



Colac Otway  
SHIRE

**SUBMISSIONS COMMITTEE MEETING**

**AGENDA**

**Wednesday 1 September 2021**

**at 4:00 PM**

**by videoconference**



# COLAC OTWAY SHIRE SUBMISSIONS COMMITTEE MEETING

Wednesday 1 September 2021

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# COLAC OTWAY SHIRE SUBMISSIONS COMMITTEE MEETING

NOTICE is hereby given that the next **SUBMISSIONS COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held by videoconference on Wednesday 1 September 2021 at 4:00 PM.

## AGENDA

### **1 DECLARATION OF OPENING**

#### **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 AND REASON FOR MEETING**

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

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

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

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

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

The sole purpose of this Submissions Committee meeting is for the hearing of submissions for the proposed sale of land at 36-52 Bruce Street, Colac.

## **5 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.

## **6 CONFIRMATION OF MINUTES**

- **Submissions Committee meeting held on 9 June 2021.**

### ***RECOMMENDATION***

***That the Submissions Committee confirm the minutes of the Submissions Committee meeting held on 9 June 2021.***

## **7 VERBAL SUBMISSIONS**

The Mayor is to read out the names of the people who have confirmed they wish to be heard in support of their written submission. Verbal submissions will be made in relation to the agenda item and must be directly relevant to the respective agenda item. A limit of 5 minutes will apply for each person who has requested to be heard.

Item: 8.1

## Bruce Street Land Sale: s223 submissions (Submissions Committee)

<b>OFFICER</b>	Mark McLennan
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services
<b>ATTACHMENTS</b>	1. 20210625 - Bruce Street - Notice of Intention - Colac Herald [8.1.1 - 1 page]
<b>PURPOSE</b>	36-52 Bruce Street Colac – Proposed Sale of Land – Hearing of Submissions (section 223)

### 1. EXECUTIVE SUMMARY

Council owns the land known as 36-52 Bruce Street, Colac. The land is zoned General Residential and currently vacant. The former landfill site is not intended for disposal and is contained in a separate lot.

At the Council meeting held on 26 May 2021, Council resolved to advertise its intention to sell the land. Public Notice of Council's intention to sell the subject land was given on 25 June 2021, with written submissions on the proposal invited in accordance with section 223 of the *Local Government Act* (the Act).

Council determined to undertake a six-week Public Notice process which concluded on 6 August 2021.

The purpose of this report is to enable the Committee to hear submissions in accordance with its Terms of Reference. There were five (5) submissions received as a result of the process. Submission 5 was received after the closing date for submissions. One (1) submitter has requested to be heard before the Submissions Committee meeting in support of their written submission.

## 2. RECOMMENDATION

*That the Submissions Committee:*

- 1. Acknowledges the written submissions received.*
- 2. Acknowledges and notes the verbal comments made in support of written submissions.*
- 3. Thanks the submitters for their submissions.*
- 4. Having heard all persons wishing to speak to their submissions, recommends that Council consider the submissions at the Ordinary Council Meeting to be held on Wednesday 22 September 2021.*

## 3. KEY INFORMATION

Council is the Registered Proprietor of the land and improvements known as 36-52 Bruce Street Colac. The land is zoned General Residential and currently vacant. There is no intention to dispose of the former landfill site which is adjacent to the site. Council will continue to manage the landfill site into the future.

At its Council Meeting on 26 May 2021, Council reaffirmed its intention to sell the Bruce Street land and resolved to give public notice of its intention to sell the land in accordance with the provisions of the *Local Government Act 1989 and 2020*.

Prior to selling land, section 189 of the *Local Government Act 1989* (Act) provides that Council must give public notice of its intention to do so and obtain a valuation. The *Local Government Act 2020* has recently been passed however the land sale process commenced prior to the commencement of the new Act. As a result, Council is continuing to follow the procedures as required by the 1989 Act.

Public notice of Council's intention to sell the subject land was given on 25 June 2021, both in the Colac Herald and on Council's website, inviting written submissions on the proposal in accordance with section 223 of the *Local Government Act 1989*.

