,000	-275,000	-275,000		
2023 - 2024 Capital Works Open Space Renewals - Donaldson's Reserve Play Space Redevelopment	100,000	100,000	1,239	0	98,761	100,000	0	-100,000	-100,000	-100,000		
2023 - 2024 Capital Works Open Space Renewals - Elliminyt Tennis Court Resurfacing & Fence Repair	250,000	250,000	8,134	20,577	221,288	250,000	-0	-250,000	-250,000	-219,258		
2023 - 2024 Capital Works Open Space Renewals - Paradise Picnic Reserve Facility Improvements	50,000	50,000	411	20,242	29,346	50,000	-0	-50,000	-50,000	-50,000		
2024-2025 Capital Works Road Reconstruction - Morley Avenue, Wye River (McRae Road to end of seal)	0	1,282,444	0	0	1,282,444	1,282,444	0	0	-982,444	0		
LRCI - TOTAL	2,619,440	11,170,784	1,152,289	1,837,979	8,223,018	11,213,286	42,502	-2,619,440	-9,719,791	-3,731,333		

Capital Works Projects 2023-24 for Quarter 3 ending 31 March 2024

Project Name	Expenses							Income				Comments by exception
	Annual Original Budget	Annual Current Budget	YTD Actuals	Committed	Estimate to Complete	Total Estimated Project Cost	Estimated Variance to Budget	Annual Original Budget	Annual Current Budget	YTD Actuals		
EMERGENCY AND DISASTER RECOVERY PROJECTS												
Road Slip and emergency recovery works												
2022 - 2023 Capital Works - October 2022 Storm / Flood Recovery (Flood Support Funding)	0	500,000	0	0	500,000	500,000	0	0	-500,000	-500,000		State Govt grant.
Budget Work Order - Road Slip Renewal Program	150,000	150,000	0	0	150,000	150,000	0	0	0	0		Works to commence in 4th quarter on landslip repairs.
2022 - 2023 Capital Works - October 2022 Storm / Flood Event Response	0	1,170,920	106,122	181,794	883,005	1,170,920	0	0	0	0		NDRA funded works
2021 - 2022 Emergency Response - Landslip (Storm Events)	0	5,837,554	955,624	1,563,915	3,318,047	5,837,587	33	0	0	0		NDRA claim
2022 - 2023 Capital Works - Landslip Treatment - Emergency Response Upgrade Works	0	190,000	0	0	0	0	-190,000	0	0	0		
EMERGENCY AND DISASTER RECOVERY PROJECTS - TOTAL	150,000	7,848,474	1,061,746	1,745,709	4,851,052	7,658,507	-189,967	0	-500,000	-500,000		
NEW AND UPGRADE PROJECTS												
2022 - 2023 Capital Works - Irrewillipe Recreation Netball Courts Change Rooms & Amenities Upgrade - Detailed Design	0	86,165	17,840	55,051	13,274	86,165	-0	0	-26,165	-23,165		
2021-22 Capital Works - Building Upgrade Programme - Colac East Kinder Toilet Upgrade	0	17,049	6,520	0	10,529	17,049	0	0	-27,460	0		
2022 - 2023 Capital Works - Building Renewal Program - Forrest Caravan Park Fire Services	0	93,884	93,884	0	0	93,884	0	0	0	0		Project Complete
2023 - 2024 Capital Works Buildings Renewal Program - Essential Services Inspections and Reporting	16,000	16,000	0	0	16,000	16,000	0	0	0	0		
2023-2024 Capital Works - COPACC Auditorium Equipment Upgrade	0	200,000	193,512	0	6,488	200,000	-0	0	-150,000	-149,000		
2023-24 Capital Works - Decommissioning and Installation of Landfill Gas Bores- Bruce Street	0	55,000	36,665	0	18,335	55,000	0	0	0	0		
Capital Works - ICT - Critical Infrastructure Improvement	200,000	200,000	0	0	0	0	-200,000	0	0	0		
2020-21 Capital Works - Cororooke Open Space Master Plan Implementation - Stage 1 (Site Establishment and Path Network)	0	26,458	5,120	21,338	0	26,458	0	0	-1,567	-1,567		
2021-22 Capital Works - Open Space Programme - Community Sport Lighting Upgrades	0	1,670	1,670	0	0	1,670	0	0	-32,365	-32,365		
2022-2023 Capital Works - Open Space Renewal Program - Elliminyt Recreation Reserve Oval Lighting Replacement	0	480,898	451,824	160	28,914	480,898	0	0	-218,898	-178,898		
2022 - 2023 Capital Works - Colac Aerodrome RAP Round 2 Taxiway and Lighting	0	332,307	5,879	363,907	0	369,786	37,479	0	-282,307	-108,307		Contracts awarded.
2020-21 Capital Works - Colac Aerodrome - taxiway - earthworks - Grant Match	0	72,623	10,476	0	62,147	72,623	0	0	0	0		Contracts awarded.
2023 - 2024 Capital Works Open Space Renewals - Fourth flagpole for Rae Street civic campus	6,000	6,000	295	0	5,705	6,000	0	0	0	0		
2023 - 2024 Capital Works Open Space Renewals - Lighting of existing three flagpoles to enable the Australian flag to f	13,000	2,360	2,360	0	0	2,360	0	0	0	0		Project complete
2023 - 2024 Capital Works Open Space Renewals - Street Planting Program 2023-24	60,000	60,000	11,358	1,758	46,884	60,000	-0	0	0	0		
2022 - 2023 Capital Works - Road Improvement Program - Queen & Wilson Street Intersection Upgrade	0	395,289	29,550	313,250	52,489	395,289	0	0	0	0		
Budget Work Order - Road Safety Devices Programme	55,000	5,000	0	0	5,000	5,000	0	0	0	0		
2022 - 2023 Capital Works - Road Safety Program - Murray Street Bus Shelter DOT Funded	0	0	0	0	0	0	0	0	0	0		
2021-22 Capital Works - Pascoe Street Pedestrain Crossing - Analysis and Design	0	20,273	0	0	0	0	-20,273	0	0	0		
2023 - 2024 Capital Works Stormwater Asset Upgrade Program - 12 Cruickshank Court, Elliminyt	22,000	44,000	2,254	39,344	2,402	44,000	-0	0	0	0		
2023 - 2024 Capital Works Stormwater Asset Upgrade Program - 397 Murray Street, Unnamed Laneway 5	25,000	25,000	521	0	24,479	25,000	0	0	0	0		
NEW AND UPGRADE PROJECTS - TOTAL	409,000	2,151,976	881,089	794,809	292,646	1,968,543	-183,433	0	-738,762	-493,301		
CAPITAL WORKS PROGRAM - TOTAL	8,927,986	32,131,926	5,622,116	6,709,875	19,431,422	31,763,413	-368,513	-3,388,636	-12,252,451	-4,886,734		
Notes												Legend
1. Financial reporting does not include expense or income transactions prior to 1 July 2023												On track and expected to deliver intended outcomes
2. Current balance of returned Asset Renewal funds Capital Projects (not on above report) = \$1,035,116												Recoverable through action or decision
												Requires intervention to recover or address issue
												On Hold

Operational Projects 2023-24 for Quarter 3 ending 31 March 2024

Project Name	Expenses							Income				Comments and actions
	Annual Original Budget	Annual Current Budget	YTD Actuals	Commitments	Estimate to Complete	Total Estimated Project Cost	Estimated Variance to Budget	Annual Original Budget	Annual Current Budget	YTD Actuals		
Chief Executive												
Roadside Weeds & Pests Management Project	35,253	68,977	27,955	357	40,665	68,977	0	-35,253	-68,977	-68,977		
18-19 Mid Year - Operating Projects - Colac Civic Precinct Plan	0	109,279	0	106,397	2,882	109,279	0	0	-90,000	0		Project rescoping underway following discussions with Council.
2019-20 Operating Projects - ICT - ePlanning - Public Portal	0	41,187	0	0	41,187	41,187	0	0	0	0		On Hold - Scope to b reviewed in light of new CRM system
2018-19 Major Project - Colac West Development Plan	0	29,410	0	5,841	23,569	29,410	0	0	-5,000	0		Developer-led work requiring Council role in road reserve transfer, as agreed through Council resolution
2018-19 Operating Project - Apollo Bay Community Infrastructure Plan	0	650	650	0	0	650	0	0	-5,000	-5,000		Project Complete
2019-20 Major Project - J Barrys Road Industry Development Plan	0	7,441	5,044	0	2,397	7,441	0	0	0	0		Draft Development Plan being finalised for Council consideration mid 2024.
2021-22 Operating Project - Deans Creek Precinct Structure Plan (Multi-year Project)	0	791,317	293,996	383,387	126,842	804,225	0	0	-491,458	-491,458		Technical assessments progressing as planned.
2021-22 Operating Project - Planning Scheme Amendment - Irrewillipe Road / Harris Road	0	19,583	10,936	13,215	9,000	33,151	13,568	0	0	0		Rezoning complete and Development Plans underway, Social housing provision being discussed.
2022 - 2023 Operating Projects - VicSmart Provisions - Planning Scheme Amendment	0	20,000	0	0	20,000	20,000	0	0	0	0		Proposed exemptions under review by DTP. Council will exhibit an amendment once DTP review is complete.
2023-24 Operating Project - Birregurra Structure Plan Review	60,003	80,000	12,150	37,444	30,406	80,000	0	0	0	0		Background report under preparation. Community Reference Group nominations process to be completed May.
2023-24 Operating Project - Key Worker Housing Feasibility, Nelson St, Apollo Bay	90,000	120,000	0	0	120,000	120,000	0	0	0	0		Project on hold pending outcome of external grant funding.
2023-24 Operating Project - Northern Towns Growth Plans	60,003	80,000	15,750	47,248	17,002	80,000	0	0	0	0		Background report under preparation.
2022 - 2023 Operating Projects - 82 Marriners Street Colac East - Planning Scheme Amendment	0	0	0	0	0	0	0	0	-5,000	-3,275		Planning scheme amendment application lodged by proponent.
2023 - 2024 Operating Projects - Carbon Offset Project	26,244	35,000	0	0	35,000	35,000	0	0	0	0		On Hold - Pending adoption of ESS and CCAP
2023-2024 Operating Projects - Public Health Partnership	0	14,000	3,650	2,350	8,000	14,000	0	0	-12,000	0		Project underway.
2023-2024 Operating Projects - Barham River Flood Study	0	25,000	0	0	25,000	25,000	0	0	0	0		On hold pending outcome of external grant application.
Chief Executive Total	271,503	1,441,844	370,131	596,239	501,950	1,468,320	13,567	-35,253	-677,435	-568,710		
Community and Economy												
2017-2018 - Small Town Improvement Programme (STIP) - Apollo bay Memorial Options Plan	0	7,000	0	0	0	0	-7,000	0	0	0		Original project not proceeding. Project scope to be reviewed with Councillors
2020-21 Operating Project - Local Planning & Change Management Grant	0	21,094	0	0	0	0	-21,094	0	0	0		Budget represents residual grant funds. Scope still to be determined
2020-21 Operating Project - Eastern Reserve - Baseball Batting Cage	0	49,758	20,633	0	29,125	49,758	0	0	0	0		User group has State Govt grant and is leading project. Council's contribution will be paid when needed.
2021-22 Operating Project - RDV Digital Connectivity Program Grant Match	0	75,720	0	0	0	0	-75,720	0	-47,015	-47,015		Estimated completion is early 2024 and unspent grant will need to be returned
2021-22 Operating Projects - Fit out of Apollo Bay Kindergarten	0	3,130	0	0	0	0	-3,130	0	0	0		Compliant egress issue now close to resolved and project is nearly complete
2020-21 Operating Project - Forrest MTB Revitalisation DELWP	0	184,970	102,952	0	82,018	184,970	0	0	-184,970	-184,970		Entrance gateway contract signed and completed. Confirming scope for remaining project funds.
Operating Projects - Family Day Care Marketing Campaign	0	12,772	3,992	0	0	3,992	-8,780	0	-13,665	-11,165		Acquittal report submitted with potential to negotiate a return of unspent funds.
2022 - 2023 Operating Projects - Colac Otway Shire Botanical Gardens Masterplan Review	0	34,900	12,728	13,611	8,561	34,900	0	0	0	-28,500		Due for completion May 2024
2021-22 Operating Project - Youth Film - VLGP	0	11,973	9,463	0	2,060	11,523	-450	0	-13,398	-10,498		Film complete, premiere not proceeding.
2021 - 2022 Operating Project - Freeza	13,141	25,463	1,316	0	0	1,316	-24,147	-13,311	-25,463	-7,962		
2021 - 2022 Operating Project - Engage	36,818	82,716	36,415	1,308	44,993	82,716	0	-37,500	-82,716	-80,443		
2020 - 2021 Operating Project - Vocal, Young and Local (VYL)	42,833	148,706	57,380	0	91,326	148,706	0	0	-78,706	-119,552		Includes budget allocation of \$70,000 for Youth Engagement Officer.
2022 - 2023 Operating Project - Positive Masculinities VLGP (Vic Health)	0	7,041	0	0	0	0	-7,041	0	-7,041	-4,541		Project successfully completed. Budget represent residual of grant and being discussed with funding partner.
2021-22 Operating Project - Bus Service from Apollo Bay to COPACC	0	1,474	1,475	0	0	1,475	1	0	-5,126	-5,125		Project complete
2023-24 Operating Project - Colac Library Return Room Safety	22,500	30,000	0	0	30,000	30,000	0	0	0	0		Project will be delivered by GRLC
2023-24 Operating Project - Replacement of obsolete fire safety panel and fire detectors	11,250	15,000	0	13,253	1,747	15,000	0	0	0	0		Project will be delivered by Colac Secondary College
Operating Project - OPASS Service Review	33,750	45,000	40,054	0	4,946	45,000	0	0	0	0		Requires further discussion to resolve way forward.
2023-2024 Operating Projects - Community Grants	0	161,458	122,540	0	38,918	161,458	0	0	-133	-133		Approved grants are being allocated when documentation requirements are met.
2023-2024 Operating Projects - Events Grants	0	109,127	88,759	0	20,368	109,127	0	0	-102	-102		Approved grants are being allocated when documentation requirements are met.

