



**Colac Otway**  
SHIRE

**COUNCIL MEETING**

**AGENDA**

**Wednesday 24 July 2024**

**at 4:00 PM**

**Apollo Bay Bowls Club**

**6 Moore Street, Apollo Bay**

**Next Council Meeting: 28 August 2024**



# COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 24 July 2024

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# COLAC OTWAY SHIRE COUNCIL MEETING

NOTICE is hereby given that the next **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at Apollo Bay Bowls Club on Wednesday 24 July 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](http://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 22 July 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 22 July 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 26 June 2024.**

### ***RECOMMENDATION***

***That Council confirm the minutes of the Council Meeting held on 26 June 2024.***

Item: 9.1

## Community Asset Committees - New members and Proposed Renaming of Apollo Bay Senior Citizens Centre

<b>OFFICER</b>	Janine Johnstone
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To enable Council to appoint new members to the Apollo Bay Senior Citizens Centre and to the Birregurra Public Hall Community Asset Committees and to provide an update on the proposed renaming of the Apollo Bay Senior Citizens Centre.

### 2. EXECUTIVE SUMMARY

This report proposes appointing new members to the Apollo Bay Senior Citizens Centre Community Asset Committee and to the Birregurra Public Hall Community Asset Committee. It also provides an update on the proposed renaming of the Apollo Bay Senior Citizens Centre.

### 3. RECOMMENDATION

*That Council:*

- 1. Appoints Mardhiyyah Muhammad to the Apollo Bay Senior Citizens Centre Community Asset Committee.*
- 2. Appoints Catriona Holyoake to the Birregurra Public Hall Community Asset Committee.*
- 3. Notes that renaming of the Apollo Bay Senior Citizens Building to better reflect the current broad community use is a matter that should be subject to community consultation and this may be an activity that may be considered in early 2025 in the new Council term.*

## 4. KEY INFORMATION

Colac Otway Shire Council has 20 Community Asset Committees and has appointed committee members to manage public halls, recreation reserves and sporting facilities across the Colac Otway Shire.

For the purposes of managing the Apollo Bay Senior Citizens Centre and the Birregurra Public Hall assets in the Colac Otway Shire and to ensure compliance with section 65 of the Local Government Act 2020, formal appointment of the members by Council, is required.

The Apollo Bay Senior Citizens Centre Community Asset Committee has requested Council appoint Mardhiyyah Muhammad to the Committee.

The Birregurra Public Hall Community Asset Committee has requested Council appoint Catriona Holyoake to the Committee.

Council is aware that most people in the Apollo Bay community no longer refer to this building as the Senior Citizens building as the current use is more general in use and the range of users is much broader. It has been proposed that the building should be renamed to reflect its current purpose and use, and informal discussions with some community stakeholders indicate that consideration of a change of name would be welcomed. It would be important for the community to be invited to consider names or provide feedback on proposed names before Council makes a formal decision to rename the building. While it is not proposed that the consultation be a significant exercise, it is still additional to current priorities and workload and Council does not have capacity to undertake consultation in 2024. Given that this is not a time critical matter, it would be appropriate for this to be considered when the Annual Action Plan for 2025-26 is being developed in early 2025.

## 5. CONSIDERATIONS

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

The overarching governance principles relevant to this report, include:

- 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 generation
- 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)**

Section 65 of the Local Government Act 2020 provides:

- (1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).
- (2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.

### **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)

Council’s previous resolutions to establish Community Asset Committees and appoint Community Asset Committee members were made in an open Council meeting.

Reporting continues to be made at an open Council meeting.

**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)

The support provided to, and management of, Community Asset Committees is within Council’s existing budget.

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

Community assets are provided in a manner to ensure equity of access and inclusion. These principles form part of the Instrument of Delegation that defines the purpose of community assets and the role and responsibilities of all Community Asset Committee members.

**Risk Assessment**

Not applicable.

**Communication/Implementation**

Following Council’s resolution, Council officers will advise the Community Asset Committees of Council’s decision.

In addition, Council officers will inform the Apollo Bay Senior Citizens Centre Community Asset Committee that Council is aware that most people in the Apollo Bay community no longer refer to the building as the Senior Citizens Centre and, at the appropriate time, the community will be invited to consider names or provide feedback on proposed names before Council makes a formal decision to rename the building.

**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 – Adopt the recommendation as presented

This option is recommended by officers to formally appoint the new Community Asset Committee members and to ensure that the Apollo Bay Senior Citizens Centre Community Asset Committee is provided with an update regarding the proposed renaming of the Centre.



Option 2 – Do not adopt the recommendation as presented

This option is not recommended by officers as it will not enable the new members to be appointed to the Apollo Bay Senior Citizens Centre and Birregurra Public Hall Community Asset Committees and the Apollo Bay Senior Citizens Centre Community Asset Committee will not be provided with an update on the proposed renaming of the Centre.

Item: 9.2

## Designation of an Apollo Bay Bushfire Place of Last Resort

<b>OFFICER</b>	Doug McNeill
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	1. BPLR Assessment Apollo Bay Golf Course June 2024 [9.2.1 - 4 pages]

### 1. PURPOSE

To designate a new Bushfire Place of Last Resort at part of the Apollo Bay Golf Course.

### 2. EXECUTIVE SUMMARY

A portion of the Apollo Bay Golf Course has been identified as a suitable site for a Bushfire Place of Last Resort (BPLR). The Country Fire Authority (CFA) has advised that it meets the criteria in the Country Fire Authority (CFA) Assessment Guidelines and will soon provide formal legal confirmation of this. A formal consent and land management agreement with Great Ocean Road Coast and parks Authority (GORCAPA) as the golf course land manager is also required and is currently being drafted.

It is important to the safety of the Apollo Bay community and its visitors that they have access to a designated BPLR to provide a final level of protection from the immediate life-threatening effects of a bushfire, noting that such facilities are emergency shelter and not intended to include food, drink or other care services. To ensure the Apollo Bay community has access to at least one BPLR, the proposed golf course BPLR should be designated and established before the 2024/25 fire season. Council can designate the BPLR subject to the required CFA confirmation and GORCAPA consent and agreement being received.

### 3. RECOMMENDATION

*That Council:*

- 1. Designates part of the Apollo Bay Golf Course at Point Bunbury (east of Trafalgar Streer) as a Neighbourhood Safer Place - Bushfire Place of Last Resort, subject to:***

- a. ***Certification by the Country Fire Authority in accordance with Section 50G of Country Fire Authority Act 1958; and***
  - b. ***Consent from Great Ocean Road Coast and Parks Authority as the land controller in accordance with Section 50G of Country Fire Authority Act 1958 (CFA Act).***
2. ***Advise the Colac Otway Shire Municipal Emergency Management Planning Committee and the Apollo Bay community, via the Apollo Bay News, of Councils' decision.***
3. ***Notes that when actions in point 1 above are complete, the following actions will be taken to implement the decision:***
  - a. ***Establish the Bushfire Place of Last Resort through appropriate signage and community notification.***
  - b. ***Update the Colac Otway Shire Neighbourhood Safer Places Plan to include the new Bushfire Place of Last Resort.***
4. ***Notes that the Bushfire Place of Last Resort will be maintained in accordance with a land management agreement with the Great Ocean Road Coast and Parks Authority.***

## 4. KEY INFORMATION

A Neighbourhood Safer Place - Bushfire Place of Last Resort (NSP-BPLR or BPLR) may, as a last resort, provide a level of protection to the community from the immediate life-threatening effects of a bushfire. BPLRs across Victoria are established, maintained, and decommissioned by local government. BPLRs must meet criteria set out in the Country Fire Authority (CFA) Assessment Guidelines.

There are currently seven designated BPLRs in the Colac Otway Shire. A portion of the Apollo Bay foreshore was a designated BPLR up until 28 February 2024, when Council was legally required to decommission it because it no longer met the criteria set out in the CFA Assessment Guidelines. Native vegetation in the dune system alongside the decommissioned BPLR has increased over several years to levels that, if the vegetation was on fire, it could result in potential radiant heat levels at the BPLR higher than maximum standards.

Council's 28 February 2024 resolution is that it:

1. Decommissions the Apollo Bay Foreshore Great Ocean Road Neighbourhood Safer Place - Bushfire Place of Last Resort.
2. Advises the relevant State Government and local emergency agencies of this decision.
3. Commits to work to establish an Apollo Bay Neighbourhood Safer Place - Bushfire Place of Last Resort before the next fire season and notes that officers have commenced this work.
4. Notes that it will receive a future report regarding point 4 before the 2024-25 Fire Season
5. Expresses its preference for retention of the Apollo Bay foreshore as a Bushfire Place of Last Resort.

Resolutions 1 and 2 are complete. In relation to resolutions 3 and 4, the recommendation in this report will enable the establishment of a BPLR before the next fire season.