A public information session was also held at COPACC on Tuesday 4 August 2021. Two sessions were held, one in the morning and one in the evening.

The six-week Public Notice process concluded on 6 August 2021.

### **Section 223 Process**

Section 223 of the Act provides that a person may lodge a written submission by a date set by Council that cannot be less than 28 days after the date on which the public notice is published. Where a person makes a written submission to Council requesting to be heard in support of their written submission, Council must permit that person to be heard before a meeting of the Committee, giving reasonable notice of the day, time and place of the meeting.

Five written submissions were received. These are summarised on the next page. One submitter has requested to be heard in support of their written submissions (2) before a meeting of the Committee.

All submitters have been advised of Council's intention to consider written submissions at its Ordinary Council Meeting on Wednesday 22 September 2021.

## Overview of Submissions

### **Submission 1**

The first submitter agrees with the sale of the land for residential purposes, however, believes that the sale with the burdens imposed against it in Council's resolution (i.e. social housing) limits the market and is against the Local Government Best Practice Guide to selling land. The submission concludes: *"Therefore I am against the sale of 36-52 Bruce Street Colac in its current form as it limits the marketplace to achieve best value for the land and in turn short changing the COS ratepayers."*

***The submitter has requested to be heard at the Submissions Committee meeting.***

### **Submission 2**

The second submission (submitted by the same individual above) relates to processes under the *Local Government Act 1989 and 2020*. The submitter believes that improper processes were undertaken in that Council has not followed its Community Engagement Policy, and in turn denied natural justice. The submission states that Council should have gone out for community consultation in regards to the inclusion of social housing as part of the sale process. Furthermore, it states that Council failed to wait for the mandatory four-week community consultation period to hear submissions under the Act on selling of land before engaging a service provider (real estate company) and advertising the land for sale.

***The submitter has requested to be heard at the Submissions Committee meeting.***

### Officer response

The submission relates to procedural and Policy matters and as a result, Council officers have obtained legal advice to ensure compliance with the *Local Government Act*. The advice confirms that the procedure and processes being implemented by Council are sound and well founded.

Council acknowledges there is an urgent need for residential land development in the Shire. Council has attempted to facilitate this need and has opted to run the two processes in parallel. Legal advice was obtained which indicated that the s223 process did not need to be completed before releasing the Expression of Interest document. It is important to note that the real estate agent has been engaged by Council to market the potential opportunity and has not been engaged to sell the land.

### **Submission 3**

The submission is against the sale of the land. The submission raises a variety of concerns regarding safety, landfill contamination, property values, environmental audit and concentrated public housing on the site.

***The submitter has not requested to be heard at the Submissions Committee meeting.***

### **Submission 4**

The submission is against the sale of the land. The submission identifies concerns about the rationale behind the decision to sell, landfill site implications, and if the land could be kept for open space.

***The submitters have not requested to be heard at the Submissions Committee meeting.***

### **Submission 5**

**Note that this Submission was received by Council in the ordinary mail on 12 August 2021. Officers recommend that this submission is relevant and should be received.**

The submission is against the sale of the land. The submission contains representations relating to the concentration of Social Housing, the possibility of affecting surrounding house prices and the placement of infrastructure.

***The submitters have offered to be available if Councillors have any questions. There is no specific request to be heard at the Submissions Committee meeting.***

## 4. COMMUNITY CONSULTATION & ENGAGEMENT

Public Notice of Council's intention to sell the subject land was given on the 25 June 2021, with written submissions on the proposal invited in accordance with section 223 of the *Local Government Act 1989*. Council elected to enter into a 6-week Public Notice Process that concluded on the 6 August 2021. Public Information Sessions were held at COPACC on Tuesday 4 August 2021. There were two sessions, one held in the morning and one in the evening.

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

**Alignment to Council Plan 2017-2021:**

### **Theme 1 - Our Prosperity**

1. Plan infrastructure, assets and land use with a long-term vision for economic growth.
2. Support a thriving economy and industries.
3. Strengthen partnerships with key stakeholders to benefit the whole community.