Operational Projects 2023-24 for Quarter 3 ending 31 March 2024

Project Name	Expenses							Income				Comments and actions
	Annual Original Budget	Annual Current Budget	YTD Actuals	Commitments	Estimate to Complete	Total Estimated Project Cost	Estimated Variance to Budget	Annual Original Budget	Annual Current Budget	YTD Actuals		
2023-2024 Operating Projects - Business Grants	0	31,150	21,899	0	9,251	31,150	0	0	0	0		Approved grants are being allocated when documentation requirements are met.
2023 - 2024 Operating Project - Kindergarten Infrastructure Services Plan	0	42,000	11,280	6,897	23,823	42,000	0	0	-42,000	-42,000		Supply and demand modelling underway.
2022 - 2023 Grants Program - Consolidated Community Grants Carried Forward	0	22,774	7,409	0	15,365	22,774	0	0	-1,758	-1,758		Approved grants are being allocated when documentation requirements are met.
2022 - 2023 Grant Project - RDV Community Events Recovery Funds	0	5,542	0	0	5,542	5,542	0	0	0	0		Funds supported the Christmas 'Light up the tree' activities
Community and Economy Total	160,292	1,128,768	538,294	35,070	408,043	981,407	-147,361	-50,811	-502,093	-543,766		
Corporate Services												
2022 - 2023 Operating Projects - IT helpdesk supporter	0	23,030	22,533	0	497	23,030	0	0	0	0		Focus of work is roll-out of PC and helpdesk clearing.
2022 - 2023 Operating Projects - ICT - Intranet Drupal Upgrade	0	7,500	3,000	0	4,500	7,500	0	0	0	0		On track for completion early 2024
Operating Projects - Discretionary Funds (Organisational Holding Account - Overs & Unders of Operating Projects)	0	77,698	0	0	0	0	-77,698	0	0	0		
Corporate Services Total	0	108,228	25,533	0	4,997	30,530	-77,698	0	0	0		
Infrastructure and Operations												
2019-20 Operating Projects - ICT - Works Management System	0	30,000	0	0	0	0	-30,000	0	0	0		On Hold - Pending delivery of complementary devices project for RMP
2021-22 Operating Project - Operational Devices, Licences and System Integration - Legislative Road Management Plan	0	7,419	82	0	7,337	7,419	0	0	0	0		On track. Remaining expenditure expected to be product licensing costs.
2020-21 Operating Project - Grant Preparation / Detailed Design - Bike Park BMX Jump Path - Feasibility Study	0	10,000	0	0	0	0	-10,000	0	0	0		Requires further discussion to resolve way forward.
2020-21 Operating Project - Grant Preparation / Detailed Design - Lake Colac Perimeter Pathway Feasibility Study	0	15,079	2,999	5,394	6,686	15,079	0	0	0	0		Draft report prepared and expected to be presented to Council Briefing in May.
2020-21 Operating Project - Grant Preparation / Detailed Design - Hart Street Pedestrian Crossing	0	19,696	0	0	0	0	-19,696	0	0	0		RFQ completed. Designer appointed. Scope to be reviewed - cost for design is well under budget
2022 - 2023 Operating Project - Onsite Domestic Wastewater Management (ODWM)	0	6,720	6,720	0	0	6,720	0	0	-6,720	-6,720		Complete
2023-24 Operating Project - Local Law Review Project	18,747	32,633	32,633	0	0	32,633	0	0	0	0		Complete
2023-24 Operating Project - Lavers Hill Hall, investigate septic operations	3,753	5,000	0	0	0	0	-5,000	0	0	0		Reviewing whether this project is still required or if EHOs have sufficient to guide solution
Infrastructure and Operations Total	22,500	126,547	42,434	5,394	14,023	61,851	-64,696	0	-6,720	-6,720		
Waste Management Services												
2021-22 Operating Project - Closed Landfill Aftercare Management Plan, Landfill Gas and Groundwater Investigation	0	26,150	31,760	28,541	75,010	135,311	109,161	0	0	0		Scope and commitments require investigation. Funds transferred to landfill reserve and may need to be re-called.
2021-22 Operating Project - Kitchen Caddy and Liners	0	31,670	1,359	0	30,311	31,670	0	0	0	0		Education program to be delivered
2021-22 Operating Projects - Waste Transfer Station Upgrades for Glass Separation	0	59,495	25,182	0	34,313	59,495	0	0	0	0		Quotes being sought.
Operating Projects - Promoting COS recycling system	0	60,300	0	0	60,300	60,300	0	0	-60,300	-30,150		Education program to be delivered
Waste Management Services Total	0	177,615	58,301	28,541	199,934	286,776	109,161	0	-60,300	-30,150		
Total of Operational Projects	454,295	2,983,002	1,034,692	665,243	1,128,947	2,828,882	- 167,028	- 86,064	- 1,246,548	- 1,149,346		
Notes												Legend
1. Financial reporting does not include expense or income transactions prior to 1 July 2023												On track and expected to deliver intended outcomes
2. Current balance (as of March 2024) of returned funds from Operation Projects = \$77,698												Recoverable through action or decision
												Requires intervention to recover or address issue
												On Hold



Item: 9.10

## Birregurra Structure Plan - Community Reference Group Appointment

<b>OFFICER</b>	Simon Clarke
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Birregurra Structure Plan Review Project - CRG Terms of Reference [9.10.1 - 6 pages]</li><li>2. Birregurra Community Reference Group Postcard [9.10.2 - 2 pages]</li></ol>

### 1. PURPOSE

To establish a Community Reference Group (CRG) to inform the Birregurra Structure Plan Review project and appoint members to the committee.

### 2. EXECUTIVE SUMMARY

Council has funded a review of the Birregurra Structure Plan in 2023-4 by allocating \$80,000. Following a competitive Request to Quote process in late 2023, Conway Planning was appointed to undertake the review in early 2024.

The current Structure Plan was endorsed by Council in 2013 after an intensive period of community engagement and assessment of town character following community concern at potential expansion of the town. A Community Reference Group (CRG) formed in 2012 was useful in helping to resolve issues of concern to the community about the direction of the Structure Plan, and resulted in a plan being endorsed that retained the then current town boundary and recommended changes to planning controls relating to new residential and commercial development. The plan is now 10 years old and in need of review.

A new CRG is being established to support community engagement occurring for the Birregurra Structure Plan Review. Nominations for CRC membership was sought through an Expressions of Interest process in March/April 2024 to align with commencement of the project.

Council is required to confirm the members of the CRG at Council meeting

### 3. RECOMMENDATION

***That Council:***

- 1. Endorses the Terms of Reference, as per Attachment 1, for the Birregurra Structure Plan Review project as a Special Purpose Committee of Council as per the Council Committee Policy.***
- 2. Establishes the Community Reference Group until Project completion.***
- 3. Appoints members to the Birregurra Structure Plan Review Community Reference Group as identified in the Confidential Attachment to this report.***
- 4. Writes to each person that submitted an Expression of Interest to inform them of this decision.***

### 4. KEY INFORMATION

Council's Committees Policy identifies a Community Reference Group as a 'Special Purpose Committee' which requires Council's approval for its establishment. The Birregurra Structure Plan Review project aligns with this categorisation given that it is being established for the express purpose of providing effective community input into the project and will only be in operation for the duration of the project. It will not have any decision-making powers.

Councillors will consider nominations at a formal meeting and resolve on membership. It is not anticipated that a Councillor will be needed to attend meetings of the CRG and that a specific Councillor will not need to be appointed.

A CRG is considered appropriate in this instance given the positive experience of the 2013 Structure Plan process and the way in which a CRG was successfully used to garner community support for the final plan. The community will have an expectation of a similar process.

The CRG will act like a sounding board for Council and will provide feedback from the community's perspective. This will be enabled through facilitated discussions when Council officers meet with them on a regular basis over the next 12 months. Officers will also ask them to promote and explain the project more broadly through their networks in the community. The CRG will be guided by a Terms of Reference (TOR) which has been available on Council's website as part of the EOI process (refer attachment 1).

The EOI indicated that membership for the CRG should include individuals who reflect the diversity of the Birregurra resident population and will include a varied demographic profile regarding age, gender, and place of residence. The CRG is to include eight to ten residents of Birregurra and should represent people who have their primary place of residence in Birregurra or the surrounding area.

Officers sent a postcard out to all households in Birregurra inviting residents to express their interest in being a member of the CRG by completing an on-line form on Council's website. The postcards (refer attachment 2) were distributed to households in the week of 6 March 2024 and the EOI process was open until 29 April 2024. In addition to the direct mailout, Council publicised the EOI process on its website, via social media, and through a media release.

Council received 11 submissions to the EOI process. All submitters are landowners in or close to Birregurra.

There is no particular reason why all submitters could not be appointed to the CRG. While there is somewhat of a bias toward older age categories, there is a reasonable gender mix and all submitters have expressed an interest in how the town and community develops.

It is considered important to establish the CRG and formally appoint members based on all 11 submitters that expressed an interest. This will allow for some flexibility in allowing for potential absences at meetings while maintaining a core CRG.