A Colac Otway Shire Municipal Emergency Management Planning Committee (MEMPC) working group (Council, GORCAPA, CFA) established in December 2023, has been investigating a portion of the Apollo Bay Golf Course as a potentially suitable alternative site for a BPLR (shown in the map below).

CFA has assessed the golf course site and advised that it meets the criteria in the CFA Assessment Guidelines, however a formal CFA legal approval is still required. This is expected to soon be received from the CFA's Regional Manager and Regional Commander.

A formal consent and land management agreement with GORCAPA as the golf course land manager is also required. The agreement will outline expectations for how GORCAPA and/or the golf club will maintain the land and any Council obligations such as BPLR signage and public communications. The responsible GORCAPA manager is a member of the MEMPC working group that identified the proposed BPLR.

Colac Otway Shire also has a Neighbourhood Safer Places Plan that identifies the location of each BPLR in the Shire, the criteria they must meet, and actions required by Council and others for this to occur. Section 50G (3) of the CFA Act states that: 'in identifying and designating neighbourhood safer places, a municipal council may have regard to its Municipal Council Neighbourhood Safer Places Plan.' Officers have assessed the proposed BPLR against the criteria in the plan and found that it complies with the criteria (Refer to Attachment 1).



*Proposed location of Apollo Bay Golf Course – Bushfire Place of Last Resort*

In relation to resolution 5, the re-establishment of the Apollo Bay foreshore as a BPLR would require significant native vegetation removal. Given Victoria's native vegetation protection legislation, it is unlikely that approval would be granted to remove native vegetation alongside the decommissioned BPLR when this could be avoided by designating a suitable BPLR at an alternative nearby location (such as the one proposed). Even if approvals could be granted for the former site, it is not feasible to obtain

those approvals and undertake works needed to modify the land around the foreshore to the extent that it would meet the CFA Assessment Guidelines before the 2024/25 summer fire season.

It should also be noted that the designation of the golf course site will not preclude the public from using the main foreshore during an emergency.

## 5. CONSIDERATIONS

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

This report is consistent with the Governance Principles by transparently outlining the process for designating a new BPLR. It confirms that Council is adhering to its responsibilities and obligations under the CFA Act. There are not expected to be any negative economic consequences from the decision and environmental outcomes will be positive as no native, or other vegetation will need to be removed or altered at the golf course. GORCAPA has advised the golf club president of the proposed BPLR on the golf course and no objections to the proposal have been made because the BPLR will have no impact on the golf course. On the rare occasions that a BLPR will be required, golf will not be being played at that time.

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

It is the role of local government to identify potential suitable locations, designate, establish and maintain NSP-BPLRs within their municipal district, pursuant to the *Country Fire Authority Act 1958 (CFA Act)*.

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

The designation and establishment of the BPLR will deliver community safety outcomes and avoid removal of protected native vegetation from the Apollo Bay Foreshore.

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

There has been some community engagement on this matter through involvement of the MEMPC which includes a coastal community representative. The designation and establishment of a BPLR follows a legal and technical process with obligations for CFA, GORCAPA and Council that do not involve or require seeking community views. When the new BPLR is designated, officers will deliver a public awareness campaign to inform the community of its location and purpose.

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

Information related to the process and decision will be available to the public through Council meeting minutes and social and other media.

### **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 5: Provide and maintain an attractive and safe built environment

Designation of the new BPLR for Apollo Bay is consistent with Council's Neighbourhood Safer Places Plan and the requirements established in the State legislation relating to these places.

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

There are no expected financial or resource implications arising from this decision other than officer time. The cost of new signage for a future site will likely have minimal costs.

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

The new BPLR will not have any impact on Council's services.

### **Risk Assessment**

The Otway Ranges, including Apollo Bay, has a long history of dangerous bushfires. It is important to the safety of the Apollo Bay community and its visitors that they have access to a designated BPLR to provide a level of protection from the immediate life-threatening effects of a bushfire. There are no foreseeable risks with the decision to designate and establish the BPLR as long as the community can be properly informed of the BPLR location before the next fire season.

### **Communication/Implementation**

The Colac Otway Shire Municipal Emergency Management Planning Committee and the Apollo Bay community will be advised of Council's decision.

### **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 – Designate the proposed site as a Bushfire Place of Last Resort

This option is recommended by officers as the proposed site delivers resolutions 3 and 4 from Council's 28 February 2024 meeting. It meets all relevant criteria and provides a designated BPLR for the Apollo Bay community before the 2024/25 fire season with minimal implementation cost. Members of the community will still be able to access the broader foreshore in an emergency even though not formally designated a BPLR. This option would not preclude other BPLR sites being designated and established into the future at Apollo Bay.

#### Option 2 – Not designate the proposed site & pursue an alternative site

This option is not recommended by officers as resolutions 3 and 4 from Council's 28 February 2024 meeting would not be delivered and the Apollo Bay community would be without a BPLR for the coming 2024/25 summer fire season. As noted in this report, the foreshore site that was formerly a BPLR would require removal of native vegetation to facilitate compliance with the regulations, and even if Council were to pursue that option (and receive approval from other agencies), any endorsement of that site would not be feasible in time for this summer fire season.

Colac Otway Shire  
Neighbourhood Safer Places Plan

## Council Neighbourhood Safer Places Plan Criteria – Assessment Tool

NSP Location:     Apollo Bay Golf Course (proposed)     Date:     26 June 2024    

Council NSPP Criteria	Issues to consider	Council comments	Satisfied? Yes/No
<b>Consents and rights of access</b> <i>See section 2.3.1</i>	If the potential NSP is located on Council-owned land, can Council use the land as an NSP if required? Consider whether or not Council allows the land to be used for potentially inconsistent purposes, such as for farmers' markets, fetes, circuses etc.	Not applicable. Managed by GORCAPA (Great Ocean Road Coast and Parks Authority).	Yes
	If the potential NSP is on private land, or public land under the control of a Crown Land Manager (other than Council), can Council enter into arrangements which allow it to use the land as a potential NSP on reasonably satisfactory terms? Also consider whether Council has the right to: <ul style="list-style-type: none"> <li>access the site and surrounding areas for maintenance; and</li> <li>erect appropriate signage at the NSP.</li> </ul>	GORCAPA is the Crown Land managers and has provided its support to the land being used as a BPLR. The golf club has also indicated support.  Formal consent and management agreement pending.	Yes
<b>Access and egress</b> <i>See section 2.3.2</i>	Do access routes to the potential NSP allow for: <ul style="list-style-type: none"> <li>the anticipated potential number of people to move to and from the place; and</li> <li>the CFA and other emergency services to attend the place for asset and personnel protection activities?</li> </ul>	Yes  No restrictions for CFA appliances or personnel.	Yes
	Are access routes easily navigable, bearing in mind they could be affected by smoke? Consider the condition of the road surface, proximity to population centres and major roads, capacity of access routes to accommodate large numbers of vehicles, the availability of car parking at the place and any other relevant matters.	Access/egress easily navigable along Great Ocean Rd from Marengo and Skenes Creek. Direct access from Nelson Street, Noel Street and Gambia Street  Parking readily available at NSP-BLPR in Boat ramp carpark	Yes
<b>Maintenance of NSP in accordance with CFA assessment</b>	Can Council maintain the potential NSP in accordance with the criteria taken into account by the CFA in arriving at its fire rating assessment?	The site will be maintained by Apollo Bay Golf Club as a golf course and in accordance with CFA Assessment Guidelines.	Yes

Version 3.01 Updated 5 April 2016

Colac Otway Shire  
Neighbourhood Safer Places Plan

<b>Council NSPP Criteria</b>	<b>Issues to consider</b>	<b>Council comments</b>	<b>Satisfied? Yes/No</b>
<i>See section 2.3.3</i>	<i>If the CFA have not provided sufficient information in relation to the criteria it has taken into account in arriving at its fire rating assessment, it may be necessary for Council to seek further information from the CFA.</i>		
<b>Opening of the NSP</b> <b>See section 2.3.4</b>	Will it be possible and practicable to make the potential NSP available for use on a 24 hour basis during the declared fire danger period? This is a particular issue where the potential NSP is a building. Consider the potential for damage to the NSP which could result during times that it is open and available for use, but is not being used as an NSP.	Open space available 24 hrs during fire danger period.  Not applicable.	Yes
	What costs could be incurred by Council in making the potential NSP available on a 24 hour basis during the declared fire danger period? Are these costs reasonable, and capable of being borne by Council?	Open space available 24 hrs during fire danger period.  Not applicable.	Yes
	Could the potential NSP be used for an unintended purpose which could impact upon its use as an NSP (such as an emergency relief centre)?	Open space available 24 hrs during fire danger period. It is s not likely that the golf course will be used for an unintended purpose. Potential emergency relief centres are located elsewhere in Apollo Bay.	Yes
<b>Defendable space and fire suppression activities</b> <b>See section 2.3.5</b>	Is the potential NSP surrounded by sufficient open space to enable the CFA to conduct asset protection and fire suppression operations? Is that open space reasonably free of obstacles (such as fences, buildings, steep gradients, vegetation and other land formations)? Council should seek CFA advice concerning the defendability of the potential NSP and the Buffer Zone, including in relation to fire vehicle access requirements.	No significant restrictions on access or egress of CFA appliances for the purpose of fire suppression or asset protection.	Yes
	Will approval be required under legislation such as the Environment Protection and Biodiversity Conservation Act 1999 (Cwlth), Flora and Fauna Guarantee Act 1988 (Vic) and the Planning and Environment Act 1987 (Vic)? Can such approval be obtained before the NSP is established?	No permits required under these Acts for treatments and/or maintenance.	Yes

