

## Questions Submitted in Writing – Ordinary Council Meeting – 27 May 2020

James Judd, Colac

- 1. Due to the restricted access to Council services during the COVID-19 restrictions will the Council include a full list of all items listed for consideration at Council meetings in notices placed in the Colac Herald prior to the meeting date since you no longer make available hard copies of Council agendas to be picked up? Plus online access is not available to all. Items important to officers may not be very critical to some residents and ratepayers.**

### *Response from Chief Executive*

Council has historically restricted the number of agenda items in Council meeting advertisements to reduce the cost of advertising that is ultimately borne by the ratepayer.

The items included in an agenda for any Council meeting can be viewed on Council's website which is a format accessible to a significant portion of the community in 2020.

For those members of the community who would typically collect a copy of an agenda from Customer Assist, this option is still available however due to the COVID-19 pandemic, appointments are required so that Council officers know when to expect you. As advised to the community several weeks ago when these arrangements were first implemented, appointments can be made by telephoning 5232 9400.

- 2. If the Colac Otway Shire Council is to provide library services in Colac and Apollo Bay, when will it reconsider the siting a facility on leased land is a long term guarantee of tenure against placing an outlet on property owned by Council? Since lease conditions can change at any time if the owner of property changes the rules.**

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

Council has entered into a long term agreement with the Victorian Government for use of the Colac Community Library and Learning Centre. In addition, Council also has a long term agreement with Great Ocean Road Health for the use of the Apollo Bay Library. Both these agreements provide security of tenure for Council. Council has no intentions of reviewing the location of library facilities in Colac or Apollo Bay.

- 3. With the increased number of garbage bins now required to sort rubbish into, when will the Council Planning department consider the need to provide a safe storing area for garbage bins in all future flat and multiple use developments in the Colac Otway Shire? We cannot have people required to store garbage bins in living quarters or among tradable goods.**

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

Council always seeks to ensure that safe storage facilities are available for garbage bins in multi-unit and apartment developments.

When assessing planning applications for more than one dwelling on a lot, regard must be had to the objectives and standards of Clause 55 (Two or More Dwellings on a Lot and Residential Buildings) of the Colac Otway Planning Scheme (known as 'ResCode'). This section of the planning scheme specifies standards for matters such as setbacks, allowable overlooking and overshadowing etc., and also for on-site facilities. This Clause adequately deals with issues such as the storage of garbage bins.

4. **Has any consideration been given to the cost of conducting Council elections in relation to costs of producing and sending out election material when elections are conducted on a whole of municipality basis all voters would be required to receive the same details on all candidates standing and the same ballot papers against the cost of producing and sending out election material when an election on a ward basis when only details for that ward would have been sent out to enrolled voters when the cost of postage depends on weight and size of items posted plus longer candidates information permitted to be sent out and this would further increase postage costs?**

***Response from Chief Executive Officer***

Local government elections are conducted by the Victorian Electoral Commission (VEC) which is responsible for determining the details contained within this question. The VEC can be contacted as follows:

Mailing address:                   The Victorian Electoral Commission  
  Level 11, 530 Collins Street  
  Melbourne VIC 3000

General phone enquiries: 131 832

General email enquiries: [info@vec.vic.gov.au](mailto:info@vec.vic.gov.au)

5. **Under the Local Government Act 2020 has any alteration been made to who is required to vote at Municipal Elections and fines if you do not vote since you only had to vote until 70 years of age then it was optional to vote with no fines for people once 70 years of age who failed to vote at municipal elections? Plus has the minimum voting age been changed?**

***Response from Chief Executive Officer***

The VEC has advised that the Local Government (Electoral) Regulations 2016 (**the Regulations**) prescribes excuses for failing vote and provides the VEC's prosecution officer with the ability to generally consider excuses, including those offered by non-voters responding to an apparent failure to vote notices.

One of the prescribed excuses in the Regulations applies to voters aged 70 years or over on election day. This excuse is applied automatically to the list of non-voters after an election so any non-voters aged 70 years or over will not be issued with an apparent failure to vote notice.

It is important to note that the Regulations were made under the *Local Government Act 1989* and do not apply to elections to be held under the new *Local Government Act 2020*. We understand Local Government Victoria is currently drafting new regulations to replace the Regulations. It will not be until any new regulations are made that we will know for certain whether this excuse will continue to be a prescribed excuse for failing to vote at local government elections. Once the new regulations are made, the VEC will consider any policy matters that will inform the prosecution officer's general approach to excuses for failing to vote at future elections.

In relation to your second question, there has been no changes to the minimum age for voting at local government elections. The minimum age for voting at local government elections in Victoria is 18 years, as at the election day.

**Marina Lewis, Gellibrand**

1. Given that the Local Government Act 2020 now mandates Council transparency as well as open engagement of the municipal community in council processes, when will Council take action - such as has been implemented already by other Councils (e.g. Baw Baw Council) - to enable questions such as this one to be asked verbally at Council meetings and responded to verbally to at the same meetings, given Councillors already will have had several days written notice of questions?