An inaugural CRG meeting will be held towards the end of June / early July.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The establishment of a Birregurra Structure Plan Review Community Reference Group will facilitate engagement of the community and will provide an improved understanding of strategic planning processes in relation to what matters are within and without of scope for the project. In turn, this will support the following principles:

- a) Council decisions are to be made and actions taken in accordance with the relevant law
- b) priority is to be given to achieving the best outcomes for the municipal community, including future generations
- c) the economic, social, and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
- d) the municipal community is to be engaged in strategic planning and strategic decision making
- e) innovation and continuous improvement is to be pursued
- f) collaboration with other Councils and Governments and statutory bodies is to be sought
- g) the transparency of Council decisions, actions and information is to be ensured

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

The Birregurra Structure Plan Review project is an essential body of background reporting that will support any future Planning Scheme Amendments required to reflect any changing circumstances that affect the town.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

The Birregurra Structure Plan Review project will ensure that Birregurra can grow in a sustainable manner into the future.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Establishment of a Community Reference Group will facilitate community involvement to help inform the project and an ability to make informed decisions. Also, an overall Community Engagement Plan is to be prepared as part of the project.

**Public Transparency (s58 LGA 2020)**

The Community Reference Group will be invited to promote public awareness of the project to facilitate engagement and transparency.

**Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 1: Affordable and available housing will support our growing community and economy

Objective 5: Grow the Colac Otway Shire's permanent population by at least 1.5%

**Financial Management (s101 Local Government Act 2020)**

Council allocated \$80 000 for the Birregurra Structure Plan review in its 2023/24 budget.

**Service Performance (s106 Local Government Act 2020)**

The Community Reference Group will be managed by the project team within the existing budget.

**Risk Assessment**

Not applicable.

**Communication/Implementation**

Should Council appoint the Community Reference Group, officers will inform all nominees of the outcome of the Expression of Interest process and invite the Community Reference Group to an inaugural meeting towards the end of June.

**Human Rights Charter**

No impact.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options**

Option 1 – Endorse the appointment of a Community Reference Group as outlined in the Confidential attachment.

This option is recommended by officers as it seeks to progress the Birregurra Structure Plan Review project.

Option 2 – Endorse the appointment of a Community Reference Group as outlined in the Confidential attachment with amendments

This option is not recommended by officers as there is no reason to exclude any of the nominees.

Option 3 – Do not Endorse the appointment of a Community Reference Group as outlined in the Confidential attachment

This option is not recommended by officers as it does not facilitate community engagement in the Birregurra Structure Plan Review project.

## **TERMS OF REFERENCE**

### **Community Reference Group Birregurra Structure Plan Review Project January 2024**

#### **1. PURPOSE**

The Community Reference Group (CRG) has been formed:

- to facilitate feedback and local knowledge from residents of Birregurra to help inform a review of the Birregurra Structure Plan.
- to promote awareness of the project within the broader Birregurra community

#### **2. OVERVIEW OF THE PROJECT**

##### **2.1 Introduction**

In 2013 Council adopted the current Birregurra Structure Plan. This Plan is a critical planning document that outlines the long-term development framework for the township of Birregurra and its surrounding areas. It took into account the outcomes of a 2012 Neighbourhood Character Study and was the basis for a planning scheme amendment that introduced new planning controls across the township.

Since its adoption, various changes in the region's socio-economic, environmental, and demographic factors necessitate a comprehensive review to guide future development effectively. Council has therefore commenced a review of the 2013 Structure Plan ('the review').

##### **2.2 Study Area**

The Study Area for the project is focused on the Birregurra township as shown in Attachment 1. Attachment 1 shows the extent of the current settlement boundary of Birregurra. The Study Area will also include adjacent rural land surrounding the township. It will include all public land including road reserves, crown land, creeks and recreational areas within and surrounding the town.

##### **2.3 Role of Structure Plans**

A Structure Plan is a strategic planning document that aims to give effect to the policies and objectives set out for the use and development of land in the Planning Policy Framework in the Planning Scheme, including that land be kept available to supply the housing needs of an area for at least 15 years. It also seeks to provide effectively for changing community needs and aspirations. Structure plans provide the framework for the long-term development of a place by defining the preferred direction of future growth and by articulating how change will be managed.

Structure plans guide major changes to land use, built form, access and movement networks, and public spaces that together can achieve environmental, social and economic outcomes for a place.

A structure plan also provides the framework for statutory planning controls that can be implemented through the Colac Otway Planning Scheme.

## **2.4 Birregurra and the Birregurra Structure Plan 2013**

Birregurra is a compact town and has a strong focus on its traditional main street which accommodates a range of small scale local commercial and community uses. Birregurra is a self-contained community in relation to local community facilities with a primary school, churches, public hall, recreation reserve, train station and other well-established community assets. The population is growing and mostly consisting of in-fill development in the town. Demand for housing has grown following the introduction of sewer. According to ABS data, the population of Birregurra at the 2021 census was 942 people (noting that the census district has been expanded at the recent census). At the same time, the town's demographic is also changing to include more younger families.

Birregurra has a community that values the qualities that the town presents and it is imperative that an appropriate fit exists between the existing character of the town and new development. A review of the 2013 structure Plan is timely, in order to ensure that it remains relevant, is responsive to community needs and to review the effectiveness of planning controls introduced through the 2013 structure plan.

Key elements of the 2013 structure plan for Birregurra were:

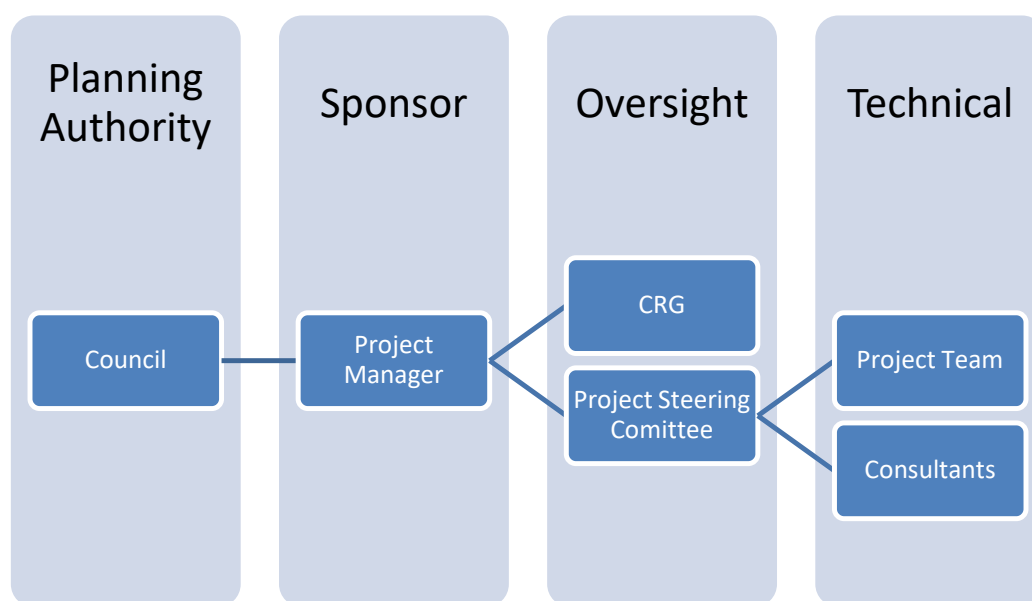
- Existing urban boundary of the town to be retained to maintain Birregurra as a compact rural town catering for modest growth relative to its size.
- Infill development within the boundaries of the existing Township Zone to be given priority and to be strongly encouraged, to make use of existing larger lots given that reticulated sewerage has been provided and to avoid the need for urban expansion (rezoning).
- No urban expansion onto 'greenfield' land to be contemplated as part of any future review of the structure plan, unless a review identifies that infill development is not occurring at a sufficient rate to accommodate the demand for new housing.
- The town centre to be consolidated and strengthened through opportunities to expand commercial uses within a contained retail area.
- Opportunity for an expanded community and health node provided for within the town centre, to cater for the growing and changing needs of the population.
- Existing industrial area to the north of town to be retained and recognised as the primary location for any industries that may seek to locate in Birregurra.

## **2.5 Timeline**

It is anticipated that the review will commence in February 2024 with an Inception Meeting with the Project Steering Group. It is expected that the project will be complete by March 2025.

## **3. OVERARCHING PROJECT GOVERNANCE**

The Community Reference Group sits within a broader project governance structure as described in the following diagram.



#### 4. MEMBERSHIP

Membership will include individuals who reflect the diversity of the Birregurra resident population defined by the demographic profile categories of age, gender, and place of residence.

The Community Reference Group will include eight to ten residents of Birregurra and should generally represent people who have their primary place of residence in Birregurra or the surrounding area.

The Community Reference Group will be recruited using an Expression of Interest process, and the membership will be endorsed by Colac Otway Shire Council.

#### 5. ROLE AND RESPONSIBILITIES

The role of the Community Reference Group is to:

- Provide feedback or commentary about matters related to the Birregurra Structure Plan review project.
- Promote awareness of the Birregurra Structure Plan review project within the broader Birregurra community.

Members of the Community Reference Group are responsible for:

- Ensuring active participation in meetings by all members through attendance and contributing to discussions.
- Reviewing relevant information or documents.
- Adhering to the Ground Rules for Behaviour, as noted below.
- Managing and reporting individual member's conflicts of interest.
- Maintaining confidentiality where required.
- Meeting as requested by the Chair, generally in accordance with the Terms of Reference.

#### Ground Rules for Community Reference Group Behaviour:



The Community Reference Group agree to the following ground rules for behaviour at all Community Reference Group meetings and workshops:

- Respect each other's right to speak without interruption.
- Be constructive when providing feedback.
- Be aware of how long and how often we speak so that all have time to contribute to a discussion.
- Make every effort to listen to each other so that we understand the various perspectives we have.
- Speak for ourselves (for example, 'I think' and 'I feel', rather than 'everyone knows' or 'you should').
- Not use personal attacks or put downs or expletives.
- Use inclusive language (that is, not racist, sexist, ageist etc).
- If appropriate, discuss whether any aspect raises a question of confidentiality.
- Arrive on time and stay to the end or negotiate special arrangements.
- Avoid interruptions from mobile phones, etc. (or agree on what level of use is acceptable).
- Expect that the facilitator (Council officer or representative) will encourage everyone to follow the guidelines.

## **6. CONFLICTS OF INTEREST**

Prospective members of the Community Reference Group must declare any property interests within the study area, or any property interests relatives or close associates may have in the study area as part of the Expression of Interest process to recruit Community Reference Group members.

As an on-going project governance practice, Community Reference Group members must declare any conflicts of interest prior to the discussion of issues or at any time a conflict of interest, or potential conflict of interest arises. A conflict of interest may be real, potential, or perceived in nature and may refer to situations in which personal, occupational or financial consideration may affect or appear to affect the objectivity or fairness of decisions related to the defined activities. Individuals must declare potential conflicts to the Community Reference Group Chairperson and must either absent themselves from the discussion or put the decision to the collective on whether they should absent themselves.

## **7. CHAIRPERSON**

The Community Reference Group meetings will be facilitated by the Colac Otway Shire Officer and/or their consultant representative.

## **8. MEETINGS**

Four or five meetings will be on required at various milestones during the project. Meetings including dates, times and venue arrangements will be determined on the basis of what suits the Community Reference Group the best.

The purpose of the meetings will be to:

- Facilitate understanding of planning requirements and processes to inform the group's discussion
- Facilitate group discussion about the project and specific issues
- Facilitate understanding of different perspectives within the group

- Provide an opportunity to contribute ideas and feedback to inform the review of the structure plan.

Members are required to attend all meetings, or to advise the chairperson in writing that they are unable to attend the meeting at least five hours prior to the meeting occurring.

If a community member is absent from more than three meetings, their membership from the group shall be suspended.

## **9. TERM OF THE COMMUNITY REFERENCE GROUP**

The CRG shall operate from the time of appointment of community members by Council until the project reaches the Public Exhibition milestone, or as otherwise determined by Colac Otway Shire Council.

## **10. ADMINISTRATIVE REPORTING**

The Agenda and Minutes will be kept and distributed by the Colac Otway Shire Strategic Planning Officer. The preferred method of disseminating information is by email.