Version 3.01 Updated 5 April 2016



Colac Otway Shire  
Neighbourhood Safer Places Plan

<b>Council NSPP Criteria</b>	<b>Issues to consider</b>	<b>Council comments</b>	<b>Satisfied? Yes/No</b>
<b>Defendability of buildings</b> <b>See section 2.3.6</b>	If the potential NSP is a building, has Council has sought expert advice from the CFA to determine whether the NSP is likely to be subject to risk from ember attack? If it is subject to such a risk, can that risk be safely managed?	Not applicable.	Yes
<b>Signage</b> <b>See section 2.3.7</b>	Can appropriate signage be erected at the entry to the potential NSP, and in its vicinity?	Appropriate signs and locations located around BLPR to be determined	Yes
	If signage needs to be placed on private land, can Council obtained the consent of the relevant landowner to the erection of the signage?	Consent expected to be granted by Crown Land manager – GORCAPA.	Yes
<b>Maintenance and maintainability</b> <b>See section 2.3.8</b>	Is the potential NSP capable of being maintained to ensure continuing compliance with the CFA Fire Rating Criteria and the Council NSPP Criteria?  Where relevant, consider whether adjoining land owners and occupiers will provide Council with an assurance that both the potential NSP and the Buffer Zone can be maintained to a satisfactory level.	Yes – current maintenance meets CFA requirements.  Due to BPLR proposed buffers from foreshore vegetation, the adjacent foreshore, also managed by GORCAPA, will not need to comply with CFA criteria	Yes
<b>Disabled access</b> <b>See section 2.3.9</b>	Are there are means of access for disabled and mobility-impaired persons to the potential NSP, including vehicle access to drop off people with disabilities?	Yes – disabled parking on street and paved paths for ease of access.	Yes
<b>Alternative uses of potential NSP</b> <b>See section 2.3.11</b>	Can Council manage alternative uses which may be made of the potential NSP so as to ensure that those uses will not compromise the function of the place as a potential NSP?  The CFA has advised that where a potential NSP which is used for an operational purpose at many times meets the CFA Fire Rating Criteria, then the CFA considers that those operational activities will be able to continue (to the extent practicable in the circumstances) while the place is being used as an NSP.	Management of alternative uses by GORCAPA will not compromise the function of the NSP-BPLR.  No impact to NSP-BPLR for operational purposes.	Yes

Version 3.01 Updated 5 April 2016

Colac Otway Shire  
Neighbourhood Safer Places Plan

<b>Council NSPP Criteria</b>	<b>Issues to consider</b>	<b>Council comments</b>	<b>Satisfied? Yes/No</b>
<b>Community Communication</b> See section 2.3.12	Will it be possible to ensure that there will be good community awareness of the location of the potential NSP, and the risks associated with using the potential NSP?	Community awareness program will be delivered on BPLR and associated risks.	Yes

Version 3.01 Updated 5 April 2016

Item: 9.3

## Consideration of Submissions - Proposed Kennett River Speed Limit Changes

<b>OFFICER</b>	Kanishka Gunasekara
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	1. Summary of the submissions for Kennett River Shared Pedestrian Zone [9.3.1 - 4 pages]

### 1. PURPOSE

To present community feedback received regarding the proposed speed change/shared pedestrian zone within the central area of Kennett River and to provide recommendations for the next steps based on this feedback.

### 2. EXECUTIVE SUMMARY

Council sought submissions from the public in March/April 2024 relating to a proposal to introduce a shared zone speed limit in sections of Grey River Road, Hawdon Avenue, the Kafe Koala roundabout, and the access road to the Kennett River Nature Walk car park in Kennett River. The proposal involves establishing a zone for a 20km/h speed limit for vehicles and allowing pedestrians to use the road carriageway on a shared basis with vehicles.

Twenty-two submissions were received with all but four of these indicating that they do not support the proposal. Given the strong opposition to the shared pedestrian zone, and concerns that it would further encourage tourists to use the road to view koalas it is recommended this element not be endorsed. It is considered appropriate however that the lower speed limit of 20km/hr be endorsed to address public safety. It is further recommended Council consider funding some short-term traffic management measures in the precinct which would address some resident's concerns.

### 3. RECOMMENDATION

***That Council:***

- 1. Notes that the Kennett River Shared Zone and Speed Reduction proposal was exhibited in accordance with Council's previous direction.***
- 2. Notes that twenty-two submissions were received in response to the exhibition of the Kennett River Shared Zone and Speed Reduction proposal and that submitters were heard at a Submissions Committee meeting on 12 June 2024.***
- 3. Having considered all submissions decides:***
  - a. To endorse the proposed 20km/h speed limit within the area nominated in Figure 1 in Kennett River.***
  - b. Not to proceed with a Shared Pedestrian Zone.***
  - c. To implement line-marking and signage to better delineate parking/access and create one-way traffic conditions (clockwise) on the unnamed road that services Kafe Koala and gives access to the river and associated carparking.***
- 4. Notes that point 3(c) will be interim works and that the Great Ocean Road Coast and Parks Authority will undertake further works to improve road user safety as part of a project funded through the Geelong City Deal.***
- 5. Submits a request to the Department of Transport and Planning for approval of the speed change in point 3.***
- 6. Allocates \$10,000 from the Unallocated Discretionary funds to facilitate the short-term traffic management improvements at Kennett River that are proposed in point 3(c).***

### 4. KEY INFORMATION

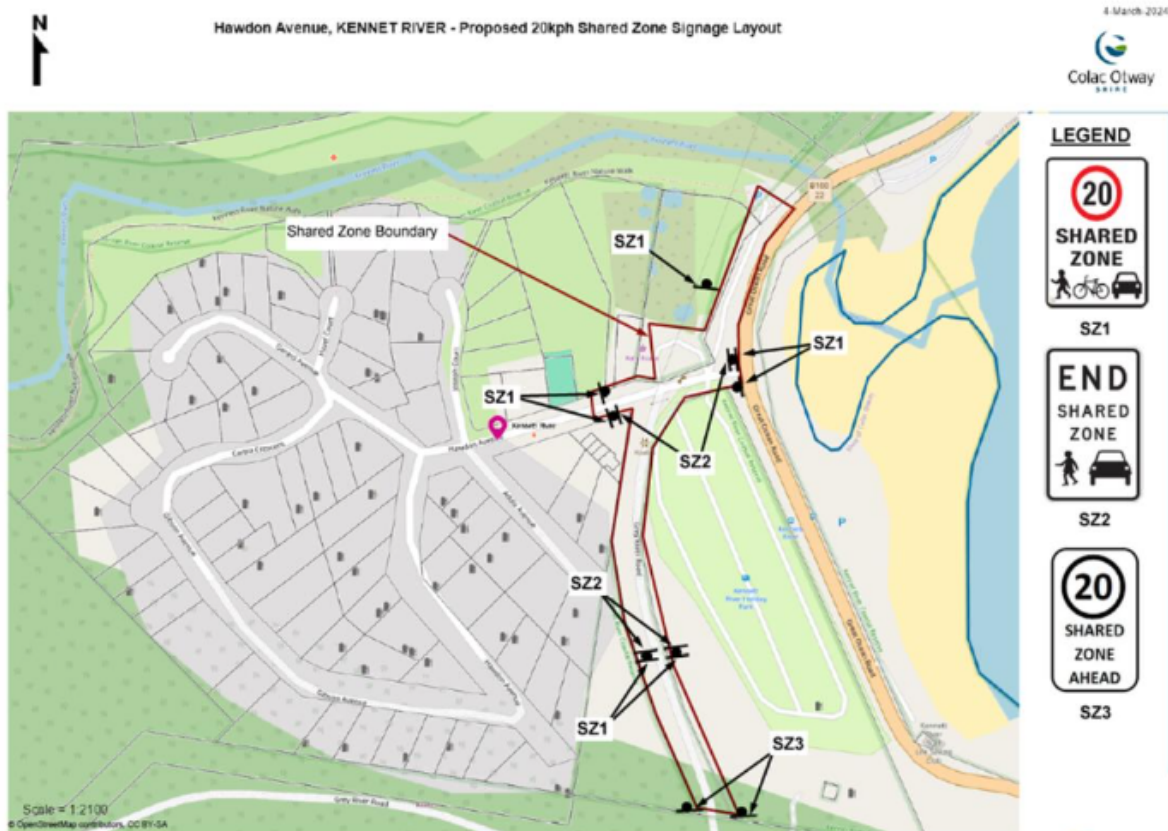
Council has been in discussions for many months with a range of stakeholders including Department of Transport and Planning (DTP), Great Ocean Road Coast and Parks Authority (GORCAPA), Parks Victoria and local resident groups concerning issues raised with pedestrian safety in the central part of Kennett River close to the Koala Cafe and caravan park.

