



Colac Otway
SHIRE

Unconfirmed Resolutions

Council Meeting

24 April 2024

Confirmation of Minutes

RESOLUTION

Moved Cr Arnott seconded Cr Potter

That Council confirm the minutes of the Council Meeting held on 27 March 2024 and Unscheduled Council Meetings held on 13 March 2024 and 10 April 2024.

Carried 7:0

Unconfirmed Resolutions

Item: 9.1 - Marengo Beacon Reinstatement

RESOLUTION

Moved Cr Costin seconded Cr Arnott

That Council:

- 1. Notes it deferred making a decision regarding item 9.1 of the 27 March 2024 Council Meeting Agenda to enable it to consider further options with respect to recognising the former Marengo Pillar Beacon and its importance to Apollo Bay and district.*
- 2. Notes the advice from Safe Transport Victoria that if the historic pillar beacon is reinstated it should not include the 'top mark' to avoid risk of confusion with other navigational devices.*
- 3. Notes that discussions with representatives of the Apollo Bay Men's Shed group indicate that they are keen to have a role in supporting the reinstatement of the pillar beacon.*
- 4. Determines to pursue the reinstatement of the former Marengo Pillar Beacon, with installation of interpretive sign including a photograph of the complete pillar beacon with 'top mark' and description of its historic significance, noting that the 'top mark' will not be reinstated.*
- 5. Allocates \$20,000 (excluding GST) from the Unallocated Discretionary Funds for the purpose of gaining approvals and reinstating the beacon, noting that a partnership with the Apollo Bay Men's Shed group may assist in minimising projects costs in which case unexpended funds will be returned to Council.*
- 6. Notes that the update of the Colac Otway Heritage Study was presented to Councillors as a candidate as part of the development of the Budget 2024-25.*

Carried 7:0

Item: 9.8 - Proposed property disposal via Expression of Interest, 69 McLachlan Street, Apollo Bay

RESOLUTION

Moved Cr Hart seconded Cr Potter

That Council, having invited Expressions of Interest in relation to the disposal of 69 McLachlan Street Apollo Bay (the Subject Property):

- 1 Determines to accept the Expression of Interest submission (Attachment 1) received from the Apollo Bay Community Voice subject to the following:**
 - a) That the new owner of the property will be the 'Apollo Bay Community Charitable Trust' to be established for this purpose in a manner that complies with section 116(1)(d) of the Local Government Act; and**
 - b) If the new owner transfers the property to another entity, regardless of the method of transfer or financial consideration at that time, the following amounts are to be paid to Council within 30 days of the date of transfer of the property:**
 - i) \$688,000 if the transfer occurs from 25 April 2024 to 30 June 2025.**
 - ii) \$602,000 if the transfer occurs from 1 July 2025 to 30 June 2026.**
 - iii) \$516,000 if the transfer occurs from 1 July 2026 to 30 June 2027.**
 - iv) \$430,000 if the transfer occurs from 1 July 2027 to 30 June 2028.**
- 2 Notes the following in relation to point 1(b) above:**
 - a) The valuation of the property in Council's rates system at the time of consideration of this report is \$860,000.**
 - b) There will be no financial return to Council if the property is transferred after 1 July 2028.**
- 3 Endorses the draft Trust Deed (Attachment 2) as provided in the submission which sets out the terms for the establishment and operation of the Apollo Bay Community Charitable Trust, subject to the incorporation of conditions in point 1(b) above.**

- 4 Authorises the Chief Executive Officer to enter into a Contract of Sale (or equivalent legal agreement) without financial consideration, in accordance with section 116 of the Local Government Act 2020 with the Apollo Bay Community Charitable Trust.**
- 5 Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a Contract of Sale (or equivalent legal agreement) for the Subject Property in accordance with this resolution.**
- 6 Agrees that Council will pay for legal and administrative costs to enact this transfer of the Subject Property that are generally the responsibility of the vendor, however the costs for establishment of the Apollo Bay Community Charitable Trust and all other costs shall be borne by the Trust or other community group.**
- 7 Notes that the Subject Property will be removed from its asset register and the relevant financial adjustments to accounts will be made following the settlement of the Contract of Sale.**

Carried 7:0

Item: 9.15 - Appointment of Councillor representative - Geelong City Deal Community Reference Groups for Apollo Bay Harbour and Kennett River projects

RESOLUTION

Moved Cr Costin seconded Cr Hart

That Council:

- 1. Notes the Great Ocean Road Coast and Parks Authority's invitation to appoint a councillor to the Community Reference Groups for each of the two Geelong City Deal projects taking place in Colac Otway Shire, to the role of Observer (non-member).*
- 2. Appoints Cr Potter to the Geelong City Deal - Apollo Bay Harbour Redevelopment Community Reference Group.*
- 3. Appoints Cr Potter to the Geelong City Deal - Improvements to Tourism Infrastructure at Kennett River Community Reference Group.*

Carried 7:0

Item: 9.16 - Appointment of new members - Apollo Bay Senior Citizens Centre Community Asset Committee

RESOLUTION

Moved Cr Costin seconded Cr Arnott

That Council:

Appoints the following members to the Apollo Bay Senior Citizens Centre Community Asset Committee:

- ***Jo Dunsmuir***
- ***Wayne Simmons***
- ***Ali Corke***
- ***Vicky Thursfield.***

Carried 7:0

Item: 9.2 - Project Budget Adjustments and Cash Reserve Transfers - April 2024

RESOLUTION

Moved Cr Finnigan seconded Cr Potter

That Council:

- 1. Approves the new projects as presented in Tables 1 and 2 of this report, at a total cost to Council of \$10,000 (exc. GST), funded from Unallocated Discretionary Fund.***
- 2. Approves the project budget adjustments in Table 3a.***
- 3. Approves the project budget adjustments in Table 3b.***
- 4. Approves a transfer of \$50,000 from the Strategic Projects Reserve to the Colac Livestock Reserve to be allocated by Council following consideration of the service review of the saleyards currently underway.***

Carried 7:0

Item: 9.3 - Preparation of 2024-25 Draft Budget - Endorsement of Fees and Charges for Local Laws and Community Services

RESOLUTION

Moved Cr Arnott seconded Cr Hanson

That Council:

Endorses the following fees and charges, for the purpose of public exhibition, presented in the Proposed Fees and Charges 2024-25 document (as attached):

- 1. 'Local Laws – Local law No 1', on page 26 and 27 of 28***
- 2. 'Community Services – Older Persons Ability Support Service', on page 13 to 15 of 28***

Carried 6:0

Item: 9.4 - Preparation of 2024-25 Draft Budget - Endorsement of Fees and Charges for Bluewater Leisure Centre

RESOLUTION

Moved Cr Arnott seconded Cr Costin

That Council:

That Council endorses the fees and charges, for the purpose of public exhibition, for the 'Bluewater Leisure Centre', on page 8 to 11 of 28 in the Proposed Fees and Charges 2024-25 document (as Attachment 2 to Agenda Item 9.5)

Carried 5:0

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Item: 9.5 - Preparation of 2024-25 Draft Budget - Endorse for Exhibition

RECOMMENDATION

Moved Cr Hart seconded Cr Arnott

That Council:

- 1. Notes that draft fees for Bluewater Leisure Centre, Community Services – Older Persons Ability Support Service and Local Laws have been separately approved by Council for exhibition with the Draft Budget 2024-25.*
- 2. Endorses the Draft Budget 2024-25 for the financial year, and subsequent 3 financial years, for the purposes of Section 94 of the Local Government Act 2020, including the Draft 2024-25 Fees and Charges.*
- 3. Gives public notice via Council’s website, local newspapers, and social media that Council has prepared a Draft Budget for the 2024-25 year and subsequent 3 financial years, including the Draft 2024-25 Fees and Charges.*
- 4. Determines that the public consultation period will be no less than 28 days from the initial public notice, to ensure sufficient time to consider submissions and adopt the budget by 30 June 2024.*
- 5. Schedules a Submissions Committee meeting to be held on Wednesday 12 June 2024, commencing at 4 pm at the Colac Otway Performing Arts and Cultural Centre, to provide 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.*
- 6. Authorises the Chief Executive Officer to undertake administrative procedures necessary to enable Council to carry out its obligations under sections 94, 95 and 96 of the Local Government Act 2020.*
- 7. Considers for adoption the Budget 2024-25, and subsequent 3 financial years, including the 2024-25 Fees and Charges at the Council Meeting scheduled to be held on Wednesday 26 June 2024 at 4pm at Colac Otway Performing Arts and Cultural Centre after consideration of any written and verbal submissions received by Council.*

Carried 5:2

Item: 9.6 - J Barrys Road / Colac West Planning Scheme Amendment C125cola Referral to Planning Panel