## **11. CONFIDENTIALITY**

In order to ensure open and transparent communication, it is essential that all matters discussed in the Community Reference Group are considered confidential unless approved for broader release by Council.

## **12. MEDIA AND COMMUNICATIONS**

While a purpose of the Community Reference Group is to promote the project more broadly in the Birregurra community, primary media and communications for the project shall be coordinated through Council. Community Reference Group members may not address the media directly. However, they may post material related to the project on social media that does not breach any confidentiality requirements of the project. Members should report any media requests or social media activities to the Community Reference Group.

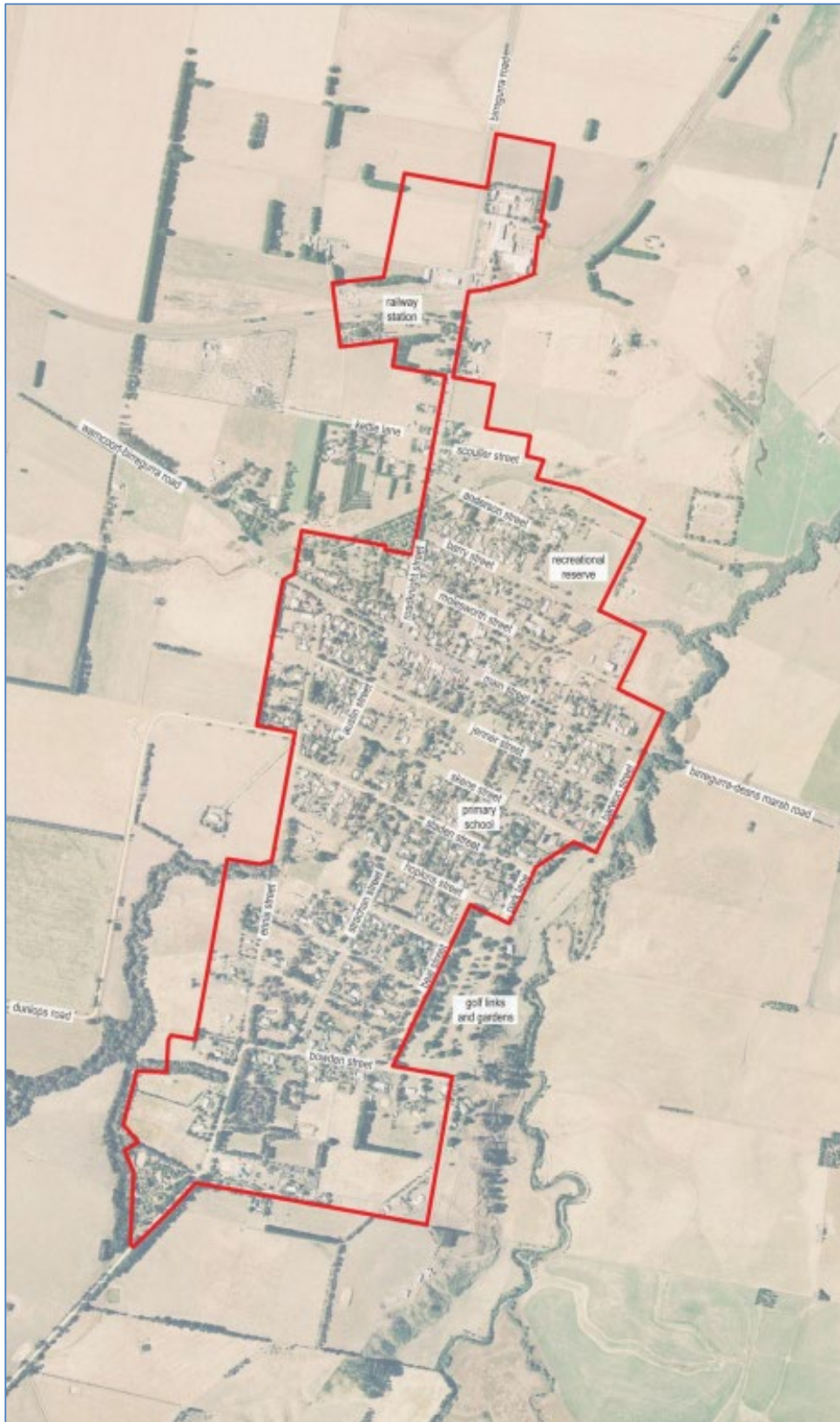
## **13. DISPUTE RESOLUTION**

Disputes arising between members of the Community Reference Group will be facilitated by the Chairperson of the Community Reference Group. If matters remain unresolved, then a separate meeting may be convened and chaired by a nominated General Manager at Colac Otway Shire Council.

## **14. OTHER ITEMS**

Where clear direction is not provided within the Terms of Reference, clarification or guidance on issues, disputes or directions will be sought from the Project Steering Committee (PCG).

**Attachment 1 – Birregurra Aerial Image showing the current Settlement Boundary**







# Shaping Birregurra

## Join our Birregurra Structure Plan Community Reference Group

Colac Otway Shire Council invites you to join our Community Reference Group  
to help inform planning in Birregurra

Agenda - Council Meeting - 22 May 2024

## Colac Otway Shire Council is undertaking a review of the 2013 Birregurra Structure Plan.

The project involves a review of the recommendations of the Birregurra Structure Plan 2013. The project will also include a current housing analysis and an assessment of the effectiveness of planning controls in Birregurra.

**Colac Otway Shire Council invites you to apply to be a part of the Community Reference Group (CRG) to assist with the review. We welcome your contribution to this important piece of work.**

Visit Council's website for information on how to express your interest in joining the CRG and to find out more about the project along with other ways to get involved. Scan the QR code with a smart phone for a direct link to Council's website and the application form. Alternatively, please call Council on 5232 9400 and mention the Birregurra Structure Plan Review project or visit our Customer Service Centre at 2-6 Rae Street, Colac.



Applications close **Monday 29 April 2024.**

Attachment 9.10.2 Birregurra Community Reference Group Postcard

**POSTAGE  
PAID  
AUSTRALIA**

**To the Householder / Owner**

---

---

---

---

---



Item: 9.11

## Appointment of Acting Mayor

<b>OFFICER</b>	Louise Harvey
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To appoint an Acting Mayor for a specified period when the Mayor may be unable to perform mayoral duties.

### 2. EXECUTIVE SUMMARY

The Mayor has indicated that she will be absent from 31 May – 23 June 2024 inclusive.

### 3. RECOMMENDATION

***That Council appoints Councillor Chris Potter to be Acting Mayor from 31 May 2024 to 24 June 2024 inclusive.***

### 4. KEY INFORMATION

Mayor White may be unable to fulfill mayoral duties for personal reasons for a period during June 2024 and it is desirable that an Acting Mayor be appointed for this period to ensure governance and continuity of Council business.

In accordance with section 20B of the *Local Government Act 2020*, Council may appoint a Councillor to be the Acting Mayor in these circumstances. If appointed through Council resolution for a specified period, the Acting Mayor (i) must perform the role of the Mayor; and (ii) may exercise any of the powers of the Mayor until the period of the appointment expires.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

Council decisions are to be made and actions taken in accordance with the relevant law.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

The recommendation of this report complies with Section 20B of the *Local Government Act 2020*.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Not applicable.

### **Public Transparency (s58 LGA 2020)**

Not applicable.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

### **Financial Management (s101 Local Government Act 2020)**

Not applicable.

### **Service Performance (s106 Local Government Act 2020)**

Not applicable.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

Not applicable.

### **Human Rights Charter**

No impact.

### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.



Item: 9.12

## Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - Peter Jones

<b>OFFICER</b>	Janine Johnstone
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Unsigned S 11 A - Instrument of Appointment ( Planning and Environment Act 1987) - Peter Jones [9.12.1 - 1 page]

### 1. PURPOSE

The purpose of this report is for Council to appoint Peter Jones, Senior Planning Compliance Officer, as an authorised officer under section 147(4) of the Planning and Environment Act 1987.

### 2. EXECUTIVE SUMMARY

The Planning and Environment Act 1987 (the Act) establishes a framework for planning the use, development, and protection of land in Victoria in the present and long-term interests of all Victorians. Officers are required to undertake assessments, give advice, or investigate various issues in relation to the Act. In order to do this, authorisation under the Act is required.

### 3. RECOMMENDATION

***That Council:***

- 1. Appoints Peter Jones as an Authorised Officer pursuant to section 147(4) of the Planning and Environment Act 1987 (refer Attachment 1).***
- 2. Authorises the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.***

3. ***Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the instruments and remain in force until Council determines to vary or revoke them.***

## 4. KEY INFORMATION

The Act sets out procedures for preparing and amending the Victoria Planning Provisions and planning schemes. It also sets out the process for obtaining permits under schemes, settling disputes, enforcing compliance with planning schemes and permits, and other administrative procedures.

Various staff members within Council's Infrastructure and Operations Team are required to undertake assessments, give advice, or investigate various issues in relation to the Act. In order to undertake these assessments legally, particularly during issues of noncompliance, authorisation under the Act is required.

Legal advice recommends authorised officers be appointed by Council using an instrument to address specific authorisation provisions of s 147(4) of the Act versus the broader authorisations of section 224 of the Local Government Act 1989.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The overarching governance principles are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law
- b) the municipal community is to be engaged in strategic planning and strategic decision making
- c) innovation and continuous improvement is to be pursued
- d) regional, state, and national plans and policies are to be taken into account in strategic planning and decision making
- e) the transparency of Council decisions, actions and information is to be ensured

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

*Planning and Environment Act 1987.*

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Not applicable.

### **Public Transparency (s58 LGA 2020)**

Not applicable.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

**Financial Management** (s101 *Local Government Act 2020*)

Not applicable.

**Service Performance** (s106 *Local Government Act 2020*)

Not applicable.

**Risk Assessment**

Not applicable.

**Communication/Implementation**

The attached Instruments of Appointment and Authorisation (Planning and Environment Act 1987) come into force immediately upon execution.

**Human Rights Charter**

No impact.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options**Option 1 – Appoint the Officers as Authorised Officers

This option is recommended by officers as various staff members within the Infrastructure and Operations Team are required to undertake assessments, give advice, or investigate various issues in relation to the Act.

In order to undertake these assessments legally, particularly during issues of non-compliance, authorisation under the Act is required.

S11A



**Colac Otway Shire Council**

**Instrument of Appointment and Authorisation  
(*Planning and Environment Act 1987*)**

In this instrument "**officer**" means –

**PETER JONES**

**By this instrument of appointment and authorisation Colac Otway Shire Council -**

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

**It is declared that** this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Colac Otway Shire Council on 22 May 2024.

The COMMON SEAL of Colac Otway Shire     )  
Council was hereunto affixed in accordance     )  
With Local Law No 4     )

---

Chief Executive Officer

Date: \_\_\_\_\_

Item: 9.13

## Instruments of Delegation - Port of Apollo Bay

<b>OFFICER</b>	Janine Johnstone
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Unsigned Instrument of Delegation from the Port Manager to Members of Council Staff - Port of Apollo [9.13.1 - 13 pages]</li><li>2. Unsigned Instrument of Delegation from Waterway Manager - Colac Otway Shire Council - as Waterway Ma [9.13.2 - 10 pages]</li></ol>

### 1. PURPOSE

The purpose of this report is for Council to consider and endorse the proposed changes to the Port of Apollo Bay Instrument of Delegation from the Port Manager to Members of Council Staff and to the Instrument of Delegation from the Waterway Manager.

### 2. 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 September 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 Project Director City Deal to the Corporate Services division. The instruments of delegation have been updated to reflect this change.

In addition, the instruments of delegation have been reviewed by Maddocks Lawyers. The recommendations contained in this report are intended to address the change in organisational structure within the Port Delegations and to include the advice received by Maddocks Lawyers for each Instrument.