Whilst funding allocated from the Federal and State Governments to the City Deals Program for Kennett River (being delivered by GORCAPA) aims to improve road safety in this area, the delivery of works under that project are not yet fully defined and will take some time to occur on the ground. The Authority is currently undertaking community engagement and finalising a Master Plan for the area that will influence the design of City Deal funded traffic management works.

In response however to growing concerns about the short-term safety of vehicles and pedestrians, particularly in Grey River Road, Council has proposed the introduction of a shared zone for vehicles and pedestrians in sections of Grey River Road, Hawdon Avenue, and the road providing access to Kafe Koala and the Kennett River Nature Walk Car Park. This would involve the introduction of a 20km/hr speed limit for vehicles, and the ability for pedestrians to walk along the road carriageways.

It was considered that this shared zone would prioritise the safety of all road users, including pedestrians, cyclists, cars, and buses, by creating a shared space where vehicles must give way to

pedestrians and cyclists with equal rights to the road. The current speed limit within the town is 50 km/hr. The sections of roadway included in the proposal are shown in Figure 1.



**Figure 1 – Kennett River Shared Zone Proposal**

The proposal was placed on exhibition for six weeks in March and April resulting in twenty-two submissions being received. Full copies of these are included within the Confidential attachment to this report. Also attached is an officer assessment of the submissions. All but four of the submissions have opposed the proposed speed limit change. Three of the submitters made their own individual response whilst also including their response under the auspice of a submission by a community group.

The submissions for the Council's proposal to address safety issues in Kennett River show varied responses. Several submissions, including numbers 1, 2, 3, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, and 22, do not support the proposal. They primarily express concerns over traffic congestion, safety hazards, and inappropriate tourist behaviour on local roads. Suggestions include establishing a bus parking area near the Kennett River Nature Walk, installing signage to redirect tourists to designated trails, and addressing unlicensed tour operators. Submission 4 supports reducing the speed limit to 40kmh (a higher limit than proposed by Council), Submission 9 suggests specific speed limit adjustments, while Submissions 10, 20, and 21 support extending shared zones along Hawdon Avenue. Overall, the main suggestions by submitters include improving signage, addressing traffic management, and encouraging the use of designated trails to mitigate safety and congestion issues caused by tourist traffic.

### Merit of Speed Limit Change

There has been strong opposition to the proposed shared pedestrian zone, but some submitters have indicated they would be more accepting of a lower speed limit provided it did not prioritise the use of the road by pedestrians. Many of the submitters remain concerned about tourists visiting Kennett River wandering onto the road and causing a safety hazard for vehicles. They have concerns that formalising the sharing of the road with pedestrians would in fact encourage this activity to occur. There is some merit to this view'

An option for Council would be to lower the speed limit to 20km/hr but not proceed with the shared pedestrian zone. Given the short distance of this area from the Great Ocean Road, it is considered that a lower speed limit is appropriate and would not impact significantly on residents outside of peak tourist times.

### Other Traffic Management Issues

Both the Kennett River Association and Kennett River Action Group have suggested that Council facilitate several short-term traffic management solutions to improve the safety for pedestrians in central Kennett River for the coming peak holiday season, in advance of the City Deal infrastructure improvements which are aimed at addressing the current issues.

In recognition that it could take some time for delivery of the City deal project, it is recommended that Council undertake some actions in the short term that reduce the opportunity for conflict of vehicles and improve pedestrian safety in the area at the front of the cafe and caravan park. It is proposed that signage and line marking be implemented to create one-way traffic conditions (clockwise) on the unnamed road that services Kafe Koala and gives access to the river and associated carparking. This would prevent vehicles from turning right directly into the access road leading down to the river from Hawdon Avenue when travelling from the Great Ocean Road direction, providing greater certainty for drivers and reducing the potential for conflicts. Vehicles heading towards the river and associated parking would enter via the access road in front of the cafe. It is also proposed to line mark the current angled parking on the northern side of the access road servicing Kafe Koala to avoid ad-hoc parking, and introduce bollards/markers to prevent parking on the east side of the access road to the river close to the intersection with Hawdon Avenue. Signage for no parking would be introduced at the end of the access road to the river to facilitate access for emergency vehicles. These works would require a budget of \$10,000.

GORCAPA has indicated it would support these measures given they do not compromise the solutions being explored for the Master Plan which will inform the City Deal project. Whilst officers recommend proceeding with the specified works, other suggestions from the community that would involve more significant interventions such as restricting bus and car parking and placement of new pedestrian crossings are not being entertained at the current time. These suggestions should be considered through the current GORCAPA led Community Reference Group and other City Deal project governance processes.

There is no allocated budget for the recommended works however \$10,000 could be sourced from Unallocated Discretionary funds if Council supports the approach. This has been included in the recommendation as it would acknowledge the serious concerns of residents regarding traffic safety for the coming summer period and respond in a manner which is affordable and not funding works that would later be altered through the City deals process.

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

This report is consistent with the Governance Principles by enabling community submissions to the proposed speed change to be considered in open Council. Community engagement and transparency in decision making are key elements of the principles. The proposed reduction of the speed limit in Kennett River would enhance the safety of all road users including pedestrians.

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

The proposal to reduce the speed limit in Kennett River is supported in law by the applicable rules in the *Road Safety Road Rules 2017* that are prescribed under the *Road Safety Act 1986*.

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

Not applicable.

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

The speed limit change was placed on public exhibition for six weeks after formal consideration by Council at its meeting on 28 February 2024. The closing date for written submissions was 19 April 2024. Notices were placed in the Colac Herald and the Apollo Bay Newsheet and promoted on social media and by media release. Specific stakeholders were also advised in writing, including the two community groups representing Kennett River residents.

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

Public transparency has been ensured through undertaking community engagement on the speed limit change proposal and allowing public presentation to Council of submissions before a final decision of Council.

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

Alignment to Council Plan 2021-2025:

Theme 2 - Valuing the Natural and Built Environment

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

The speed change initiative supports Council's 2023-2024 Annual Plan, specifically:

- Priority 1.4.3 - Work with our community to promote our towns as places to stop, visit and explore.
- Priority 2.5.1 - Maintain road and drainage assets to ensure they are safe and reliable
- Priority 3.2.1 - Provide safe, inclusive, accessible, and integrated transport networks that support active transport

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

There would be minor costs associated with line marking and installation of street signs to implement any speed limit change. Some of these costs may be paid by DTP, and the balance by Council within its operational budget.

As noted above, about \$10,000 would need to be allocated to facilitate other short term traffic management measures in the precinct.

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

The proposal would not have any impact on Council's service performance.

## **Risk Assessment**

The proposed shared pedestrian zone and reduced speed limit is aimed at reducing the risk of injury to drivers, pedestrians, and other road users in Kennett River.

## **Communication/Implementation**

The outcome of the Council decision will be communicated to submitters and stakeholders. Should the proposal be supported, Council would liaise with DTP which would need to formally declare the new speed limit and the area to which it applies.

## **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 – Adopt the shared pedestrian zone and 20km/hr limit as exhibited

This option is not recommended by officers given the strong opposition from the community, who are reasonably concerned about encouraging pedestrians further to use the road whilst viewing koalas. It is considered the community would more likely accept a lower speed limit without the shared pedestrian zone.

### Option 2 – Adopt a 20km/hr speed limit but not proceed with the shared pedestrian zone

This option is recommended by officers as it responds to the concerns of the majority of submitters but still introduces a lower speed environment that aims to improve public safety.

### Option 3 – Do not adopt any change to the speed limit

This option is not recommended by officers as there is a strong basis for lowering the speed limit due to the high incidence of pedestrians wandering onto the road in front of traffic at this location.

### Option 4 – Consider allocating funds for short term traffic management measures that respond to community safety concerns

This option is recommended (in addition to the 20km/hr speed limit change) as it will assist to improve traffic safety in the period until works proposed for more permanent solutions are implemented via the City Deals project. It will require to allocate \$10,000 for this purpose that is not budgeted.



