Council Meeting Minutes

28 April 2026 at 1pm

Apollo Bay Bowls Club – 6 Moore Street, Apollo Bay

Colac Otway SHIRE

COLAC OTWAY SHIRE COUNCIL MEETING

Tuesday 28 April 2026

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COLAC OTWAY SHIRE COUNCIL MEETING

MINUTES of the ***COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL*** held at the **Apollo Bay Bowls Club** on Tuesday 28 April 2026 at 1:00 PM.

MINUTES

1 DECLARATION OF OPENING OF MEETING

OPENING PRAYER

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

AMEN

2 ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present.

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).

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3 MEETING ADMINISTRATION

3.1 Present

Cr Jason Schram (Mayor)
Cr Phil Howard (Deputy Mayor)
Cr Chris Potter
Cr Zoe Hudgell
Cr Charlie Buchanan
Cr Mick McCrickard
Cr Chrissy De Deugd

Andrew Tenni, Chief Executive Officer
Emma Lowes, General Manager Corporate Services
Doug McNeill, General Manager Infrastructure and Environment
Ian Seuren, General Manager Community and Economy
Steven O'Dowd, Manager Customer and Communications
Anita Craven, Executive Officer Governance
Matilda Hardy-Smith, Coordinator Council Business

3.2 Apologies and Leaves of Absence

Nil

3.3 Confirmation of Minutes

RESOLUTION

Moved Cr Hudgell, Seconded Cr Howard

That Council confirm the minutes of the Unscheduled Council Meeting held on 31 March 2026.

CARRIED 7 : 0

3.4 Declarations of Interest

Cr Hudgell	General	Item 7.2 – Proposal to enter into a Lease - COPACC	Owner of Red Door which is a major user group of the facility.
Ian Seuren	General	Item 7.2 – Proposal to enter into a Lease - COPACC	Has an association with a proponent who submitted an expression of interest for the facility.

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4 QUESTION TIME

A maximum of 30 minutes was allowed for question time. In accordance with section 47.3 of Councils Governance Rules, a time limit of 3 minutes per question was allowed, with a maximum of two questions per person. In accordance with rule 47.4, lengthy questions have been summarised.

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

Lyn Russell

Questions are in relation to information obtained from Colac Otway Shire Annual Reports from 2010 onwards:

1. Given the continued deficit, what was the rationale of giving $125,000 discount to the cinema operators in 2018?
2. Has the Colac Otway Shire done a comprehensive review of the operating expenses of COPACC given the increases in expenses particularly in years 2019 to 2025?

Response General Manager Infrastructure and Environment

Officers are unaware of a $125,000 discount provided to the cinema lessee in 2018.

Council has periodically reviewed the financial and operating performance of COPACC. It should be noted that along with many services, the cost to Council for operating the centre during 2020 and 2021 was severely impacted by COVID.

Susan Tate

Given that several recent decisions regarding COPACC appear to have been made without reference to Council's current Arts and Cultural Strategy, procurement policy, or risk management framework;

1. Can Council provide the governance documentation that demonstrates compliance with these requirements, including the strategic alignment assessment, procurement justification, and risk assessment undertaken prior to the decisions being made?
2. If no such documentation exists, can Council explain why the required governance steps were not followed?

Response General Manager Infrastructure and Environment

The decision to seek Expressions of Interest for the lease of COPACC was determined at a public meeting of Council on 24 June 2025. Throughout the process, Council has been guided by a range of legislative and policy requirements including the Local Government Act 2020, along with Council's Community Engagement, Procurement and Council Property Leasing Policies. In addition, the Council Plan 2025-29 also provides clear direction including Objective 3 – "Our Council governs progressively and sustainably for all".

The process for seeking a lessee for COPACC was undertaken in accordance with all legislative and policy requirements, which is outlined in the report to Council's April 2026 meeting.

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The Creative Colac Otway Arts and Culture Strategy 2018-2022 continues to provide guidance to Council. The proposal to lease COPACC to an external operator aligns with the key themes in the Strategy including providing quality cultural facilities and community spaces and increasing participation in arts and culture activity.

Prabha Kutty

1. Could council please advise us of the criteria that is applied to have a matter dealt with at an unscheduled council meeting. It would help if council used as an example the unscheduled council meeting at which the COPACC lease was decided, to answer this question.

Response Executive Officer Governance.

Section 3 Governance Rules outlines the process for calling an unscheduled council meeting, but does not apply a criteria for matters to be dealt with at the meeting. Section 3 outlines how Council or the Mayor or at least 3 Councillors may call an unscheduled Council meeting and the CEO role to convene the meeting.