### **Theme 2 - Our Places**

1. Assets and infrastructure meet community needs.
2. Our places are managed for long-term sustainability.

### **Theme 3 - Our Community**

1. Increase social connection opportunities and community safety.
6. Community planning informs provision of Council services and social infrastructure.

### **Theme 4 - Our Leadership & Management**

1. Effectively manage financial resources.
2. Openness and accountability in decision making.
3. Organisational development and legislative compliance.
5. Communicate regularly with our community and involve them in decision-making.

## 6. CONSIDERATIONS

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

In developing this report, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues because section 189 of the Act gives Council the legislative power to sell land. Section 223 of the Act also provides an opportunity for any person to make a written submission with respect to such a proposal.



Council has no intention to dispose of the former landfill site adjacent to the land that is the subject of the Notice of Intention to Sell Land. The former landfill site is in a separate lot and will continue to be managed by the Shire into the future.

Council engaged an Environment Protection Authority (EPA) accredited environmental auditor to prepare a Section 53X environment audit under the *Environment Protection Act 1970*. The audit confirmed that the site can be developed for residential purposes subject to an underground bentonite wall being installed along the northern boundary of the site to prevent any potential methane gas migration, and for there to be restrictions placed on future development preventing the establishment of basements underneath buildings. The audit also confirmed that there is no contamination of the site.

The sale, and in turn development, of the land for its intended zoned purpose will assist in addressing the known issues of residential land availability in Colac, which will support the economic growth of the Colac region.

It is important to note that Council has an obligation to receive best value from any sale of property. However, best value is not only considered in terms of dollar value. Best value can be considered in terms of positive community outcomes and other value adding conditions.

#### **LEGAL & RISK**

Council has received written advice from Minter Ellison Solicitors regarding the process for selling the land and running the s223 and marketing campaign concurrently. Council has satisfied itself that this process is suitable and notes that it has not made a final decision to sell the land until submissions to the process have been considered.

Council has operated within the requirements of the *Local Government Act 1989*. Council has been mindful to consider the *Local Government Act 2020* and has applied the highest standard considering both Acts.

#### **FINANCIAL & BUDGETARY**

The process of hearing submissions is within Council's normal activities. Therefore, the costs associated with hearing of submissions is an operational administrative cost.

## **7. IMPLEMENTATION STRATEGY**

Following the hearing of submissions, Council will proceed to the consideration of submissions at its Council Meeting to be held on 22 September 2021

#### **COMMUNICATION**

The Notice of Intention to Sell Land was placed in the Colac Herald and on Council's website. Furthermore, a letter to residents that adjoin the site was sent on the 18 June 2021. The letter included information on Council's intention to sell the land and a FAQ regarding Social Housing.

#### **TIMELINE**

Council will formally consider submissions at its Council Meeting to be held 22 September 2021.

## 8. OFFICER DIRECT OR INDIRECT INTEREST

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

## Planning Committee Meeting

### Cancellation | 14 July 2021

The Planning Committee Meeting scheduled for Wednesday 14 July, 2021 has been cancelled. There are no planning matters to be determined by the Committee at this time.

## Notice of project construction works - Apollo Bay P-12 College

Colac Otway Shire Council wish to advise Victorian School Building Authority project works and construction activity is scheduled to commence at Apollo Bay P-12 College, Pengilly Avenue from the week commencing 21 June 2021. These project works are the commencement of the Victorian Government build of a new kindergarten collocated with the existing P-12 College. In partnership with the Victorian School Building Authority, Colac Otway Shire Council has made a financial contribution to the build to support the inclusion of a dedicated maternal and child health space in the centre.

The community may notice some activity on the site including installation of fencing and site shed. Full construction is scheduled to commence from late July 2021.

The construction of the new facility at the Apollo Bay P-12 College site is a part of the Victorian State Government rollout to provide 15 hours of funded kindergarten for all three-year-olds by 2029.

For further information about the new kindergarten, please contact the Victorian School Building Authority on 1800 896 950 or email [vsba@education.vic.gov.au](mailto:vsba@education.vic.gov.au)

## Mooleric Road Quarry Consultative Committee

Nominations are sought for a community member to join the Mooleric Road Quarry Consultative Committee.