## Detailed Assessment of Submissions – Kennett River Speed Limit Change Proposal

Submission No.	Submitter's Overall Response	Additional Issues Raised	Requested Action	COS Comments
1	Does <u>not</u> support the proposal	Tourists are accessing Hawdon Avenue and Grey River Road on foot mainly to catch the views and see wildlife. They should be encouraged to use the Kennett River Nature Walk for this purpose	Investigate the possibility of establishing a bus parking area adjacent to the Kennett River Nature Walk access road, with suitable signage.  Install "No Bus Access" signs at the entry to Grey River Road and the Kafe Koala Roundabout.  Install suitable signs promoting the use of the Kennett River Nature Trail.	Not relevant to the current speed limit proposal.  There is adequate area to establish a bus parking area on the western side of the service road, which will be considered in detail by the City Deals Infrastructure project.
		Tour bus operators should not be encouraging tourists to use these roads	Tour bus operators to be requested to advise tourists to use the Kennett River Nature Trail to view wildlife.	Not relevant to the current speed limit proposal.
		Tour coach operators should be held accountable for any accidents caused by their patrons using these roads	No further action	Road Safety rules provide for the safe transport of vehicles and pedestrians.
		Need a dedicated pathway	Investigate the feasibility of constructing a footpath on the eastern side of Grey River Road.	Not relevant to the current speed limit proposal.
		There is a clear area on the left-hand side of Grey River Road that could be sectioned off as a viewing area	No further action	Not relevant to the current speed limit proposal.  It is not considered appropriate to encourage tourists to drive their vehicles up a narrow road, hence, to establish an area for parking is unnecessary.
2	Does <u>not</u> support the proposal	As for Submission No. 1	As for Submission No. 1	As for Submission No. 1

## Detailed Assessment of Submissions – Kennett River Speed Limit Change Proposal

Submission No.	Submitter's Overall Response	Additional Issues Raised	Requested Action	COS Comments
3	Does <u>not</u> support the proposal	Concerned with tourists blocking the roadway and causing traffic congestion and hazards on the Great Ocean Road	As for Submission No. 1	As for Submission No. 1. Some short term measures proposed in the report to address road safety in the precinct prior to the City Deal funded works.
4	Supports the proposal (see Comments)	States that they support the reduction of the speed limit to 40km/h.	No further action	The submitter has either mis-appropriated the comment to mean the Colac CBD, or suggests a 40km/h limit in Kennett River
5	Does <u>not</u> support the proposal	Need to manage the unlicensed tour operators from entering Kennett River	Follow up on previous customer request	This is beyond the scope of the speed limit reduction.  Tour operators are managed by Parks Victoria and in future by GORCAPA. It is not an issued that can be addressed by Council.
		Erect appropriate signage that prohibits unlicensed tour operators from entering Kennett River	Erection of signage	This is beyond the scope of the speed limit reduction.  It is illegal to operate a tour business without the appropriate licence, therefore the law governs this process.
		Lack of enforcement on parking	Appropriately name the roundabout and service road to begin enforcement	A formal request has been received from the community. Council will consider naming of the unnamed roads.
		Assign designated bus parking area	Investigate the possibility of establishing a bus parking area adjacent to the Kennett River Nature Walk access road, with suitable signage.	As for Submission No. 1

**Detailed Assessment of Submissions – Kennett River Speed Limit Change Proposal**

Submission No.	Submitter's Overall Response	Additional Issues Raised	Requested Action	COS Comments
		Ensure that Tour operators are providing the safest access to locations of interest	Tour bus operators to be requested to advise tourists to use the Kennett River Nature Trail to view wildlife.	As per Submission 5 above.
		Encourage tour operators to promote the Wildlife Wonders attraction south of Apollo Bay	No further action	As per Submission 5.
		Begin discussions with Visit Victoria re the impact that the current tourist activities are having on the local environment	No further action	This relates to the broader issue of where tourism is encouraged to occur along the Great Ocean Road. It is a matter that will be addressed in future work of GORCAPA and the State Government.
6	Does <u>not</u> support the proposal	Has submitted the same letter as Submission No. 5	As for Submission No. 5	As for Submission No. 5
7	Does <u>not</u> support the proposal	As for Submission No. 3	As for Submission No. 3	As for Submission No. 3
8	Does <u>not</u> support the proposal	Has submitted the same letter as Submission No. 5	As for Submission No. 5	As for Submission No. 5
9	Does <u>not</u> support the proposal	States that a 40km/h in the township zone would be sufficient, possibly other areas could be 30km/h	As for Submission No. 3	As for Submission 3.
10	Supports the proposal	Suggests that Council considers extending the commencement of the shared zone on Hawdon Avenue to include the public tennis courts entrance/gates	No further action	It is recommended that Council does not proceed with the shared zone proposal. It is not considered necessary to extend the speed limit change further west.
11	Does <u>not</u> support the proposal	As for Submission No. 3	As for Submission No. 3	As for Submission No. 3
12	Does <u>not</u> support the proposal	Raises the same issues as Submission No. 5	As for Submission No. 5	As for Submission No. 5
13	Does <u>not</u> support the proposal	Supports the content of Submission No. 12	As for Submission No. 5	As for Submission No. 5

**Detailed Assessment of Submissions – Kennett River Speed Limit Change Proposal**

<b>Submission No.</b>	<b>Submitter's Overall Response</b>	<b>Additional Issues Raised</b>	<b>Requested Action</b>	<b>COS Comments</b>
14	Does <u>not</u> support the proposal	Supports the content of Submission No. 12	As for Submission No. 5	As for Submission No. 5
15	Does <u>not</u> support the proposal	Repeat of Submission No. 1	As for Submission No. 1	As for Submission No. 1
16	Does <u>not</u> support the proposal	Repeat of Submission No. 2	As for Submission No. 1	As for Submission No. 1
17	Does <u>not</u> support the proposal	Concerned with increased congestion on Great Ocean Road	As for Submission No. 3	As for Submission No. 3
18	Does <u>not</u> support the proposal	Suggests a pedestrian crossing on Hawdon Avenue with intermittent go/no go lights	No further action	Pedestrian access within the precinct will be considered through the Master Plan process being overseen by GORCAPA for the current City Deal project.
19	Does <u>not</u> support the proposal	None	No further action	Noted.
20	Supports the proposal	Extend the zone up Hawdon Avenue to include the tennis courts entry	As for Submission No. 10	As for Submission No. 10
21	Supports the proposal	Extend the zone up Hawdon Avenue to include the tennis courts entry	As for Submission No. 10	As for Submission No. 10
22	Does <u>not</u> support the proposal	Repeat for Submission No. 11	As for Submission No. 11	As for Submission No. 11

Item: 9.4

**Use and Development of a Special Class Broiler Farm, Use and Development of 4 Dwellings and associated works at 320 Mooleric Road Birregurra PP159/2023-1**

<b>ADDRESS AND PROPERTY DETAILS</b>	320 Mooleric Road BIRREGURRA Lot 3 TP372519 V/F: 10991/354, Lot 4 TP 372519 V/F: 10991/357 Lot 1 TP247757 V/F: 10991/350, Lot 4 TP 247757 V/F: 10991/353 Lot 6 TP247757 V/F: 10991/350, Lot 7 TP 247757 V/F: 10991/353, Parish of Birregurra Road reserve north of Lots 1 and 3 TP372519	<b>APPLICATION NUMBER</b>	PP159/2023-1
<b>PROPOSAL</b>	Use and development of a Special Class Broiler Farm, 4 dwellings and associated buildings and works and Native vegetation removal		
<b>PERMIT TRIGGERS</b>	<p>Clause 35.07-1 – Use of Land for Broiler Farm – FZ</p> <p>Clause 35.07-1 – Use of Land for four Dwellings – FZ</p> <p>Clause 35.07-4 – Buildings and Works Associated with Section 2 Use – FZ</p> <p>Clause 52.17 – Native Vegetation Removal</p>		
<b>TRIGGER FOR DETERMINATION BY COMMITTEE</b>	Four (4) or more objections – nine (9) objections received		
<b>ZONE</b>	Farming Zone (FZ)	<b>OVERLAYS</b>	Nil
<b>COVENANTS</b>	N/A		
<b>CULTURAL HERITAGE</b>	The land is partially in an area of cultural heritage sensitivity and the proposal constitutes a high impact activity. The applicant has submitted a plan identifying the ‘activity area’ that excludes the		

Item: 9.4

**Use and Development of a Special Class Broiler Farm, Use and Development of 4 Dwellings and associated works at 320 Mooleric Road Birregurra PP159/2023-1**

culturally sensitive areas and therefore a Cultural Heritage Management Plan is not required.