Section 3 requires the notice to call an unscheduled meeting must state the business to be transacted, but no criteria on what business may be transacted.
Council made the decision to call the Unscheduled Meeting at the meeting held on 24 March 2026.

James Judd

1. Is it legal for officers of Council to persist in reducing the time allowed for submissions to be lodged on Councils Budget and Charges? These should always be produced no later than the March Council Meeting in a year. When it was required that 60 days had to be allowed and was then reduced in 2025 to 6 weeks, then again in 2026 to 4 weeks. Due to the very late production so they could be accepted by 30 June.

Response Executive Officer Governance

Section 96 (1) (b) of the Local Government Act requires Council to prepare a budget subject to Council's Community Engagement Policy.

Under Council's Community Engagement Policy, the annual budget requires a period of six weeks will be the standard public exhibition time for council documents requiring community feedback, unless determined otherwise by Council. Council undertook public exhibition process for the annual budget earlier this year to enable the consultation to occur earlier and to inform the budget and to enable Council to consider community submissions while they were developing the budget, rather than at the end of the process which is what has happened in previous years. This period of exhibition is the second time Council has asked for formal feedback on the annual budget and is above the statutory requirements of Council.

The process is legal and follows statutory requirements of Council.

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QUESTIONS RECEIVED VERBALLY AT THE MEETING

Tony Webber

1. Has the council calculated redundancies of the present staff and if not, why not?

Response General Manager Infrastructure and Environment

Council obviously is aware that if the facility is leased out to a private operator, there will need to be consideration to existing staff and the impacts of the decision on them. We've held some discussions already with the proposed operator around how they might be able to work with our current staff, but certainly those staff have rights under our enterprise agreement in relation to their entitlements.

2. If the community and the rate payers haven't fully been informed on this decision, can the council delay the decision until the community is fully informed?

Response General Manager Infrastructure and Environment

Council initiated a community engagement process after the March council meeting and there's been widespread communication with the community about Council's intentions. We believe that there's enough understanding of the proposal and certainly submissions that have been received from the community outlining any concerns, that Council is in a position to make a decision today.

Georgie Wheeler

1. Can I ask has there been any kind of serious investigation as to whether this type of privatisation model has worked in other rural centres?

Response General Manager Infrastructure and Environment

In the assessment of the proposals that have been put forward through this process, there certainly has been examination of the different parties that have made applications and officers are satisfied in making recommendations to Council today that the party put forward for the proposed lease has appropriate experience in terms of running a centre of this nature.

2. What I was trying to get to was has this Council actually investigated whether a model like this has worked in other rural centres across the country or the state. That's more that's what I was tending to ask.

Response General Manager Infrastructure and Environment

Part of the process of assessing the proposal with IVG was that we undertook reference checks and so there has been checks done with other parties around these sorts of facilities that have that have satisfied staff that they would be capable of operating the centre successfully, should council decide to proceed today.

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Response General Manager Community and Economy

One example that that comes to mind is the Paramount in Echuca, which is a privately operated facility now. It was a Council facility. It provides both cinema and performing arts programs. There's not a lot of centres around Australia for that matter that have both cinema and performing arts and share an auditorium, but a Echuca is a good example where it works well by a private operator.

3. IVG Global show no experience in running cinema. They have no experience in artistic programming leadership or producing theatre seasons or long-term creative direction of theatres. Their work is more operational commercial consultancy than artistic theatre management. So why are they the preferred candidate?

Response General Manager Infrastructure and Environment

IVG global was identified as a preferred respondent through a competitive procurement process. Their submission demonstrated operational capability and access to performing arts programming through established sector networks. Any lease remains subject to a Council decision and Council retains responsibility for artistic and community outcomes.

Dav Rees

1. Has the council seriously thought about, given the words of your prayer, about the welfare and improvement of communities, the inherent risks that are at hand with the proposed development of the subdivision at Park Avenue. Given that we already have an ample overabundance of vacant lots in town ready and fit for building in safe and secure positions.

Response General Manager Community and Economy

Officers have been working with the applicant on this proposal for a number of years. We're satisfied to provide a recommendation to Council on the application. We've taken into consideration a whole range of issues that have been raised and we feel that it's ready to be determined by Council.

2. Have all or any of the Councillors visited the site and had a look at the where the proposal is?

Response Mayor Cr Schram

Yes.

5 PETITIONS / JOINT LETTERS

Nil reports.