### 3. RECOMMENDATION

***That Council:***

- 1. Authorise the instrument of delegation (attachment 1) from the Port Manager (Colac Otway Shire) to members of council staff.***
- 2. Authorise the instrument of delegation (attachment 2) 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.***

### 4. 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.

The organisation structure at the Port was altered in January 2024, whereby the Port Manager now reports to the Manager Property, Procurement and Contracts (Corporate Services Division) instead of the Project Director, City Deal Projects.

The instruments of delegation have been updated to reflect the change in organisational structure and include the changes recommended by Maddocks Solicitors. The proposed changes by Maddocks include:

- No substantive changes were made to the Waterway Instrument. The proposed changes include the substitution of “the Safety Director” where it appears in the instruments as part of the Marine Safety Act 2010 (MSA 2010) to “Safe Transport Victoria”, as per Transport Legislation Amendment Act 2023.
- The Transport Legislation Amendment (Port Reforms and Other Matters) Act 2022 (TLAA 2022) made changes to the Port Management Act 1995. Relevantly, the TLAA 2022 inserted additional sections and subsections, being ss 44B(1A), 44B(2)(d)-(3) , 44BA, 44D(2A) and 44(2B).

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The overarching governance principles are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law
- b) innovation and continuous improvement is to be pursued

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

- *Marine Safety Act 2010*
- *Transport Legislation Amendment Act 2023*
- *Port Management Act 1995*
- *Port Management (Local Ports) Regulations 2015*

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council’s Community Engagement Policy)**

Not applicable.

### **Public Transparency (s58 LGA 2020)**

Not applicable.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

### **Financial Management (s101 Local Government Act 2020)**

Not applicable.



**Service Performance** (s106 *Local Government Act 2020*)

Not applicable.

**Risk Assessment**

Not applicable.

**Communication/Implementation**

Not applicable.

**Human Rights Charter**

No impact.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options**Option 1 – Endorse the proposed changes identified in the Instruments of Delegation

This option is recommended by officers to accurately reflect the changes to the organisation structure and to accurately reflect legislative changes since the Instruments were last reviewed.



*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

Colac Otway Shire

## 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:

GMCS means: General Manager Corporate Services

MPAB means:                      Manager Port of Apollo Bay

MPPC means:                  Manager Property, Procurement and Contracts

PDCD means: Port of Apollo Bay Transition Manager

TLP means: Team Leader Port of Apollo Bay

3. declares that:

3.1 this Instrument of Delegation is authorised by a resolution of Council passed on 22 May 2024 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 Colac Otway Shire )

Council was hereunto affixed in accordance )

with Local Law No 4 )

Chief Executive Officer

Date:

Colac Otway Shire

### **Delegation Sources**

- Port Management Act 1995
- Port Management (Local Ports) Regulations 2015 (Vic)

Colac Otway Shire

Port Management Act 1995			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 44D(2B)	Power to impose a charge under s 44D(2A) on a commercial basis if directed or authorised under section 44BA to do so	GMCS, MPPC, MPAB	
s 44D(2A)	Power to impose a charge for carrying out a service, or part of a service, outside the port lands or waters of its local port in accordance with a direction or an authorisation under section 44BA	GMCS, MPPC, MPAB	
s 44BA	Function of providing a particular or class of port service or navigation or marine services outside the port lands or water or its local port	GMCS, MPPC, MPAB	Only in instances where the Minister has directed or authorised the Port Manager
s 44B(2)(e)	Power to exercise the Port Manager's powers outside the port lands or waters of the port in an emergency or to avert an imminent threat of death or serious injury to persons or serious damage to the environment or property	GMCS, MPPC, MPAB	
s 44B(2)(d)	Power to exercise the Port Manager's powers outside the port lands or waters of the port to provide a service, or part of a service, that the Port Manager is directed to or authorised to provide under s 44BA	GMCS, MPPC, MPAB	
s 44B(1A)	Power to do all things that are necessary or convenient to enable the Port Manager to provide a service, or part of a service, that it is directed or authorised to provide under section 44BA outside the port lands or waters of its local port	GMCS, MPPC, MPAB	
s 91HB	Duty to make an annual report to the Minister and any bodies that are prescribed by the Regulations, on the safety and environmental performance outcomes for the port or the part of the port	PDCD, MPAB	
s 91HA	Function of receiving a Ministerial direction in relation to the publication of the	PDCD,	

Colac Otway Shire

Port Management Act 1995			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	audit report and power to comply with the direction issued	MPAB	
s 91H	Function of receiving Ministerial directions and power to comply with directions issued	PDCD, MPAB	
s 91FA	Function of receiving a report from the person who has audited a management plan under s 91E	PDCD, MPAB	
s 91F	Duty to ensure that an audit under s 91E is conducted	PDCD, TLP, MPAB	
s 91C(5)	Duty to ensure that copies of the documents are made available for inspection by an authorised person	PDCD, PRTO, TLP, MPAB	
s 91C(4)	Duty to ensure that copies of certain documents are kept at the office of the Port Manager	PDCD, TLP, MPAB	
s 91C(3)	Duty to comply with written direction of the Minister under s 91H	PDCD, PRTO, TLP, MPAB	
s 91C(2)	Duty to ensure that reasonable steps to implement measures and follow processes and procedures in s 91C(2) are taken	PDCD, TLP, MPAB	
s 91C(1A)(b)	Duty to ensure that the environment management plan is audited	PDCD, MPAB	For the port or part of the port that the Port Manager manages, superintends or controls
s 91C(1A)(a)	Duty to ensure that the safety management plan is audited	PDCD, MPAB	For the port or part of the port that the Port Manager manages, superintends or controls
s 91C(1)(a)	Duty to ensure that a safety management plan and environment management	PDCD,	For the port or part of the port that the Port

Colac Otway Shire

Port Management Act 1995			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
and (b)	plan is prepared	MPAB	Manager manages, superintends or controls The safety management plan and environment management plan may be prepared as a single plan
s 88W(a)	Power to recover the costs of moving and disposal of the thing from the proceeds of that disposal	PDCD, MPAB	
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	PDCD, MPAB	
s 88U(1)	Power to recover costs incurred by the moving, storing or disposing of the thing	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
s 88T(4)	Duty to give the owner notice in writing that the Port Manager intends to dispose of the thing	PDCD, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
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	PDCD, TLP, MPAB	
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)	PDCD, PRTO, TLP, MPAB	



Colac Otway Shire

Port Management Act 1995			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	PDCD, PRTO, TLP, MPAB	
s 88Q(2)	Power to immediately remove a thing from a port if the criteria in s 88Q(2)(a) to (b) are met	PDCD, PRTO, TLP, MPAB	
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	PDCD, TLP, MPAB	
s 44F	Power to carry out works set out in s 44F(a) to (e)	PDCD, PRTO, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
s 44E(b)	Power to reduce or remove any banks or shoals within any such river or sea-bed	PDCD, PRTO, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
s 44D(8)	Power to charge interest on any unpaid charge	PDCD, MPAB	
s 44D(6)	Duty to ensure that the Port Manager does not impose a charge on a person	PDCD,	

Colac Otway Shire

Port Management Act 1995			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	for using a facility without adequate notice	MPAB	
s 44D(5)	Duty to specify who is to be liable for paying the charge	PDCD, MPAB	
s 44D(4)	Power to make allowances or provide for exemptions when imposing charges	PDCD, MPAB	
s 44D(1)	Power to impose a charge for the use of any facility in the port	PDCD, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
s 44B(2)(b)	Power to employ staff, or engage consultants, contractors or agents	PDCD, TLP, MPAB	
s 44B(2)(a)	Power to enter into other contracts and agreements	PDCD, MPAB	
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	PDCD, PRTO, TLP, MPAB	

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	PDCD, PRTO, TLP,	Subject to r 66(2)

Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPAB	
r 61	Power to provide marine safety equipment or other safety equipment in a local port	PDCD, PRTO, TLP, MPAB	
r 55(3)(b)	Power to publish the guidelines made under r 55(2) in any other manner that the Port Manager considers appropriate	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
r 55(2)	Power to make guidelines in relation to the organisation, or conduct, of organised activities in a local port	PDCD, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
r 47(3)	Duty to maintain a record of any action taken under r 47	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	

Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	PDCD, TLP, MPAB	
r 46(3)	Duty to maintain a record of any action taken under r 46	PDCD, PRTO, TLP, MPAB	
r 46(2)	Power to move the vessel, goods or other thing to a place located within or outside the local port for storage	PDCD, PRTO, TLP, MPAB	
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)	PDCD, PRTO, TLP, MPAB	
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	PDCD, PRTO, TLP, MPAB	
r 44(3)(b)	Power to publish the guidelines made under r 44(2) in any other manner that the Port Manager considers appropriate	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
r 44(2)	Power to make guidelines in relation to leaving vessels, goods or other things unattended in a local port	PDCD, TLP, MPAB	
r 39	Function of receiving notification of any incident involving hazardous port activities	PDCD, PRTO, TLP, MPAB	

Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 35(a)	Power to give a direction	PDCD, PRTO, TLP, MPAB	
r 29(1)(a)	Power to approve a structure to which a vessel can be moored	PDCD, TLP, MPAB	
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 Port Management Act 1995 (Vic)	PDCD, MPAB	
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)	PDCD, PRTO, TLP, MPAB	
r 21(3)	Power to cancel or vary a permit at the request of the holder of the permit	PDCD, PRTO, TLP, MPAB	
r 21(1)	Power to cancel or vary a permit	PDCD, PRTO, TLP, MPAB	
r 20	Power to suspend a permit	PDCD, PRTO, TLP, MPAB	
r 19	Duty not to issue a permit in respect of land in a local port that has been reserved under the Crown Land (Reserves) Act 1978 (Vic), or to which the National Parks Act 1975 (Vic) applies, if the purpose of the permit is detrimental to the purpose for which the land is reserved	PDCD, PRTO, TLP, MPAB	
r 17(5)	Power to attach any reasonable condition to a permit issued under r 17(2)	PDCD,	

Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PRTO, TLP, MPAB	
r 17(4)	Power to refuse to issue a permit to an applicant	PDCD, PRTO, TLP, MPAB	
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)	PDCD, TLP, MPAB	
r 17(2)(b)	Power to issue a permit that authorises a person to manage cargo	PDCD, PRTO, TLP, MPAB	
r 17(2)(a)	Power to issue a permit that authorises a person to berth, moor or anchor a vessel	PDCD, PRTO, TLP, MPAB	
r 17(1)	Power to approve the form in which a person may apply for a permit issued under r 17	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
r 16(1)	Duty to display details of the set aside determination as soon as practicable after making the determination	PDCD, TLP, MPAB	
r 15	Duty to keep a written record of any set aside determination, including any condition to which the determination is subject	PDCD, TLP, MPAB	

Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 14	Power to include any reasonable condition in its determination to set aside an area	PDCD, TLP, MPAB	
r 13	Power to make a determination to set aside an area	PDCD, TLP, MPAB	
r 12	Power to make a determination to set aside an area	PDCD, TLP, MPAB	
r 11	Power to make a determination to set aside an area	PDCD, TLP, MPAB	
r 10	Power to make a determination to set aside an area	PDCD, TLP, MPAB	





**INSTRUMENT OF DELEGATION FROM THE WATERWAY MANAGER –  
COLAC OTWAY SHIRE COUNCIL  
AS WATERWAY MANAGER FOR THE PORT OF APOLLO BAY**

Colac Otway Shire

### 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:

MPAB means: Manager Port of Apollo Bay

PDCD means: Port of Apollo Bay Transition Manager

TLP means: Team Leader Port of Apollo Bay

3. declares that:

3.1 this Instrument of Delegation is authorised by a resolution of Council passed on 22 May 2024 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 Shire )  
Council was hereunto affixed in accordance )  
With Local Law No 4 )