**OFFICER**

Helen Evans

**CHIEF  
EXECUTIVE  
OFFICER**

Anne Howard

**DIVISION**

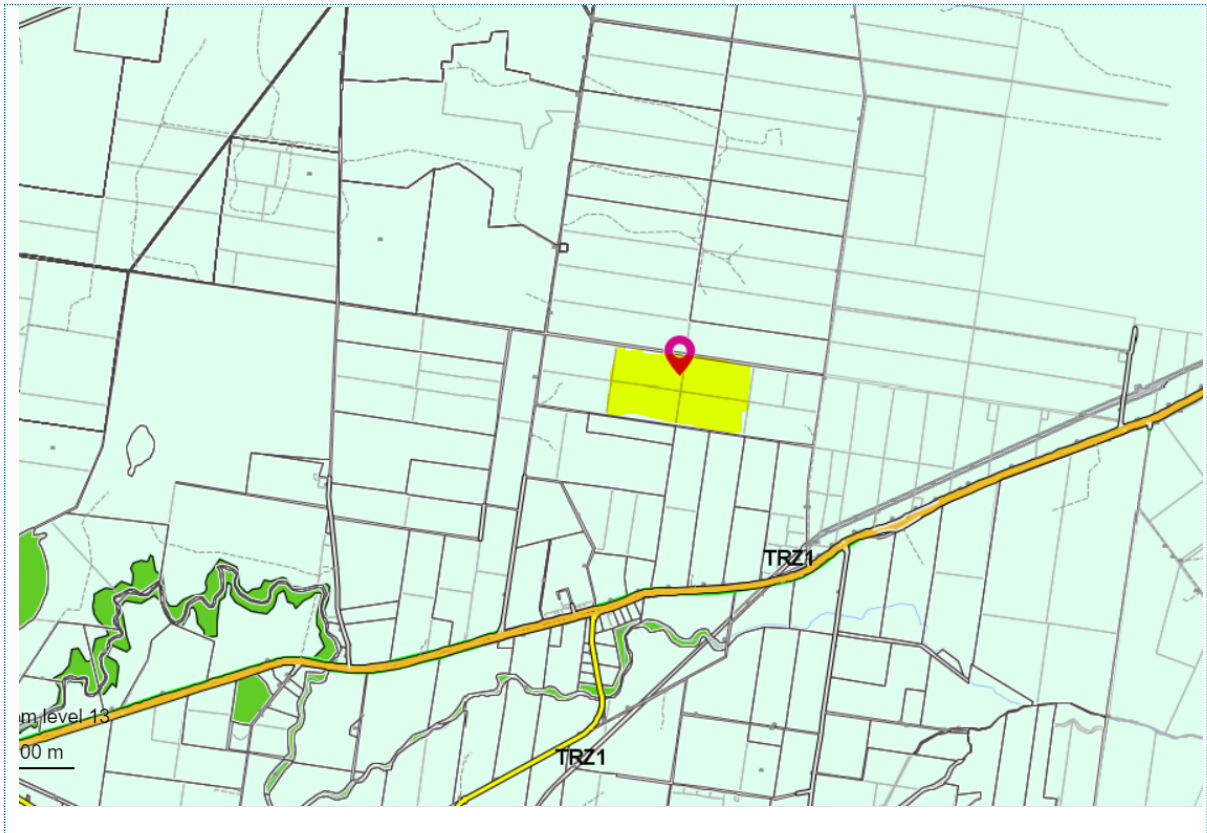
Executive

**ATTACHMENTS**

Nil

# 1. LOCATION PLAN / AERIAL PHOTO

## LOCATION PLAN







## 2. RECOMMENDATION

*That Council, in accordance with Section 64 of the Planning and Environment Act (1987) resolve to issue a Notice of Decision to Grant a Permit for the Use and development of a Special Class Broiler Farm (total of 1,560,000 birds), 4 dwellings and associated buildings and works and Native vegetation removal within the activity area shown on the site plan at 320 Mooleric Road Birregurra and unused government road north of Lot 1 and TP372519, (Lot 3 TP372519 V/F: 10991/354, Lot 4 TP 372519 V/F: 10991/357, Lot 1 TP247757 V/F: 10991/350, Lot 4 TP 247757 V/F: 10991/353 Lot 6 TP247757 V/F: 10991/350, Lot 7 TP 247757 V/F: 10991/353, Parish of Birregurra, Road reserve north of Lots 1 and 3 TP372519), subject to the following conditions:*

### AMENDED PLANS

- 1. Prior to commencement of the use and/or development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans, which must be drawn to scale with dimensions, must be generally in accordance with the plans submitted with the application, but modified as follows:*

*Site plan (Spirecom Project No. Current - 6391 VER 1 Sheet 1 of 13, dated 8/7/23 and received on 7/3/2024) modified to show:*

- i) The annotation on the plans changed from "farm 1" and "farm 2" to 'site 1' and 'site 2'.*
- ii) The retention basins accurately depicted for sites 1 and 2.*
- iii) The lot boundary of the consolidated land (as required under condition 4 of this permit) and the activity area (including the access through the road reserve to the north of the site) shown on the plan*
- iv) The vehicle entrance from the road reserve north of the site, including the distance from the western boundary of the site*
- v) A legend describing the items shown on the site plan including, but not limited to bunding, fencing and landscaping*
- vi) Dimensions of setbacks of buildings and works from lot boundaries, "sensitive vegetation areas" (as annotated on the plans) and areas of cultural heritage sensitivity*
- vii) Details of the location, height, type and materials of fencing around site 1 and site 2*
- viii) Details of the location, height, type and materials of fencing around the two sites around the "sensitive vegetation areas" and areas of cultural heritage sensitivity*
- ix) Details of the locations, dimensions and materials of the bunding proposed around site 1 and site 2*
- x) A concrete hardstand area located at the entrance to each broiler shed*
- xi) Location of silos, fans and water tanks*
- xii) Location of a bunded area for the storage of chemicals*
- xiii) Area(s) for parking articulated vehicles involved in loading and unloading stock, feed, litter and waste*
- xiv) Compliance with the recommendations at section 1.5 of the Technical Memorandum prepared by GHD (Project No. 12629222, dated 12 March 2024), including ensuring residences, pump station infrastructure and, where possible, bunding and the access are outside the 1% flood extent*
- xv) Internal roads and parking areas designed to ensure efficient traffic flow and to reduce the need for vehicles to reverse, avoiding the use of sharp turns and allowing for vehicles to leave travelling in a forward direction*

- xvi) *A notation stating that Internal roads and parking areas are constructed of a compacted sub-base with table drains, and a compacted gravel layer with a camber to shed rainwater to the drain*
- xvii) *The locations and extent of native vegetation removal*

#### **Building plans**

- xviii) *Dimensions of the proposed dead bird freezer (refrigerated container)*

#### **Stormwater retention basin plan (Spirecom Project No. Current - 6391 VER 1 Sheet 10 of 13 dated 8/7/23 and received on 28/7/2023) modified to show:**

- xix) *Walls of retention basins completely stable and watertight, with a suitable foundation and constructed of compacted clay material.*
- xx) *The embankment of retention basins at least 600mm above ground to ensure no surface water is captured.*
- xxi) *The maximum depth of retention basins not more than 3m below natural ground level.*
- xxii) *The spillway of the retention basins constructed of rock or similar non-erodible material.*

#### **ENDORSED PLANS**

2. *The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
3. *The removal of native vegetation must be in accordance with the endorsed plan to the satisfaction of the Responsible Authority.*

#### **CONSOLIDATION OF LAND**

4. *Prior to the commencement of development, or by such later date as is approved by the Responsible Authority in writing, Lots 3 and 4 TP372519 (V/F: 10991/354 and V/F: 10991/357) and Lots 1, 4, 6 and 7 TP247757 (V/F: 10991/350, V/F: 10991/353 V/F: 10991/350 and V/F: 10991/353), Parish of Birregurra must be consolidated under the provisions of the Subdivision Act 1988 to the satisfaction of the Responsible Authority and a copy of the title must be submitted to the Responsible Authority.*

#### **FENCING/EXCLUSION AREAS**

5. *The broiler farm must only operate within the activity areas shown on the endorsed plans. Prior to the commencement of any construction or vegetation removal works, permanent post and wire fencing must be erected around all areas identified on the endorsed plans as areas of cultural heritage sensitivity or containing sensitive/native vegetation to the satisfaction of the Responsible Authority. This includes that section of the unused road reserve to the immediate north of the site through which access to the site will be obtained. The fencing must:*
  - *include signage that clearly identifies these areas as Protection Zones*
  - *ensure that existing sensitive areas are protected from any disturbance associated with the construction of the access within the road reserve to the north of the site and the construction of the internal driveways*