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Colac Otway SHIRE

Item: 6.1

PP101/2023-1 - 19 Park Avenue & 92 Montrose Avenue APOLLO BAY

ADDRESS AND PROPERTY DETAILS	19 Park Avenue & 92 Montrose Avenue APOLLO BAY Lot: 2 PS: 748645 V/F: 11997/644, Lot: 3 PS: 748645 V/F: 11997/645 Parish of Krambruk	**APPLICATION NUMBER**	PP101/2023-1
PROPOSAL	Staged Subdivision, Removal of Native Vegetation & Associated Works		

PERMIT TRIGGERS

Planning scheme clause	Matter for which a permit is required
Clause 32.09-3	Subdivide land in the Neighbourhood Residential Zone.
Clause 33.03-3	Subdivide land in the Industrial 3 Zone
Clause 33.03-4	Carry out works for a retarding basin in the Industrial 3 Zone
Clause 42.03-2	Native Vegetation Removal in the Significant Landscape Overlay
Clause 43.02-3	Subdivide land in the Design and Development Overlay
Clause 44.01-5	Subdivide land in the Erosion Management Overlay
Clause 44.04-3	Subdivide land in the Land Subject to Inundation Overlay
Clause 52.17-1	Remove, destroy or lop native vegetation, including dead native vegetation

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Item: 6.1

PP101/2023-1 - 19 Park Avenue & 92 Montrose Avenue APOLLO BAY

	Note: no permit is triggered for the removal of vegetation under the SLO3 as the vegetation to be removed is outside of the area covered by this overlay. This is considered later in this report.		
TRIGGER FOR DETERMINATION BY COMMITTEE	Four (4) or more objections		
ZONE	Neighbourhood Residential Zone (NRZ1) Industrial 3 Zone (IN3Z)	**OVERLAYS**	<u>19 Park Avenue</u> Significant Landscape Overlay, Schedule 3 (SLO3) – 6.63% Land Subject to Inundation Overlay (LSIO) – 9.94% Design and Development Overlay, Schedule 7 (DDO7) – 100% <u>92 Montrose Avenue</u> Erosion Management Overlay, Schedule 1 (EMO1) – 3.95% Land Subject to Inundation Overlay (LSIO) – 27.66%
COVENANTS	N/A		
CULTURAL HERITAGE	Yes. Cultural Heritage Management Plan No.17344 - Approved 23/02/2026		
OFFICER	Ian Williams	**GENERAL MANAGER**	Ian Seuren
DIVISION	Community and Economy		

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RESOLUTION

Moved Cr Howard, Seconded Cr Buchanan

That Council defers this item to a future meeting, date to be determined.

CARRIED 6 : 1

For	***Against***
Cr Howard	***Cr Schram***
Cr Buchanan	
Cr Hudgell	
Cr McCrickard	
Cr De Deugd	
Cr Potter	

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Colac Otway
SHIRE

Item: 7.1

Project Budget Adjustments and Cash Reserve Transfers

OFFICER	Mikael Blyth
GENERAL MANAGER	Doug McNeill
DIVISION	Infrastructure and Environment

UNCONFIRMED

RESOLUTION

Moved Cr Potter, Seconded Cr Hudgell

That Council:

1. ***Approves the project budget adjustment in Table 1, with a transfer of $146,000 from the Recreational Lands Reserve to part fund the new project.***
2. ***Approves the project budget adjustment in Table 2 at a net cost of $10,000.***

CARRIED 7 : 0

Colac Otway
SHIRE

Item: 7.2

Proposal to enter into a Lease - COPACC

OFFICER	Heidi Taylor
GENERAL MANAGER	Doug McNeill
DIVISION	Community and Economy

Cr Hudgell declared a Conflict of Interest pursuant to Section 127 of the Local Government Act 2020 and left the meeting at 1.28pm.

ALTERNATIVE MOTION

Cr Potter introduced an alternative motion. Before this was moved, Cr Howard foreshadowed another motion, should Cr Potters motion fail.