RESOLUTION

Moved Cr Potter seconded Cr Finnigan

That Council:

Having formally considered all written submissions made to Amendment C125cola to the Colac Otway Planning Scheme under section 22 of the Planning and Environment Act 1987 (the Act), resolves to:

- 1. Split Amendment C125cola into two separate amendments, with Part 1 including changes associated with Colac West and Part 2 associated with industrial land and J Barrys Road, pursuant to section 29 of the Act.*
- 2. Endorses the officers' response to the issues raised by the submission relating to Amendment C125cola - Part 1, as outlined in revised Schedule 9 to the Development Plan Overlay (relabelled Schedule 10).*
- 3. Adopts Amendment C125cola - Part 1 to the Colac Otway Planning Scheme with changes generally in accordance with the revised Schedule 9 (relabelled Schedule 10) to the Development Plan Overlay (DPO10), pursuant to section 29 of the Act.*
- 4. Authorises the Chief Executive Officer (or delegate) to finalise the Amendment C125cola – Part 1 documentation for Ministerial approval.*
- 5. Submits the changed and adopted Amendment C125cola – Part 1 documentation, together with prescribed information, to the Minister for Planning for approval, pursuant to section 31 of the Act.*
- 6. Requests the Minister for Planning to appoint an independent Planning Panel to consider the submissions related to Amendment C125cola – Part 2, in accordance with Part 8 of the Act and refers those submissions that relate to Amendment C125cola – Part 2 to the Panel to be appointed by the Minister for Planning.*

- 7. Authorises officers/suitable persons to represent Council at the Planning Panel hearing generally in accordance with the response to the issues outlined in this report.**
- 8. Write to all submitters to Amendment C125cola to inform them of Council's decision.**

Carried 7:0

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Item: 9.7 - Proposed property disposal via direct negotiation, Lot 1, 8-16 Great Ocean Road, Lavers Hill

RESOLUTION

Moved Cr Arnott seconded Cr Potter

That Council:

Having followed the required statutory procedures under Section 114 of the Local Government Act 2020 (Act), and having received no submissions in response to the public notice of its intention to dispose of Lot 1, 8-16 Great Ocean Road Lavers Hill (the Subject Property):

- 1. *Determines to sell the Subject Property subject to points 2 and 3 below.***
- 2. *Authorises the Chief Executive Officer or delegate to negotiate with the two adjoining landowners for the sale of the Subject Property on the condition that the title to the Subject Property must be consolidated with the title to the adjoining landowner's main property.***
- 3. *Authorises the Chief Executive Officer to enter into a Contract of Sale for the highest price offered if more than one written offer is received to purchase the Subject Property.***
- 4. *Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a Contract of Sale for the Subject Property in accordance with this resolution.***
- 5. *Approves the transfer of the income of the sale of the property, net of related costs incurred to the Strategic Project Reserve, to be held until Council resolves otherwise.***
- 6. *Discloses the sale price for the Subject Property in the first Quarterly Budget Report following settlement of the contract.***

Carried 7:0

Item: 9.9 - Purchase of Offsets for Council's Greenhouse Gas Emissions - 2021-22 and 2022-23

RESOLUTION

Moved Cr Hart and seconded Cr Potter

That Council:

- 1. Notes its commitment in the Council Plan and Environmental Sustainability Strategy 2023-33 to achieving Net Zero corporate greenhouse gas emissions relating to its Scope 1 and 2 activities.**
- 2. Notes that the Council Plan states that it will “maintain Council’s net zero carbon emissions and reduce dependence on carbon offsets through implementation of emission reduction projects” and this has been reflected in its adopted Environmental Sustainability Strategy and Climate Change Action Plan.**
- 3. Notes that it engaged with the community about emission reduction and offset purchases through the development of the Environmental Sustainability Strategy and Climate Change Action Plan and these strategic documents both express a preference for nature-based carbon offsets which have a focus on local offsets where practical.**
- 4. Notes that Council achieved the target of Net Zero emissions in the 2020-21 year by purchasing carbon offsets.**
- 5. Notes it resolved at its meeting on 26 April 2023 to defer the purchase of offsets for the 2021-22 and 2022-23 financial years until further community engagement had been undertaken on this issue with the exhibition of the draft Environmental Sustainability Strategy.**
- 6. Meets its commitment in the Council Plan and Environmental Sustainability Strategy to working towards net zero greenhouse gas emissions for Council’s operations by approving the purchase of nature based offsets from Greenfleet for the 2021-22 and 2022-23 financial years, to a maximum cost of \$25,000.**
- 7. Reallocates unexpended offset funding resulting from implementation of point 6 to the Bluewater Electrification project to be held in the Strategic Projects**

Reserve which will reduce the amount of funding required from the unallocated proceeds from the sale of 36-52 Bruce Street Colac.