## **ENVIRONMENT MANAGEMENT PLAN**

- 6. Prior to the commencement of the broiler farm use, an Environment Management Plan to the satisfaction of the Responsible Authority relating to the operation of the broiler farm must be submitted to and approved by the Responsible Authority. The Environment Management Plan must be prepared in accordance with the 'Victorian Code for Broiler Farms' 2009 (as amended). When approved the Environment Management Plan will be endorsed and will then form part of the permit.**
- 7. The Environment Management Plan must be routinely audited in accordance with the requirements of the Broiler Code to the satisfaction of the Responsible Authority Any revision to the Environment Management Plan must be to the satisfaction of the Responsible Authority and must be submitted to and approved by the Responsible Authority. When approved, the revised Environment Management Plan will be endorsed and will then form part of the permit.**
- 8. The use must at all times be undertaken in accordance with the most current version of the endorsed Environment Management Plan.**

## **CONSTRUCTION MANAGEMENT PLAN**

- 9. Prior to the commencement of any works relating to the development, unless otherwise approved in writing by the Responsible Authority, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The plan must describe the erosion and sediment control techniques that will be used and detail how the site will be managed prior to and during the construction period, including requirements for managing runoff, dust, construction wastes and litter. Details of the erection of any temporary buildings and facilities, including light and heavy vehicle parking areas, equipment storage compounds, diesel generators, diesel compressors, services, and amenities. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Colac Otway Shire drains and/or watercourses at any time during construction or operation to the satisfaction of the Responsible Authority.**

**The Construction Management Plan must also show all areas to be protected, including areas of cultural heritage sensitivity and "sensitive vegetation".**

- 10. All works must be undertaken in accordance with the approved Construction Management Plan. The developer must ensure that all contractors are aware of the requirements of the approved Construction Management Plan and understand how to implement them.**

### **Erosion Control**

- 11. All works must be undertaken in a manner that minimises soil erosion to the greatest extent practicable, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.**

### **Topsoil Retention**

- 12. All topsoil removed during the earthworks must be stockpiled, maintained in a weed-free condition, respread on disturbed ground after completion of the earthworks and revegetated to prevent erosion, all to the satisfaction of the responsible authority.**

### **CONSTRUCTION TRAFFIC**

**13. Unless otherwise agreed in writing by the Responsible Authority, all truck movements associated with the construction of Mooleric Road, the construction of the road reserve north of Lots 1 and 3 TP372519, and the construction of the broiler farm site must operate between the hours of:**

- a. 7:00 am to 6:00 pm, from Monday to Friday**
- b. 7:00 am to 1:00 pm on Saturdays**

**No truck movement on Sunday or on public holiday.**

### **TRAFFIC MANAGEMENT PLAN**

**14. Prior to the commencement of any works relating to the development hereby permitted, a Traffic Management Plan in accordance with the Road Management Act 2004 (A Code of Practice for Worksite Safety – Traffic Management), the Road Safety Act 1986 and Australian Standard AS 1742.3 2009 (Traffic Control Devices for Works on Roads) must be submitted to and approved by the Responsible Authority. All traffic management associated with the development hereby permitted must be undertaken in accordance with the approved plan. Traffic management must have regard both to the Mooleric Road upgrade between the quarry entrance and the subject site entrance and the construction of access on the road reserve to the north of the site.**

### **BROILER FARM**

**15. The broiler farm must at all times comply with the Victorian Code for Broiler Farms 2009 (as amended), including:**

- Any requirement under Part 5. Classification of Broiler Farms, for an Odour Environmental Risk Assessment (Odour ERA).**
- Part 6. Odour Environmental Risk Assessment (Odour ERA).**
- Any additional requirement of the Environment Protection Authority Victoria**

**16. The combined capacity of the broiler farm, comprising site 1 and site 2, must not exceed 1,560,000 birds.**

**17. The use must not commence until a reticulated water supply has been connected to the site.**

**18. Other than for the pickup and delivery of live birds, and emergency deliveries associated with the immediate wellbeing of the birds, any deliveries to and collections from the subject land must occur between the hours of:**

- a. 7:00 am to 6:00 pm, from Monday to Friday**
- b. 7:00 am to 1:00 pm on Saturdays**

**No truck movement is permitted on Sundays or public holidays.**

**19. The loading and unloading of vehicles associated with deliveries to and collections from the site must only be carried out entirely within the subject land.**

**20. No solid or liquid waste storage associated with the broiler farm activity (including temporary litter stockpiles, compost piles and litter spreading areas) is permitted. All used litter associated with the broiler farm use must be immediately removed from the subject land following the clearance of birds from each shed to the satisfaction of the Responsible Authority.**

**21. Dead birds must:**

- **not be composted on the site.**
- **not be incinerated or buried on the site unless in an emergency and only with the prior written permission of the relevant authorities.**
- **be collected at least daily and promptly chilled or frozen and subsequently removed from the subject land to the satisfaction of the Responsible Authority.**

**22. Adequate freezers must be provided for the dead birds before collection.**

**23. The management and disposal of dead birds must be designed to minimise the likelihood of disease transmission, comply with the National Biosecurity Manual for Contract Meat Chicken Farming (or as amended) and minimise odour and dust generation.**

**24. The collection point (for the collection vehicle) must be as far as practical away from the farm site to ensure that dead bird bins are not left in public view, and the collection vehicle does not come close to the broiler sheds.**

**25. Dead bird collection vehicles and all containment systems must be leak proof and vermin proof.**

**26. Secure sheds, with an impermeable concrete base and appropriate bunding to avoid contaminated runoff, must be provided to store chemicals, fuels, chemical waste and/or waste containers (before disposal).**

**27. The poultry sheds and all feed stores must be vermin and bird proof to the satisfaction of the Responsible Authority. Silos and feed systems must be designed, sited and constructed to minimise spills of feed.**

**28. Wastewater from the washing and disinfecting of sheds must not be allowed to be discharged from the sheds.**

**29. A back-up supply or storage of water must be available to hold at least one day's total requirement, in case of a breakdown or loss of normal water supply.**

**30. Security lighting or external lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.**

#### **Odour**

**31. The construction and operation of the broiler farm must be in accordance with the following recommendations in the submitted Odour Impact Assessment (Air Environment, Project No. 0132.2306, Version 4, dated 11 December 2023):**

- a. Prior to the commissioning of the first farm module, an automatic weather station (AWS) must be installed at a suitable location in the vicinity of the farm, to facilitate complaints management and provide meteorological data for ambient odour surveys.**

*The AWS should be installed on a 10 metre mast and consider the requirements of Australian standard AS3580.14 (2014).*

- b. The Mooleric 24-shed Broiler Farm must be developed in a single stage with the completion and commissioning of sheds at six week intervals allowing field ambient odour surveys to be conducted to assess the progressive impact of the development as sheds come online.*
- c. Following the field ambient odour survey program, further odour dispersion modelling must be conducted to allow the odour model to be validated (ground-truthed) against the observations.*
- d. A detailed ambient odour assessment report, detailing the results of the ambient odour survey and model evaluation process, must be prepared for the Environment Protection Authority (EPA) and Council review.*
- e. In the event that the ambient odour assessment finds an unacceptable level of risk of odour impact at surrounding sensitive receptor locations, the effect of installing stub stacks on the duty fans of some sheds must be modelled and assessed.*
- f. A further ambient odour survey program must be conducted once the entire 24-shed farm is constructed and built, to allow all impacts from the development to be assessed.*

*Following the construction and operation of between 4 to 8 sheds, there must be at least 10 rounds of odour plume assessment conducted during peak stocking density, which must include morning, afternoon and evening odour surveillance to the satisfaction of the Environment Protection Authority.*

*Any buildings or works required to comply with these recommendations must be documented and submitted to the Responsible Authority for approval as an addendum to the Odour Environmental Risk Assessment to the satisfaction of the EPA and the Responsible Authority.*

- 32. Upon receipt of the findings of condition 31, the permit holder must submit details of any required updated shed design or works to satisfy the recommended mitigation measures of the approved Odour Impact Assessment and a timeframe for undertaking those works. All identified measures or works must be undertaken to the satisfaction of the Responsible Authority in a timeframe agreed by the Responsible Authority.*
- 33. The permit holder must avoid sanitising sheds with odorous chemicals that give rise to offensive odours being detectible off site. Airborne sprays or chemical odours must not be transmitted beyond the subject land to the detriment of any person to the satisfaction of the Responsible Authority.*

#### **Traffic Noise Mitigation**

- 34. Prior to the commencement of the broiler farm use, the permit holder must notify the Responsible Authority of the commencement date.*
- 35. Within one month of all 24 broiler farm sheds being brought into use, the permit holder must notify the Responsible Authority and the owner/occupier of 30 Mooleric Road that the broiler farm has commenced full operations.*