\_\_\_\_\_  
Chief Executive

\_\_\_\_\_  
Date:

Colac Otway Shire

### **Delegation Sources**

- Marine Safety Act 2010

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 281	Function of consulting with Safe Transport Victoria regarding development and review of the Marine Enforcement Policy	PDCD, MPAB	
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)	PDCD, TLP, MPAB	
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	PDCD, TLP, MPAB	
s 229(4)	Power to authorise, in writing, a person to act as an assistant harbour master	PDCD, MPAB	If a harbour master is engaged, the harbour master has been consulted and the Safety Director has given written approval
s 227(3)	Function of consulting with Safe Transport Victoria	PDCD, MPAB	
s 227(2)	Function of consulting with Safe Transport Victoria	PDCD, MPAB	
s 221(1)	Duty to issue an identity card to the harbour master	PDCD	
s 220(5)	Duty to ensure that a licensed harbour master is engaged at all times	PDCD	In respect of any part of waters in which Safe Transport Victoria has determined that a licensed harbour master is required to be engaged
s 219G(a)	Power to recover the costs of moving and disposing of the 'thing'	PDCD, TLP, MPAB	If the 'thing' has been disposed of under s 219D(1) and the identity or location of the owner has not been established
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	PDCD, MPAB	If the owner of a 'thing' is unable to recover possession of the 'thing' because the thing has been disposed of under

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	person's interest in the 'thing', less any amount payable under s 219E		Part 5.5 Division 2
s 219E(1)	Power to recover costs from the owner of the 'thing'	PDCD, TLP, MPAB	If a 'thing' has been moved under ss 219A(1) or 219A(2)
s 219D(5)	Power to dispose of the 'thing' after 28 days, either by gift, sale, destruction, or by otherwise dealing with the 'thing'	PDCD, PRTO, TLP, MPAB	If notice in writing is given under s 219D(4) to the owner and the owner does not recover the 'thing'
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	PDCD, PRTO, TLP, MPAB	
s 219D(1)	Power to dispose of a 'thing'	PDCD, PRTO, TLP, MPAB	Council must not to dispose of a 'thing' under s 219D(1) subject to ss 219D(2)(a) – (b) and 219D(3)
s 219C	Duty to make all reasonable enquiries to establish the identity or location of the owner of the property	PDCD, PRTO, TLP, MPAB	
s 219B(2)	Duty to move the 'thing' to the nearest safe and convenient place	PDCD, PRTO, TLP, MPAB	
s 219B(1)	Power to enter the vehicle or vessel using reasonable force if necessary	PDCD, PRTO, TLP, MPAB	For the purpose of conveniently or expediently moving the vehicle or vessel
s 219A(2)	Power to immediately remove a 'thing' from water	PDCD,	Subject to ss 219A(2)(a) and 219A(2)(b)

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PRTO, TLP, MPAB	
s 219A(1)	Power to move any 'thing' or cause any 'thing' to be moved from water	PDCD, PRTO, TLP, MPAB	Subject to ss 219A(1)(a) and 219A(1)(b)
s 216(3)(d)	Power to do all things necessary to enable Council to carry out its functions under s 216 of the Marine Safety Act 2010 (Vic)	PDCD, PRTO, TLP, MPAB	
s 216(3)(c)	Power to charge the prescribed fees for any service provided	PDCD, TLP, MPAB	Council must have regard to any relevant regulations made under s 311
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 Marine Safety Act 2010 (Vic)	PDCD, TLP, MPAB	
s 216(3)(a)	Power to enter into contracts and agreements for the carrying out of Council's functions under s 216 of the Marine Safety Act 2010 (Vic)	PDCD, TLP, MPAB	
s 216(1)(g)	Function of removing or marking obstructions in the water	PDCD, PRTO, TLP, MPAB	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	PDCD, PRTO, TLP, MPAB	In accordance with any directions or determination of Safe Transport Victoria  Council must carry out functions under s 216(1) in a

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			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	PDCD, PRTO, TLP, MPAB	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	PDCD, PRTO, TLP, MPAB	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	PDCD, PRTO, TLP, MPAB	In accordance with any standards developed by Safe Transport Victoria  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	PDCD, PRTO, TLP, MPAB	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)(a)	Function of managing vessel activities on the water	PDCD, PRTO, TLP, MPAB	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



Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	PDCD, PRTD, TLP, MPAB	
s 215(2)	Power to direct a person not to enter or remain in waters	PDCD, PRTD, TLP, MPAB	
s 215(1)	Function of determining that, due to an emergency, persons must not enter or remain in a part of waters	PDCD, TLP, MPAB	
s 212(4)	Duty to comply with a direction of Safe Transport Victoria	PDCD, PRTD, TLP, MPAB	
s 212(1)	Duty to give draft of the notice to Safe Transport Victoria	PDCD, MPAB	
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	PDCD, MPAB	Where Council is an applicable regulatory entity Subject to s 212
s 211(1)(a)	Power to give directions to masters of vessels in relation to the navigation and movement of those vessels	PDCD, PRTD, TLP, MPAB	Where Council is an applicable regulatory entity
s 209(4)	Duty to comply with a direction by Safe Transport Victoria	PDCD, PRTD, TLP, MPAB	
s 209(1)	Duty to give a copy of the draft notice to Safe Transport Victoria	PDCD,	

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPAB	
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	PDCD, TLP, MPAB	Subject to ss 208 and 209
s 204(4)	Duty to comply with a direction by Safe Transport Victoria	PDCD, PRTD, TLP, MPAB	
s 204(1)	Duty to give certain documents to Safe Transport Victoria	PDCD, PRTD, TLP, MPAB	
s 203(6)	Duty to publish declaration	PDCD, MPAB	Where Council is an applicable regulatory entity
s 203(3)	Power to make a declaration in respect of the matters listed in ss 203(3)(a) – 203(3)(c)	PDCD, MPAB	Where Council is an applicable regulatory entity
s 202	Duty to comply with a standard determined under s 199	PDCD, PRTD, TLP, MPAB	
s 200	Function of consulting with Safe Transport Victoria	PDCD, MPAB	
s 196(5)	Duty to take into account every submission or comment received	PDCD, TLP, MPAB	
s 196(2)	Duty to publish notice and make copies available	PDCD, TLP, MPAB	

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 196(1)	Duty to invite submissions and comments regarding proposed waterway rule	PDCD, TLP, MPAB	Subject to Part 5.1
s 194(1)	Power to request that Safe Transport Victoria makes waterway rules	PDCD, TLP, MPAB	In relation to waters under its control
s 193(7)	Function of receiving advice from Safe Transport Victoria	PDCD, TLP, MPAB	
s 193(6)	Function of receiving advice from Safe Transport Victoria	PDCD, TLP, MPAB	
s 193(5)	Function of receiving advice from Safe Transport Victoria	PDCD, TLP, MPAB	
s 193(3)(b)	Function of receiving notice from Safe Transport Victoria	PDCD, TLP, MPAB	
s 193(1)	Duty to notify Safe Transport Victoria of the intention to make a request under s 194	PDCD, TLP, MPAB	

## Item: 9.14

# Report of Informal Meeting of Councillors

<b>OFFICER</b>	Council Business
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Informal Meeting of Councillors - Lake Colac Coordinating Committee [9.14.1 - 1 page]</li> <li>2. Informal Meeting of Councillors - Councillor Briefing - 17 April 2024 [9.14.2 - 3 pages]</li> <li>3. Informal Meeting of Councillors - Pre- Council Meeting Preparation - 24 April 2024 [9.14.3 - 3 pages]</li> <li>4. Informal Meeting of Councillors - Councillor Briefing - 1 May 2024 [9.14.4 - 2 pages]</li> <li>5. Informal Meeting of Councillors Record Template October 2020 [9.14.5 - 2 pages]</li> <li>6. Informal Meeting of Councillors - Councillor Briefing - 8 May 2024 [9.14.6 - 2 pages]</li> <li>7. Informal Meeting of Councillors Record Colac Regional Saleyards Advisory Committee [9.14.7 - 2 pages]</li> </ol>

## 1. PURPOSE

To report the Informal Meetings of Councillors.

## 2. EXECUTIVE SUMMARY

The Colac Otway Shire Governance Rules require that records of informal meetings of Councillors which meet the following criteria:

*If there is a meeting of Councillors that:*

- *is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors*
- *is attended by at least one member of Council staff*
- *is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.*

be tabled at the next convenient meeting of Council and recorded in the minutes of that Council meeting.

All relevant meetings have been recorded and documented, as attached.

### 3. REPORTING

*The Informal Meetings of Councillors reported are:*

- |   |                      |
|---|----------------------|
| <b>1. Lake Colac Coordinating Committee</b>                   | <b>12 April 2024</b> |
| <b>2. Councillor Briefing</b>                                 | <b>17 April 2024</b> |
| <b>3. Council Preparation</b>                                 | <b>24 April 2024</b> |
| <b>4. Councillor Briefing</b>                                 | <b>1 May 2024</b>    |
| <b>5. Consultation Meeting</b>                                | <b>6 May 2024</b>    |
| <b>6. Councillor Briefing</b>                                 | <b>8 May 2024</b>    |
| <b>7. Colac Regional Saleyards Advisory Committee Meeting</b> | <b>10 May 2024</b>   |

### 4. KEY INFORMATION

The following Informal Meetings of Councillors have been held and are attached to this report:

- |   |                      |
|---|----------------------|
| <b>1. Lake Colac Coordinating Committee</b>                   | <b>12 April 2024</b> |
| <b>2. Councillor Briefing</b>                                 | <b>17 April 2024</b> |
| <b>3. Council Preparation</b>                                 | <b>24 April 2024</b> |
| <b>4. Councillor Briefing</b>                                 | <b>1 May 2024</b>    |
| <b>5. Consultation Meeting</b>                                | <b>6 May 2024</b>    |
| <b>6. Councillor Briefing</b>                                 | <b>8 May 2024</b>    |
| <b>7. Colac Regional Saleyards Advisory Committee Meeting</b> | <b>10 May 2024</b>   |

### 5. OFFICER GENERAL OR MATERIAL INTEREST

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.



## Informal Meeting of Councillors Record

This form must be completed by the attending Council Officer and the completed form must be provided to [governance@colacotway.vic.gov.au](mailto:governance@colacotway.vic.gov.au) for reporting at the next practicable Council Meeting.

Please refer to Chapter 5 (Disclosure of Conflict of Interest) and Chapter 6 (Informal Meetings of Councillors) of the Governance Rules and the guidelines over page.

### Meeting Details

Meeting name: Lake Colac Co-ordinating Committee

Date: Click or tap to enter a date. 12.04.24 Time: 11 am/pm

Meeting Location: COPACC-meeting room one

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

Matter/s Discussed: Overview committee member feedback, purpose of committee, outcomes & next steps going forward

(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.)