Moved Cr Potter

That Council:

1. ***Notes that Council has previously endorsed IVG as the preferred operator for COPACC, subject to the completion of a statutory consultation process and reference checks.***
2. ***Notes the outcomes of the reference checks and community consultation undertaken in accordance with section 115 of the Local Government Act 2020 in relation to the proposed lease of COPACC.***
3. ***Notes there was no community consultation undertaken prior to Council's decision to endorse a preferred operator for COPACC.***
4. ***Notes the arts are an important part of the fabric of society and contribute socially and economically to the shire and provide well-being and positive mental health outcomes to which COPACC is pivotal.***
5. ***Notes that the Creative Colac Otway Arts and Culture Strategy 2018 - 2022 is overdue for review.***
6. ***Notes that no forward business case or strategic plan to improve the financial performance and facility activation of COPACC was presented to council.***

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7. ***Resolves not to proceed with the award of a lease to the preferred proponent (IVG) arising from the completed Expression of Interest process.***
8. ***Continues to operate COPACC including investigating options to provide cinema services***
9. ***Completes a development of a business case/strategic plan for the ongoing operation of COPACC by shire to be considered by council including an option to engage a manager, either corporate or individual, to be under supervision of council***
10. ***Reports back to Council on future options to operate COPACC after the development of the business case / strategic plan has been completed***
11. ***Prepare a report to consider the establishment of a community reference group to ensure community interests are represented in the planning for COPACC and ongoing strategy.***
12. ***Completes a review of the Colac Otway Shire arts policy***
13. ***Thanks all persons and organisations that made submissions.***

The Mayor ruled to not accept this motion, sighting provision 14.2(h) of Councils Governance Rules, which refers to provision 36.2. The Mayor explained Point 8 & 9 of the motion commits Council to unbudgeted expenditure above $20,000.

Cr Potter raised a Point of Order in relation to the Budget for COPACC.

The Mayor maintained the original ruling. Motion was not accepted.

The meeting moved to Cr Howards foreshadowed motion.

RESOLUTION

Moved Cr Howard, Seconded Cr Buchanan

That Council:

1. ***Notes that Council has previously endorsed IVG as the preferred operator for COPACC, subject to the completion of a statutory consultation process and reference checks.***

2. ***Notes the outcomes of the reference checks and community consultation undertaken in accordance with section 115 of the Local Government Act 2020 in relation to the proposed lease of COPACC.***

3. ***Resolves to proceed with entering into a lease agreement for the operation of COPACC with IVG, generally in accordance with the lease terms previously endorsed by Council at the Council meeting on 10 March 2026.***

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4. ***Authorises the Chief Executive Officer to finalise and execute the lease and any associated documentation, subject to final legal review and any amendments that do not materially alter the intent of the agreement.***

TIED 3 : 3

For	***Against***
Cr Schram	***Cr Potter***
Cr Howard	***Cr De Deugd***
Cr Buchanan	***Cr McCrickard***

Casting vote – Mayor in favour

CARRIED 4 : 3

For	***Against***
Cr Schram (x2)	***Cr Potter***
Cr Howard	***Cr De Deugd***
Cr Buchanan	***Cr McCrickard***

Cr Hudgell returned to the meeting at 1.58pm when discussion had concluded.

UNCONFIRMED

Colac Otway
SHIRE

Item: 7.3

Draft Budget 2026-27 - Endorse for Public Exhibition

OFFICER	Azam Mahmood
GENERAL MANAGER	Emma Lowes
DIVISION	Corporate Services

RESOLUTION

Moved Cr Howard, Seconded Cr Hudgell

That Council:

1. ***Endorses the Draft Budget 2026-27 for the financial year, and subsequent 3 financial years, for the purposes of Section 94 of the Local Government Act 2020, including the Draft 2026-27 Fees and Charges.***
2. ***Gives public notice via Council's website, local newspapers and social media that Council has prepared a Draft Budget for the 2026-27 year and subsequent 3 financial years, including the Draft 2026-27 Fees and Charges.***
3. ***Determines that the public consultation period will be conducted from 29 April 2026 to 27 May 2026 to ensure sufficient time to consider submissions and adopt the budget by 30 June 2026.***
4. ***Schedules a Submissions Committee meeting to be held on Tuesday 9 June 2026 to provide the opportunity for any person or a nominated representative wishing to speak to their written submission.***
5. ***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.***
6. ***Considers for adoption the Budget 2026-27, and subsequent 3 financial years, including the 2026-27 Fees and Charges at the Council Meeting scheduled to be held on Tuesday 23 June 2026.***

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CARRIED 7 : 0

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Colac Otway
SHIRE

Item: 7.4

Asset Management Policy - Endorse for Public Exhibition

OFFICER	David Hildebrand
GENERAL MANAGER	Doug McNeill
DIVISION	Infrastructure and Environment

RESOLUTION

Moved Cr Howard, Seconded McCrickard

That Council:

1. ***Notes the revised Asset Management Policy (Attachment 1) which has arisen from a cyclic review of the 2022 adopted policy.***
2. ***Authorises public exhibition of the draft Asset Management Policy for a minimum of six weeks in accordance with Council's Community Engagement Policy.***
3. ***Provides the opportunity for any person wishing to speak to their written submission to be heard, or for a nominated representative of that person to speak to the submission on their behalf, at a Submissions Committee meeting prior to Council considering a report on the final version of the Asset Management Policy.***

CARRIED 7 : 0

UNCONFIRMED

Colac Otway
SHIRE

Item: 7.5
Road Safety Strategy - Endorse for Public Exhibition

OFFICER	Kanishka Gunasekara
GENERAL MANAGER	Doug McNeill
DIVISION	Infrastructure and Environment

RESOLUTION

Moved McCrickard, Seconded Cr Howard

That Council:

1. ***Notes that the draft Road Safety Strategy has been developed in consultation with community and key stakeholder groups across the municipality.***
2. ***Authorises public exhibition of the draft Road Safety Strategy for a minimum of six weeks in accordance with Council's Community Engagement Policy.***
3. ***Provides the opportunity for any person wishing to speak to their written submission to be heard, or for a nominated representative of that person to speak to the submission on their behalf, at a Submissions Committee meeting prior to Council considering a report on the final version of the Road Safety Strategy.***

CARRIED 7 : 0

UNCONFIRMED

Colac Otway SHIRE

Item: 7.6

Councillor attendance at the Australian Local Government Association National General Assembly (ALGA)

OFFICER	Anita Craven
CHIEF EXECUTIVE OFFICER	Andrew Tenni
DIVISION	Executive

ALTERNATIVE MOTION

Moved Cr Potter

That Council approves Cr _____ as the ALGA representative to attend the Australian Local Government Association's 32nd National General Assembly and Regional Forum in Canberra.

The meeting was adjourned at 2.13pm to confirm the exact wording of Cr Potters alternative motion.

The meeting recommenced at 2.18pm.

Moved Cr Potter, Seconded Cr McCrickard

That Council approves Cr Potter as the ALGA representative, and Cr Howard and Cr Schram, to attend the Australian Local Government Association's 32nd National General Assembly and Regional Forum in Canberra.

CARRIED 7 : 0

UNCONFIRMED

Colac Otway
SHIRE

Item: 7.7

Governance Report - Monthly

OFFICER	Matilda Hardy-Smith / Belinda Rocka
CHIEF EXECUTIVE OFFICER	Andrew Tenni
DIVISION	Executive

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RESOLUTION

Moved Cr Hudgell, Seconded Cr Howard

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.***
    a. ***Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.***
    b. ***Authorises the use of the common seal in accordance with Colac Otway Shire's Governance Local Law No 4 – 2020.***
    c. ***Approves the S6 Instrument of Delegation to come into force immediately upon execution.***
    d. ***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 28 August 2025) is revoked.***
    e. ***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.***

2. ***Notes the Informal Meetings of Councillor Records reported for the period of 24 March 2026 to 21 April 2026.***
3. ***Add membership for Deb Frizon to the Apollo Bay Senior Citizens Centre Community Asset Committee.***
4. ***Revokes membership for Kate Borne to the Apollo Bay Senior Citizens Centre Community Asset Committee.***
5. ***Appoints Adele McErlain as an Authorised Officer pursuant to section 147(4) of the Planning and Environment Act 1987 (Attachment 8).***
    a. ***Authorises the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.***
    b. ***Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the instrument and remains in force until Council determines to vary the instrument.***
    c. ***Authorises the Chief Executive Officer to revoke the Instrument of Authorisation from the date Adele McErlain ceases their employment with Colac Otway Shire Council.***

CARRIED 7 : 0

UNCONFIRMED

CLOSED SESSION

RESOLUTION

Moved Cr Potter, Seconded Cr Howard

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:

SUBJECT	***REASON***	***SECTION OF ACT***
Minutes of the Closed Session Council Meeting held on 10 March 2026	This matter deals with v confidential meeting information, being records of meetings closed to the public under section 66 (2) (a)	Section 3(1)(h)
Chief Executive Officer Employment Matters	This matter deals with personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs	Section 3(1)(f)

CARRIED 7 : 0

The meeting was closed to the public at 2.27pm and Council moved into Closed Session.

The meeting was reopened to the public at 2.33pm after the confidential business had been dealt with.

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The meeting was declared closed at 2.33pm

CONFIRMED AND SIGNED *at the meeting held on 26 May 2026.*

*.....**MAYOR***

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