The Committee, made up of two community members, Council and other agency representatives, does not have any decision making powers, but does form a valuable forum for residents to raise any concerns about the quarry operations that might need to be addressed.

The committee meets twice a year, approximately every six months.

The Committee's Terms of Reference and a Nomination Form is available on Colac Otway Shire Council's website Have your Say page.

Nominations for the position must be lodged with Council by 5pm, Friday 23 July 2021. Applications can be mailed to Colac Otway Shire, PO Box 283, Colac, 3250, or they can be emailed to [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)

It is expected that nominations will be considered by the Council at its meeting on 25 August 2021.

## Notice of Intention to Sell Land

Colac Otway Shire Council HEREBY gives notice under Section 189 of the *Local Government Act 1989* (the Act) that it proposes to sell the land as shown at right.

On 26 May 2021, at an Ordinary Council Meeting, Colac Otway Shire Council resolved to advertise its intention to sell the land at 36-52 Bruce Street, Colac Victoria 3250, more particularly described in Certificate of Title Volume 12142 Folio 486 Part "A".

Council is seeking Expressions of Interest from suitable Community Housing providers and land developers to develop residential housing in Colac.

Further information regarding the proposed sale can be obtained by contacting Council's Strategic Property Coordinator, Colac Otway Shire Council at 2-6 Rae Street Colac VIC 3250, by phone 5232 9400 or emailing [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)

Any person may make a written submission on the proposal. All submissions received by the Council on or before 3pm on Friday 6 August 2021 will be considered in accordance with section 223 of the Act, by the Council's Submissions Committee (Committee).

Any person may request to be heard in support of their written submission either personally, or by a specified representative, before a Committee meeting which will be held at a time and location to be advised.

Written submissions should be addressed to the Chief Executive and marked 'Submission - Intention to sell land at 36-52 Bruce Street'. Submissions must be lodged at Council's Customer Service Centres at 2-6 Rae Street, Colac or 100 Great Ocean Road, Apollo Bay, posted to Council at PO Box 283, Colac VIC 3250 or emailed to Council at [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)

## Notice of an Application for Planning Permit

**The land affected by the application is located at:** 111-117 Great Ocean Road APOLLO BAY

**The application is for a permit to:** Extend a Commercial Building (Bar), Use the Land for the Sale or Consumption of Liquor (General Liquor Licence), Reduce Car Parking from the Specified Rate [4 spaces], Vary an Easement and for a Four (4) Lot Subdivision

**The applicant for the permit is:** J M Riches

**The application reference number is:** PP76/2021-I

You may look at the application and any documents that support the application at the office of the responsible authority at Colac Otway Shire



# Quake shall coastal are

BY RACHEL SIMMONDS

**The region's largest earthquake in more than 60 years has shaken residents at Apollo Bay.**

Geoscience Australia recorded two earthquakes with magnitudes of 3.3 and 3.6 just after 6am Wednesday, with the epicentres within 10 kilometres of the Apollo Bay coast.

Seismology Research Centre chief scientist Adam Pascale said Wednesday's 3.6-magnitude earthquake was the largest in 61 years

within 50 kilometres.

Experts have previously identified fault lines over the Otway Ranges.

"The earliest earthquake on record in the area dates back to 1886, with the largest a magnitude 5.3 on Christmas morning 1960," Mr Pascale said.

"This month there have been 10 earthquakes in that area, starting on June 7 with a magnitude 2.6 and five more foreshocks between magnitude 1.0 and 2.3 before the magnitude 3.6 on June 23 at 5.09am," he said.

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## June Council Meeting

For information on items discussed and voted on at the June visit Council's Latest News page on the website or view Colac Community News in next Friday's edition of the Colac Herald

## We're recruiting

Colac Otway Shire Council is an exciting place to work. If you are passionate about delivering great customer service, work progressive and innovative council, and making a difference to our community, we would love to hear from you!

- Communications Coordinator
- Community Care Worker
- Family Day Care Educators

See today's job listing in the classifieds for more information. Contact Human Resources on 5232 9529 or visit Council's website for a full description and to apply online.