***Response from the Chief Executive***

Colac Otway Shire Council, in accordance with its Governance Local Law 4, accepts questions for Council meetings that are submitted in writing until 5pm of the Monday preceding the meeting. The majority of written questions are received late on this preceding Monday, following distribution of the agenda the preceding Friday, which means that Council officers are often only able to prepare responses or finalise responses to questions the day before a Council meeting. Councillors are provided with these questions and answers just prior to the commencement of the Council meeting.

Some councils have been better able to respond than others to the technological adaptations required as a result of the COVID-19 pandemic, particularly those that already had videoconferencing and livestreaming capabilities prior to the pandemic. Colac Otway Shire unfortunately did not, however it has managed to obtain the required technology at a time of high consumer demand to allow the live streaming of Council meetings. Councillors have resolved to allow officer participation by telephone, however any expansion of this interaction to members of the public requires system upgrades. Further IT equipment was ordered many weeks ago to potentially allow increased public participation in the manner you have suggested, however this has not yet been delivered; as you would be aware, such delays are understandably being experienced worldwide at this time.

At its April Ordinary Council meeting, Council resolved as follows in relation to your question:

***That Council:***

1. ***within 7 days of an Ordinary Council Meeting or Special Council Meeting, provide written responses to submitters of questions that were submitted in writing by 5pm of the Monday preceding the Ordinary Council Meeting, and published on Council's website;***
2. ***provide copies of the questions and responses to all Councillors and the local media in attendance prior to the commencement of the Ordinary Council Meeting or Special Council Meeting;***
3. ***include the questions and responses in the minutes of the Ordinary Council Meeting or Special Council Meeting.***

and

***Council resolves that, due to Directions issued by the Chief Health Officer restricting the movement of people in response to the COVID-19 pandemic, Question Time cannot not be held until the relevant Directions of the Chief Health Officer are revoked.***

Since these resolutions were made by Council, the Parliament of Victoria has considered the *COVID-19 Omnibus (Emergency Measures) Act 2020* which resulted in the creation and enactment of Part 12 of the *Local Government Act 2020* (the Act) – COVID-19 temporary measures. These temporary measures set out how councils may achieve compliance with the Act in response to the pandemic during a prescribed period, ending on 1 November 2020. Colac Otway Shire Council is operating within these sections of the Act.

As has been stated by the Mayor on numerous occasions, Colac Otway Shire encourages community input and integral to this is the opportunity provided to ask questions at Council Meetings. As per one of the resolutions of Council quoted above, Colac Otway Shire intends to allow this process to recommence once Directions issued by the Chief Health Officer restricting the movement of people in response to the COVID-19 pandemic are revoked. In the meantime, questions submitted in writing in accordance with Governance Local Law 4 will continue to be responded to as outlined above.

**Nasser Kotb, Forrest**

1. **The Council's reply to my question to the 22 April meeting (Ref: 020/71001) did not address all questions paused [sic]. However, the response has many information gaps as shown in the table.**

**The Forrest Caravan Park Wastewater upgrade**

Step	Date	Cost	Outcome
<i>complaints from a neighbouring property owner about runoff of wastewater onto their property from the caravan park</i>	? 2017		
Land Capability Risk Assessment of the property	late 2017	\$	identified the significant noncompliance of the current system, and the need to address this by way of a system upgrade
?	mid 2018	\$20,000	?
?	2018/2019 budget	\$100,000	?
?	2019/2020 budget	\$150,000	?
Meeting Forrest Community Group about the project	Oct-19		?
Meeting Forrest Community Group about the project	Nov-19		?
Meeting Forrest Community Group about the project	Feb-20		?
drop-in sessions were held in February 2020 to explain the project with broader members of the community	Feb-20		?

- a) **How many complaints received that triggered the Land Capability Assessment?**
- b) **Would the Council fill in the gaps to make the reply transparent and informative?**
- c) **How many community members attended the February 2020 drop-in session?**
- d) **Why has the Council being [sic] selective in communicating with the community by contacting only one community group in Forrest, rather than the community or various community groups?**

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

The primary complaint concerning off-site wastewater discharge from the caravan park into adjoining land was from the land owner of the property immediately abutting the eastern boundary of the site, downhill of the park. This land owner made contact with Council on a number of occasions to follow-up the initial complaint.

Council does not agree it has been selective in the way it communicates with the community on this project. Whilst officers had directly engaged with the Forrest Community Group on a number of occasions once a proposed wastewater solution had been identified for the caravan park, Council consciously chose to arrange drop-in sessions in February 2020 to enable a broader communication with interested community members. These drop-in sessions were only attended by two people, but were advertised widely beforehand including advertisements in the newspaper (Forrest Post – 7 February 2020 edition), a Fact Sheet on Council's website, a media release and subsequent article in the *Colac Herald*, a post on both the Council and local Forrest Facebook page, and by notice placed on the Notice Boards outside the general store/café and community hall. It is noted that Council regularly communicates on a range of matters with the Community Group as one of the more representative groups in Forrest.