### In Attendance:

Councillors:	<u>(v Kinnigan, (v Ioslin (via Teams)</u>
Officers:	<u>Ian Seuren &amp; Belinda Rocker</u>

### Conflict of Interest Disclosures for Councillors and Officers: (refer to over page for guidelines)

Name	Type of interest	Left meeting at	Returned to meeting at
	Choose an item.	am / pm	am / pm
	Choose an item.	am / pm	am / pm
	Choose an item.	am / pm	am / pm

Completed by: Belinda Rocker



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 17 April 2024

**Time:** 12.45pm

**Meeting Location:** COPACC

<b>Invitees:</b>
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren,
<b>Attendees:</b>
Cr Graham Costin (video conference), Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren, Fiona Maw, Dora Novak, James Myatt, Lauren Hester, Toni Uphill, Xavier Flanagan
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Kate Hanson (1.14pm message received)
<b>Absent:</b>
Nil

**Meeting Commenced at:** 12.53pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Chris Potter	General	Item No 1.1 – Community Award Nominations 2024	Nominee has authorised material for last election
		Item No 1.5 – Draft Budget 2024 – 2025 for Public Exhibition	Member of Bluewater Leisure Centre
Cr Tosh-Jake Finnigan	General	Item No 1.2 – Aged Care Update	Family member works with OPASS
		Item No 1.5 – Draft Budget 2024 – 2025 for Public Exhibition	Member of Bluewater Leisure Centre

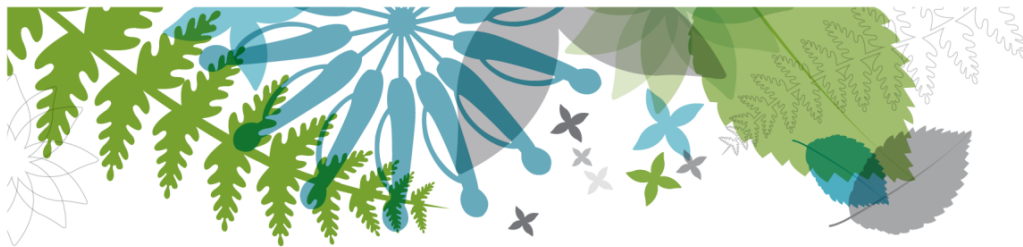




Name	Type of Disclosure	Item	Reason
Andrew Tenni	General	Item No 1.5 – Draft Budget 2024 – 2025 for Public Exhibition	Member of Bluewater Leisure Centre
Ian Seuren	General	Item No 1.2 – Aged Care Update	Family member in care

**Councillor Briefing Meeting 17 April 2024 (continued)**

Time	Item	Attendees
12.53pm – 1.02pm	Item No 1.1 - Community Award Nominations 2024 Cr Chris Potter left the room COI – 12.55 returned - 1.03pm	Fiona Maw
1.02pm – 1.19pm	Item No 1.2 - Aged Care Review Cr Tosh-Jake Finnigan left the room COI 1.03pm - returned 1.21pm	Lauren Hester
1.19pm – 1.27pm	Break – waiting for Officer to attend – running ahead of time	
1.27pm – 2.18pm	Item No 1.3 - Saleyards Review Cr Hart left the room 1.44pm – returned 1.45pm Doug McNeill left the room 1.32pm – returned 1.34pm	James Myatt
2.18pm – 3.01pm	Item No 1.4 - Climate Change Action Plan Implementation Update - Carbon Offsets and 2023/24 Projects Cr Finnigan left the room 2.19pm – returned 2.20pm Cr Arnott left the room 2.56pm – returned 2.59pm	Doug McNeill Dora Novak
3.01pm – 3.14pm	Break	
3.14pm – 4.45pm	Item No 1.5 - Draft Budget 2024-2025 for Public Exhibition – Changes & Corrections Cr Finnigan left the meeting at 4.30pm and did not return	Xavier Flanagan Toni Uphill
4.45pm – 4.52pm	General Business - including Proposed Hall Street, Cressy Roadworks Associated with Road Closure (Doug McNeill)	Doug McNeill
FIO	Contract 2414 - Queen and Wilson Streets Intersection - Raised Pedestrian Platforms - Award of Contract  Community Asset Committees - New Members - Apollo Bay Senior Citizens Centre  S6 Instrument of Delegation - Council to Members of Council Staff - Update	



4.52pm	Meeting Closed	
--------	----------------	--



## Informal Meeting of Councillors Record

### Pre-Council Meeting Preparation

**Date:** 24 April 2024

**Time:** 2.00pm

**Meeting Location:** COPACC

<b>Invitees:</b>
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren
<b>Attendees:</b>
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan (video conference), Cr Max Arnott, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren, Dora Novak, Toni Uphill
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>

**Meeting Commenced at:** 2.10pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Chris Potter	General	Item No 9.4 – Preparation of 2024-25 Draft Budget – Endorsement for Fees and Charges for Bluewater Leisure Centre  Item No 9.17 – Community Awards Nominations 2024	Member of Bluewater Leisure Centre  Nominee has authorised material for last election
Ian Seuren	General	Item No 9.11 – Best Value Review of Aged and Disability Services, reports for noting	Family member in care



Name	Type of Disclosure	Item	Reason
Andrew Tenni	General	Item No 9.4 – Preparation of 2024-25 Draft Budget – Endorsement for Fees and Charges for Bluewater Leisure Centre	Member of Bluewater Leisure Centre
Cr Tosh-Jake Finnigan	General	Item No 9.3 – Preparation of 2024-25 Draft Budget – Endorsement for Fees and Charges for Local Laws and Community Services Item No 9.5 – Preparation of 2024-25 Draft Budget – Endorse for Exhibition	Local Business Owner
Cr Kate Hanson	General	Item No 9.4 – Preparation of 2024-25 Draft Budget – Endorsement for Fees and Charges for Bluewater Leisure Centre Item No 9.17 – Community Awards Nominations 2024	Member of Bluewater Leisure Centre Works with a nominee of the awards.
Anne Howard	Material	Item No 9.14 – Appointment of Independent Member – CEO Employment Matter Committee	Employment related conflict

Pre Council Meeting Preparation 24 April 2024 (continued)		
Time	Item	Attendees
2.17pm – 2.20pm	Item No 9.1 - Marengo Beacon Reinstatement	
2.20pm – 2.24pm	Item No 9.2 - Project Budget Adjustments and Cash Reserve Transfers - April 2024	
2.24pm – 2.26pm	Item No 9.3 - Preparation of 2024-25 Draft Budget - Endorsement of Fees and Charges for Local Laws and Community Services Cr Tosh-Jake Finnigan left – returned 2.26pm	Toni Uphill
2.26pm – 2.27pm	Item No 9.4 - Preparation of 2024-25 Draft Budget - Endorsement of Fees and Charges for Bluewater Leisure Centre Cr Chris Potter left the room COI 2.26pm – returned 2.27pm	Toni Uphill
2.27pm – 2.34pm	Item No 9.5 - Preparation of 2024-25 Draft Budget - Endorse for Exhibition Cr Tosh-Jake Finnigan left 2.28pm – returned 2.34pm	Toni Uphill
2.34pm	Item No 9.6 - J Barrys Road/Colac West Planning Scheme Amendment C125cola Referral to Planning Panel	



2.34pm	Item No 9.7 - Proposed property disposal via direct negotiation, Lot 1, 8-16 Great Ocean Road, Lavers Hill	
2.34pm – 2.46pm	Item No 9.8 – Proposed property disposal via Expression of Interest, 69 McLachlan Street, Apollo Bay	
3.00pm	Item No 9.10 - Quarterly Budget Report (December 2023), for noting	
3.00pm	Item No 9.11 - Best Value Review of Aged and Disability Services, reports for noting	
3.00pm	Item No 9.12 - Award of Contract 2414 - Queen and Wilson Streets intersection - Raised Pedestrian Platforms	
3.00pm	Item No 9.13 - Future commitment to G21 Geelong Region Alliance	
3.00pm	Item No 9.14 - Appointment of independent member CEO Employment Matters Committee	
3.00pm	Item No 9.15 - Appointment of Councillor representative - Geelong City Deal Community Reference Groups for Apollo Bay Harbour and Kennett River projects	
3.00pm	Item No 9.16 – Appointment of new members – Apollo Bay Senior Citizens Centre Community Asset Committee	
3.00pm	Item No 9.17 - Community Award Nominations 2024	
3.00pm	Item No 9.18 - Update to S6 Instrument of Delegation Council to Members of Council Staff	
3.00pm	Item No 9.19 - Report of Informal Meetings of Councillors	
3.06pm	Item No 9.9 - Purchase of Offsets for Council's Greenhouse Gas Emissions - 2021/22 and 2022/23	Dora Novak
	Meeting Closed	



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 1 May 2024

**Time:** 1.00pm

**Meeting Location:** Meeting Rooms 1 and 2, COPACC

#### Invitees:

Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren,

#### Attendees:

Cr Graham Costin (video conference), Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren, Tamzin McLennan, James Myatt, David Butterfield, Lyndal McLean, Nicole Frampton

#### External attendees:

Nil

#### Apologies:

Nil

#### Absent:

**Meeting Commenced at:** 1.05pm

#### Declarations of Interest:

Name	Type of Disclosure	Item	Reason



Council Briefing Meeting – 1 May 2024 (continued)		
Time	Item	Attendees
1.06pm – 1.40pm	Item No 1.1 – Bass Strait Freight Update	
1.40pm – 2.11pm	Item No 1.2 – Lake Colac Perimeter Path Feasibility Study	Lyndal McLean/Tamzin McLennan
2.11pm – 2.25pm	Item No 1.3 – Draft Flag Policy – consideration of submissions	Nicole Frampton/Tamzin McLennan
2.25pm – 2.52pm	Item No 1.4 – Apollo Bay Aquatic Centre Agreement Review Cr Tosh-Jake Finnigan left 2.25pm – returned 2.34pm Cr Kate Hansen arrives at 2.48pm	James Myatt
2.52pm – 3.15pm	Item No 1.5 – Lavers Hill Pool Funding Agreement Update	James Myatt
3.15pm – 3.28pm	Break	
3.28pm – 3.34pm	Item No 1.6 – Alvie Netball Court Resurfacing Project	
3.34pm – 3.56pm	Item No 1.7 – Revised Procurement Policy Cr Tosh-Jake Finnigan left 3.52pm – returned 3.55pm	David Butterfield
3.56pm – 4.02pm	General Business <ul style="list-style-type: none"> <li>Cr Stephen Hart - Lavers Hill hall meeting – Fences around the skip bins?</li> <li>Cr Maragaret White – Path around Lake Colac, when will the dates be out for public consultation?</li> </ul>	
4.02pm	Meeting Closed	





## Informal Meeting of Councillors Record

This form must be completed by the attending Council Officer and the completed form must be provided to [governance@colacotway.vic.gov.au](mailto:governance@colacotway.vic.gov.au) for reporting at the next practicable Council Meeting.

Please refer to Chapter 5 (Disclosure of Conflict of Interest) and Chapter 6 (Informal Meetings of Councillors) of the Governance Rules and the guidelines over page.

### Meeting Details

**Meeting name:** \_\_\_\_\_

**Date:** Click or tap to enter a date.

**Time:** \_\_\_\_\_ am / pm

**Meeting Location:** \_\_\_\_\_

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

**Matter/s Discussed:** \_\_\_\_\_

(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.)

### In Attendance:

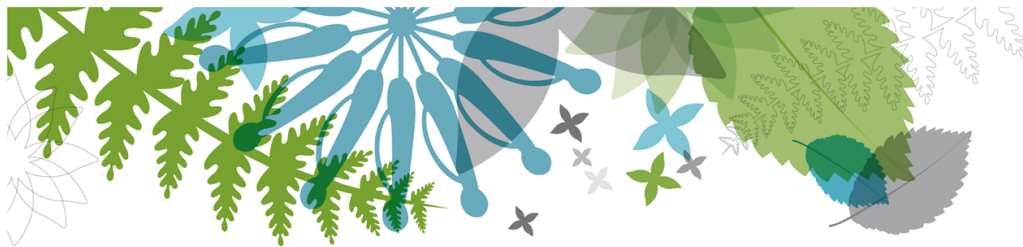
#### Councillors:

#### Officers:

### Conflict of Interest Disclosures for Councillors and Officers: (refer to over page for guidelines)

Name	Type of interest	Left meeting at	Returned to meeting at
	Choose an item.	am / pm	am / pm
	Choose an item.	am / pm	am / pm
	Choose an item.	am / pm	am / pm

Completed by: \_\_\_\_\_



### Informal Meetings of Councillors Records

An Informal Meetings of Councillors record must be completed for the following meetings:

- An internal advisory committee meeting where the minutes are not reported to a Council meeting (Central Reserve Advisory Committee, Colac Regional Saleyards Advisory Committee, Friends of the Colac Botanic Gardens Advisory Committee, Colac Municipal Aerodrome Advisory Committee and Lake Colac Co-ordinating Committee)
- A meeting of Councillors which is scheduled or planned for the purpose of discussing business of Council or briefing Councillors, and is attended by at least one member of Council staff.