- 8. Considers the possible purchase of offsets for the 2023-2024 financial year once the annual report has been adopted and the emissions for that year are known.***

Carried 4:3

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Item: 9.10 - Quarterly Budget Report (December 2023), for noting

RESOLUTION

Moved Cr Arnott seconded Cr Potter

That Council:

Notes the Quarterly Performance Report for the second quarter 2022-23, for the period 1 October to 31 December 2023.

Carried 6:0

Unconfirmed Resolutions

Item: 9.11 - Best Value Review of Aged and Disability Services, reports for noting

RESOLUTION

Moved Cr Hart seconded Cr Arnott

That Council:

- 1. Notes that the Best Value Review of Aged and Disability Services has been conducted in accordance with the project plan it endorsed on 3 May 2024, although the review has taken longer than anticipated to ensure maximum information is available and incorporated into the final reports.***
- 2. Thanks, the OPASS team and the clients for their support and input throughout the period of the review.***
- 3. Receives the relevant reports prepared by Lake Advisory (as per Confidential Attachments 1 and 2).***
- 4. Receives the Quality Audit Report prepared by the Aged Care Quality and Safety Commission in March 2024 (per Confidential Attachment 3).***
- 5. Notes that it will be presented with a report at its meeting scheduled for 22 May 2024 to enable Council to consider its future direction regarding the provision of Aged and Disability Services.***
- 6. Request officers prepare for distribution at a briefing session by 10 May 2024 a report which summarises the work of the consultants and authorises its publication on Council's website prior to the May 2024 Council meeting.***

Carried 6:0

Item: 9.12 - Award of Contract 2414 - Queen and Wilson Streets intersection - Raised Pedestrian Platforms

RESOLUTION

Cr Arnott moved seconded Cr Hart

That Council:

- 1. Awards Contract 2414 – Queen and Wilson Streets Intersection – Raised Pedestrian Platforms to Tenderer 3 (as per the confidential attachment to this report) for the lump sum price of \$313,250 excluding GST.*
- 2. Authorises the Chief Executive Officer to execute the contract documents on behalf of the Council.*
- 3. Authorises the Chief Executive Officer to perform all roles of the principal.*
- 4. Appoints the General Manager Community and Economy to the role of Superintendent for the contract, including managing variations in accordance with the contract conditions.*
- 5. Notes that the unsuccessful tenderers will be advised of the outcome of the tender process after which the successful tenderer and contract price will be listed on Council's website.*

Carried 6:0

Item: 9.13 - Future commitment to G21 Geelong Region Alliance

RESOLUTION

Moved Cr Hart seconded Cr Arnott

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 total contribution of \$47,000 (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. 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.

Carried 5:1

Item: 9.14 - Appointment of Independent Member - CEO Employment Matters Committee

RESOLUTION

Moved Cr Hart seconded Cr Arnott

That Council:

- 1. Thanks Peter R Brown for his previous service on the committee as an independent member.**
- 2. Thanks, all applicants for their interest in the role.**
- 3. Appoints the preferred applicant at paragraph 2.1 and terms outlined at 2.2 (as contained in the confidential attachment) to the position of Independent Chair of the CEO Employment Matters Committee for an initial term of three years; and**
- 4. Makes this appointment public on Council's website.**

Carried 6:0

Item: 9.18 - Update to S6 Instrument of Delegation Council to Members of Council Staff

RESOLUTION

Moved Cr Potter seconded Cr Arnott

That Council:

- 1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation (Attachment 2), delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation, the powers, duties, and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.***
- 2. Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.***
- 3. Authorises the use of the common seal in accordance with Colac Otway Shire's Governance Local Law No 4 – 2020.***
- 4. Approves the S6 Instrument of Delegation to come into force immediately upon execution.***
- 5. Approves that coming into force of the S6 Instrument of Delegation, the previous S6 Instrument of Delegation from Council to members of Council staff (dated 5 October 2023) is revoked.***
- 6. Notes the duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.***

Carried 6:0