It is important to appreciate, as has been previously communicated, that this upgrade is required to meet State environmental regulations, and Council as land owner has responsibility to undertake the works. There has been significant non-compliance with these regulations over recent years, existing systems are barely operating in a functional manner, and an adjoining owner has expressed concern about discharge into their property. Council has allocated funds and proceeded on this basis, and given the lack of viable options for this system other than the mound system proposed, Council's engagement has largely been an informative one. In particular, Council has sought to ensure the community is aware of potential changes to the appearance at the front of the site as mound treatment beds are installed, and some trees removed and replaced with new landscaping.

It is not intended to complete the table provided, save that the cost of the Land Capability Assessment undertaken for the site in 2017 cost Council \$3,885.00 (exc GST).

2. **The Council will benefit from the Federal government package of support that will help local councils support jobs and businesses by delivering priority projects focused on infrastructure upgrades and maintenance.**

**Would the Council commit to base the prioritisation of projects on community consultation and publicly available set of criteria?**

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

Council will prioritise projects delivered through any Government funding that becomes available based on a number of criteria including but not limited to:

- The criteria as set out by the funding agency.
- Identified strategic justification, including whether it has alignment to the Council Plan and is a priority project of Council.
- Level of established community support.
- Readiness for implementation including the level of design work already undertaken.

3. Given that the Local Government Act 2020 now mandates Council transparency as well as open engagement of the municipal community in council processes, would the Council explain the reason for not being transparent as shown by the following:

**"In November 2019 the Council identified the following criteria  
" .... Council has therefore tentatively prepared a four-year program based on:  
\*\* planning work that has been undertaken previously;  
\*\* the identified need for holistically planning;  
\*\* current and emerging issues and challenges; and  
\*\* support from communities".**

However when asked to provide the actual grading according to their stated criteria, the Council (Ref: 020/71001) in April 2020 replied "... the rolling four-year planning program was completed internally based on officer knowledge. It wasn't assessed as per the format requested by Mr Kotb and therefore the template provided can't easily be completed".

When the CEO was requested in May 2020 to investigate the lack of transparency and requested to specifically answer the following queries:

1. Are the Council plans done without guidelines to demand community consultation?
2. Why is the discrepancy in replies in November 2019 a set of criteria stated and in April 2020 these criteria evaporate?
3. Would the CEO investigate whether due diligence was followed in this context?
4. Would the CEO elaborate on the exact process leading to the rolling four year planning program in its current shape?
5. Would the Council consider reviewing the program with proper assessment criteria actually applied?

The reply was a defensive statement rather than answering the questions "I am satisfied with the method in which Council has determined to prioritise the timing of community planning for our small towns. Ideally we would undertake community planning for all our towns concurrently however the level of planning is dictated by the resources we have available. The prioritisation of towns was based on internal knowledge and the level of planning undertaken previously. Some towns have received some level of planning in recent years however others haven't had any form of planning undertaken for some time. The prioritisation of four towns each year was discussed with Councillors who supported this approach. I don't believe that formal guidelines are required to determine the priority order."

- 3.1 Would the Council ANSWER the questions sent to the CEO on 5 May 2020 to explain the process they used to establish a rolling four plan (other than the gut feeling of officers)?
- 3.2 Why the Council officer replied in November 2019 with a set of criteria that are obviously fake as implied by the CEO?

#### ***Response from Chief Executive***

A number of responses have been provided to Mr Kotb on this matter. It appears that they are not to the satisfaction or the outcome that Mr Kotb would like. I believe a suitable response has been provided on each occasion and Council does not intend on providing further responses to these questions.

**David Walsh, Elliminyt**

I was a submitter to your planning Amendment C90 Scheme and attended the Panel Meeting on 30 January 2020. My main concern is the lack of any maintenance and cleaning of the drains 526 – 544 Murray Street Colac (Deans Creek Road corner). I would like to thank the council for the works they have done in this area, especially the unblocking of the 600 mm pipe fronting the church and this area as this has made a huge difference to the corner in the event of rain and flooding. My request and query now is:

1. **Could the gutter on the Highway be mowed, and maintained on a regular basis so the work and expense incurred in the area will continue to stop the area from flooding in the event of rain? In my opinion this would in turn make the entrance to our town look more inviting.**

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

In accordance with the Demarcation Code of Practice the maintenance of the table drain is a VicRoads responsibility. Council Officers will raise this issue with VicRoads staff with a view to having the task placed on their regular work schedule.

2. **Secondly with council asking for submissions on their upcoming budget and my involvement in commercial property, my next question to Council is in percentage terms how does our Commercial Rateable Charge % compare with Surf Coast, Geelong, Ballarat and Warrnambool?**

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

Colac Otway Shire Council has a Colac Commercial/Industrial differential rate of 165% and a Balance of Shire Commercial/Industrial rate of 140%.

It is not possible to accurately compare rating differentials to other municipalities due to the vast difference in the definitions, scale, nature, and location of assessments. For example, the councils in question have multiple different commercial rates, some treat industrial properties differently to commercial properties and some have multiple sub classifications of 'commercial' and other properties.

In simple terms when calculating the basic commercial rate compared to residential rate quoted in the draft 2020/21 budgets, the following are the estimated differentials applied at the four councils in question.

- Surf Coast - 190%
- Ballarat - 272%
- Warrnambool - 178%
- Geelong - 223%