The records are to be tabled at the next practicable Council meeting and recorded in the minutes of that Council meeting.

### Declaration of a Conflict of Interest

Section 126 of the *Local Government Act 2020* defines conflicts of interest as being either a general conflict of interest or a material conflict of interest.

#### General Conflict of Interest

A person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

#### Material Conflict of Interest

A person has a material conflict of interest in a matter if they would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred either directly or indirectly, or in a pecuniary or non-pecuniary form. You would also have a material conflict of interest when one or more of the following would gain a benefit or suffer a loss depending on the outcome of the matter:

- A family member of the relevant person. A family member is defined as:
  - a) A spouse or domestic partner; or
  - b) A parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of you or your spouse or domestic partner; or
  - c) Any other relative that regularly resides with you.
- A body corporate of which you or your spouse or domestic partner is a Director or a member of the governing body;
- Your employer(s), unless the employer is a public body;
- Your business partner(s);
- A person for whom you are a consultant, contractor or agent;
- A beneficiary under a trust or an object of discretionary trust of which you are a trustee;
- A person from whom you have received a disclosable gift. A disclosable gift is defined as one or more gifts with a total value of \$500 or more that is received from the person in the five years preceding the decision on the matter. Gifts are relevant if you were a Councillor when the gift was received or if the gift was required to be disclosed as an election campaign donation. This does not include the value of any reasonable hospitality received at an event or function that you attended in the official capacity as a Councillor.



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 8 May 2024

**Time:** 1.30pm

**Meeting Location:** Meeting Rooms 1 and 2, COPACC

#### Invitees:

Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren,

#### Attendees:

Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott (video conference), Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren, Tamzin McLennan, Lyndal McLean, Nicole Frampton, Lauren Hester

#### External attendees:

Nil

#### Apologies:

Nil

#### Absent:

**Meeting Commenced at:** 1.42pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Ian Seuren	General	Item No. 1.4 - Best Value Review of Aged and Disability Services	Family member in care
Cr Tosh-Jake Finnigan	General	Item No. 1.4 - Best Value Review of Aged and Disability Services	Family member in care



Council Briefing Meeting – 8 May 2024 (continued)		
Time	Item	Attendees
1.43pm – 2.05pm	Item No 1.1 - Lake Colac Coordinating Committee Review	
2.05pm – 2.35pm	Item No 1.2 – Paradise Picnic Reserve Improvements	Tamzin McLennan
2.35pm – 3.07pm	Item No 1.3 – Priority Projects and Advocacy	
3.07pm – 3.44pm	Item No 1.4 – Best Value Review of Aged and Disability Services <b>Cr Tosh-Jake Finnigan for DOI left 3.08pm and did not return</b>	
FOI	Item No 1.5 - Auspice of the Barwon South West Climate Alliance by Surf Coast Shire	
3.45pm – 4.00pm	Submissions prep meeting	
3.44pm	Meeting Closed	

## Informal Meeting of Councillors Record

This form must be completed by the attending Council Officer and the completed form must be provided to [governance@colacotway.vic.gov.au](mailto:governance@colacotway.vic.gov.au) for reporting at the next practicable Council Meeting.

Please refer to Chapter 5 (Disclosure of Conflict of Interest) and Chapter 6 (Informal Meetings of Councillors) of the Governance Rules and the guidelines over page.

### Meeting Details

**Meeting name:** Colac Regional Saleyards Advisory Committee Meeting

**Date:** 10/05/2024      **Time:** 9 am

**Meeting Location:** Colac Regional Saleyards Canteen

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

**Matter/s Discussed:** Matters carried over for previous meeting. Welcome to new Saleyards Operations Coordinator. Future soft flooring options feedback. Councils 2024-25 draft budget and fees and charges. OH&S & maintenance. General business.

(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.)

### In Attendance:

#### Councillors:

Cr Tosh-Jake Finnigan

#### Officers:

James Myatt – Manager Business Enterprise & Improvement  
Glenn Fraser – Saleyard Operations Coordinator  
Laurie Sharp – Saleyard Maintenance Officer

### Conflict of Interest Disclosures for Councillors and Officers: (refer to over page for guidelines)

Name	Type of interest	Left meeting at	Returned to meeting at
Nil	Choose an item.	am / pm	am / pm

Completed by: James Myatt – Manager Business Enterprise & Improvement



### Informal Meetings of Councillors Records

An Informal Meetings of Councillors record must be completed for the following meetings:

- An internal advisory committee meeting where the minutes are not reported to a Council meeting (Central Reserve Advisory Committee, Colac Regional Saleyards Advisory Committee, Friends of the Colac Botanic Gardens Advisory Committee, Colac Municipal Aerodrome Advisory Committee and Lake Colac Co-ordinating Committee)
- A meeting of Councillors which is scheduled or planned for the purpose of discussing business of Council or briefing Councillors, and is attended by at least one member of Council staff.

The records are to be tabled at the next practicable Council meeting and recorded in the minutes of that Council meeting.

### Declaration of a Conflict of Interest

Section 126 of the *Local Government Act 2020* defines conflicts of interest as being either a general conflict of interest or a material conflict of interest.

#### General Conflict of Interest

A person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

#### Material Conflict of Interest

A person has a material conflict of interest in a matter if they would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred either directly or indirectly, or in a pecuniary or non-pecuniary form. You would also have a material conflict of interest when one or more of the following would gain a benefit or suffer a loss depending on the outcome of the matter:

- A family member of the relevant person. A family member is defined as:
  - a) A spouse or domestic partner; or
  - b) A parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of you or your spouse or domestic partner; or
  - c) Any other relative that regularly resides with you.
- A body corporate of which you or your spouse or domestic partner is a Director or a member of the governing body;
- Your employer(s), unless the employer is a public body;
- Your business partner(s);
- A person for whom you are a consultant, contractor or agent;
- A beneficiary under a trust or an object of discretionary trust of which you are a trustee;
- A person from whom you have received a disclosable gift. A disclosable gift is defined as one or more gifts with a total value of \$500 or more that is received from the person in the five years preceding the decision on the matter. Gifts are relevant if you were a Councillor when the gift was received or if the gift was required to be disclosed as an election campaign donation. This does not include the value of any reasonable hospitality received at an event or function that you attended in the official capacity as a Councillor.

## Item 10.1

### Notice of Motion - Great Ocean Road Regional Tourism

**COUNCILLOR** Cr Stephen Hart

**ATTACHMENTS** Nil

## 1. NOTICE OF MOTION

### *That Council:*

- 1. Notes that it is currently a member of Great Ocean Road Regional Tourism (GORRT) and that it has budgeted to pay \$101,500 for membership of GORRT for the 2024-2025 financial year,*
- 2. Notes that its membership agreement expires on 30 June 2025.*
- 3. Notes that a review will be undertaken on the financial contributions from member Councils before the expiry of the current agreement.*
- 4. Requests that the Chief Executive Officer inform GORRT that Colac Otway Shire Council has not committed to its membership beyond 30 June 2025.*
- 5. Requires that the Chief Executive Officer present a report to Council no later than 31 March 2025 to consider future membership*

## 2. COUNCILLOR COMMENT

Council has been a member of GORRT for many years and it is questionable whether Council and the community receive value for the contribution of approximately \$100,000 per annum. To put this contribution into context, Council contributes double the amount it contributes to the G21 Alliance. I could easily outline a number of achievements of G21 and did just that at the Council meeting held on 24 April 2024. I would struggle to outline substantial achievements of GORRT.

Councillors need to be aware of the risk that by the time the entity, in this case GORRT, is formally informed that Council no longer wishes to be a member, after a lengthy review process, that it can be too late for the Council to cease their membership without financial penalties. This is a general comment about membership of these types of entities. To remove this risk, it is critically important that Council informs GORRT now, more than a year in advance, that there is a possibility that Colac Otway Shire will not be a member and/or will not continue its current financial contribution. Clauses 3 and 5 aim to address this risk.



There is also a risk that new Councillors, with the best of intentions, are not aware of the considerable contribution to GORRT until it is too late to do anything about it. For example, they may not be aware of a review that is commenced during this Council term but not finished before the election. This motion aims to address that risk.

### 3. OFFICER COMMENT

Great Ocean Road Regional Tourism (GORRT) is the regional tourism organisation that facilitates the tourism partnership of the six Local Government Authorities between Torquay and the South Australian border. As the region's Visitor Economy Partnership (formerly known as Regional Tourism Boards), GORRT creates an integrated model that allows member Councils to work directly with Tourism Australia, Visit Victoria, local tourism associations, tourism businesses, and the broader community.

GORRT's annual total revenue in GORRT is approximately \$1.48m which consists of the following revenue sources:

- Local Government – \$650,000
- Victorian Government – \$590,000
- Industry – \$240,000

GORRT's primary focus areas are marketing, advocacy, industry development, and investment attraction. GORRT manages the region's digital infrastructure, social media channels and an array of marketing campaigns and strategies that showcase the region, local townships, and local businesses. GORRT plays an important role in advocating for the region's visitor economy through government policy, industry-based strategy, and during times of crisis. A key role of GORRT is to deliver industry development training to local businesses, which is delivered via conferences, online workshops, the online partner portal, digital communications, and face-to-face support.

Council has a membership agreement with GORRT which expires on 30 June 2025.

The Notice of Motion, should it be supported, will have little impact on Council resourcing as GORRT has committed to a review of the funding arrangements with member Councils in coming months. Should the Notice of Motion be supported by Council, the decision will be communicated to GORRT and member Councils.

## Item 10.2

### Rescission Motion relating to the Future Commitment to G21

**COUNCILLOR** Cr Kate Hanson

**ATTACHMENTS** Nil

#### 1. NOTICE OF RESCISSION

I, Councillor Kate Hanson, give notice of my intention to move a motion to rescind the resolution passed at the Council Meeting held on 24 April 2024, in relation to Item 9.13 with report title Future commitment to G21 Geelong Region Alliance.

And subject to that motion being carried, I propose to move the following motion:

***That Council:***

- 1. Notes that the G21 Geelong Region Alliance has reviewed its operating model with the aim of ensuring that the communities and businesses across the region can continue to receive the range of key benefits achieved through the strategic alliance for over 20 years, with a reduced financial contribution required from member Councils.***
- 2. Confirms its continued membership of G21 for a three-year period commencing 1 July 2024, with a contribution of \$28,412 (exc. GST) in 2024-25 and indexation in subsequent years that is no greater than the annual rate cap determined by the Minister for Local Government.***
- 3. Notes that members, including member Councils, may decide to provide additional funding:***
  - a. For larger projects or initiatives, enabling these allocations will be requested on a case-by-case basis so the investment can be assessed against expected outcomes; and/or***
  - b. Through sponsorship arrangements such as for the Annual Forum; and/or***
  - c. Through a supplementary funding agreement with G21 Geelong Region Alliance or other arrangement.***

- 4. Notes there is a \$47,000 allocation to G21 Geelong Region Alliance included in the draft 2024-2025 Budget (based on historic funding levels) and that the final Budget 2024-25 presented for adoption in June 2024 will include the final amount determined by Council through point 2 above.***
- 5. Authorises the Chief Executive Officer to sign a new Memorandum of Understanding with G21 Geelong Region Alliance consistent with this decision on the condition that the annual financial commitment is no greater than the amount in point 2.***

## 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 24 April 2024</i></b>	This matter deals with the confirmation of minutes	Section 3, 66 of the Local Government Act 2020
<b>Best Value Review of Aged and Disability Services</b>	This matter deals with The report contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released	Section 3, 66 of the Local Government Act 2020