- 36. No more than 12 truck movements may be made to collect birds from the site between the hours of 10pm and 7am the following morning.**
- 37. The operator of the broiler farm must adopt, operate, and use its best endeavours to enforce a Code of Conduct for drivers of vehicles involved in the use to the satisfaction of the Responsible Authority, and must also make drivers of vehicles not under the operator's control aware of this Code and encourage their compliance. The Code must address the minimisation of truck noise on Mooleric Road.**
- 38. At the written request of the owner/occupier of 30 Mooleric Road to the Responsible Authority, which must be made before the broiler farm has been in full operation for 6 months, the permit holder must without delay prepare a Noise Management Plan assessing impacts on that property prepared by an appropriately qualified acoustic engineer to the satisfaction of the Responsible Authority. When approved the Noise Management Plan will form part of this permit. The Noise Management Plan must include, but not be limited to:**
- a. An assessment of noise levels from traffic associated with the broiler farm use over a period that includes bird delivery and collection. The assessment must include measured noise levels of trucks at the residence on 30 Mooleric Road, or at a nearby location agreed in writing by the Responsible Authority, and commentary on the potential sleep disturbance from those truck movements.**
    - 1.**
  - b. Details of the noise mitigation measures to be undertaken if the post-commencement noise assessment, described in the preceding section of this condition, identifies an exceedance of relevant noise limits.**

**The assessment must be provided to the Responsible Authority within one month of completion of testing and must include recommendations, if required, to achieve mitigate noise impacts on 30 Mooleric Road and comply with relevant legislation.**

- 39. The noise mitigation measures set out in the approved Noise Management Plan must be implemented within six months of the date of approval of the Noise Management Plan, at no cost to the affected landowner at 30 Mooleric Road or the Responsible Authority, unless the consent of the effected landowner to such works is withheld, or if an alternative measure is agreed in writing with the affected landowner and the Responsible Authority.**

## **ROADS**

### **Mooleric Road**

- 40. Prior to the commencement of the use or development, unless otherwise agreed in writing by the Responsible Authority, a road improvement design for Mooleric Road - from the entrance to the quarry at 320 Mooleric Road to the intersection of Mooleric Road with the road reserve north of Lots 1 and 3 TP372519 - must be submitted to and approved by the Responsible Authority. The sealed road pavement must be designed and constructed to address the additional traffic generated by the broiler farm to the satisfaction of the Responsible Authority. The road improvement design must include the requisite information listed in Appendix I (Information to be Shown on Plans) of the Infrastructure Design Manual adopted by Council (2019, Local Government Infrastructure Design Association, or as amended).**

- 41. Prior to the commencement of the use of the broiler farm, the upgrades to Mooleric Road as specified within the approved road improvement design must be constructed to the satisfaction of the Responsible Authority.**
- 42. Prior to the commencement of the use or development, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on title of the broiler farm so as to run with the land, and must provide for the following:**
- a. Prior to the use commencing and In the event that Council either fails to obtain funding for remedial works/an upgrade to Mooleric Road, or the costs of the roadworks exceeds any funding received, the owner undertakes to pay \$200,000 towards the upgrade of that section of Mooleric Road between its intersection with the Princes Highway and the entrance to the quarry at 320 Mooleric Road.**
  - b. The contribution will be paid prior to the broiler farm use commencing.**

**The agreement will be registered on the title of the broiler farm in accordance with Section 181 of the Planning and Environment Act 1987.**

- 43. The operator must ensure that trucks to or from the site do not travel at a speed exceeding 40km per hour on Mooleric Road during construction and operation.**
- 44. Prior to the commencement of any works associated with the development or road construction, unless otherwise agreed in writing by the Responsible Authority, the developer must erect replacement speed limitation signs along Mooleric Road to the satisfaction of the Responsible Authority.**

#### **Road Reserve North of Site**

- 45. Prior to the construction of the access through the road reserve north of Lots 1 and 3 TP372519, the lease on the road reserve with the Department of Energy, Environment and Climate Action (DEECA) to the proposed entrance to the subject site must be cancelled.**
- 46. Prior to the commencement of development, plans drawn by a suitably qualified person showing the construction standard of the access road along the road reserve north of Lots 1 and 3 TP372519 must be submitted to and approved by the Responsible Authority. Once approved, the plans will form part of the permit. The plans, which must provide detail of the vehicular access from Mooleric Road to the vehicle access point to the broiler farm site, must include:**
- a. areas to be protected, including the areas of cultural heritage sensitivity and "sensitive vegetation", and show details of the proposed permanent fencing.**
  - b. access with a trafficable surface with a minimum width of 6.0m and adequately drained and clear of obstructions for the passage of a firefighting vehicle along that accessway for at least a further 0.5 metres each side.**
  - c. the construction of a swale drain.**



- d. *culverts placed where the access crosses the natural gully, waterways, dips and adequately sized for 1 in 10 year storm (10% AEP). The inlet and outlet must be protected against erosion. The surface of the access at this point and the surrounding area must be suitably constructed and protected against erosion from flows greater than the 1 in 10 year storm.*
- e. *culverts hydraulic capacity must be designed in accordance with guideline 12.9.2 of the Infrastructure Design Manual (IDM) adopted by Council (2019, Local Government Infrastructure Design Association, or as amended).*
- f. *all construction costs will be at the permit holder's expense. Maintenance of the vehicular access will be the responsibility and at the expense of the permit holder to the satisfaction of the Responsible Authority.*

**47. The access in the road reserve north of Lots 1 and 3 TP372519 must be constructed prior to the commencement of the construction of any buildings associated with the broiler farm or dwellings.**

**Section 173 Agreement – Road Reserve**

**48. Prior to the commencement of any works, excluding any preliminary vehicle access works agreed in writing by the Responsible Authority within the road reserve north of Lots 1 and 3 TP372519, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration, and enforcement of the agreement. The agreement must contain covenants to be registered on title of the broiler farm, and must provide for the following:**

- **The owner is responsible for the construction, maintenance and liability burden of the access (including the associated infrastructure) within the road reserve north of Lots 1 and 3 TP372519, as shown on the approved plan of the access road forming part of PP159/2023-1 or any amendment thereof. This includes all costs associated with the construction, maintenance, and liability of the infrastructure within the road reserve. This responsibility includes the requirement to maintain the road reserve in accordance with Council requirements, including:**
  - a. **The road is to remain open and available for public use at all times.**
  - b. **The surface of the access road must be maintained to ensure that all-weather access is provided.**
  - c. **The drainage of the access road must ensure that stormwater runoff is contained within the table drains/constructed drain and safely discharged.**
  - d. **Permanent vegetation protection in accordance with condition 5**

**The agreement will be registered on the title of the broiler farm in accordance with Section 181 of the Planning and Environment Act 1987.**

**INTERNAL ACCESSWAYS AND PARKING**

**49. Prior to the commencement of any work within the property boundary, unless otherwise agreed in writing by the Responsible Authority, the internal accessways must be constructed to an all-**

*weather, dust suppressed standard and with a minimum width of 3.5m to the satisfaction of the Responsible Authority.*

- 50. Any gate to the broiler farm inside the site boundary must be at least 30m inside the boundary so articulated vehicles requiring access can park off the public road while the gate is being opened, to the satisfaction of the Responsible Authority.*
- 51. The surfaces of the car parking areas, loading areas and access lanes must be constructed and maintained to the satisfaction of the Responsible Authority to prevent dust and untreated drainage runoff.*

#### **STORMWATER**

- 52. All stormwater runoff from the development, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.*

#### ***Stormwater Management Plan***

- 53. Prior to the commencement of the development, a Stormwater Management Plan must be submitted to and approved by the Responsible Authority. The Stormwater Management Plan must demonstrate how the developed site will be effectively drained without causing detrimental downstream effects. The plans must provide for a maximum site discharge rate that accords with the Infrastructure Design Manual (IDM) adopted by Council (2019, Local Government Infrastructure Design Association, or as amended). The Stormwater Management Plan must include:*
  - a. the findings and recommendations of the Surface Water Harvesting Potential report (dated 20 March 2023) and the Technical Memorandum prepared by GHD (dated 12 March 2024)*
  - b. detailed calculation of stormwater volume proposed for retention and must demonstrate that existing channel will remain unobstructed.*
  - c. the mitigation measures to ensure no contamination from the sheds and hardstand areas enter the waterway/surface water.*
  - d. locate any drainage outlet so that there are no impacts on native vegetation during the construction of works or caused by the discharge of water from any drainage outlet.*

*All works, including construction of the retention basins, must be undertaken in accordance with the approved Stormwater Management Plan and be maintained to the satisfaction of the Responsible Authority.*

#### **PROTECTION OF WATERWAYS/WETLANDS/STORMWATER DRAINAGE SYSTEMS**

- 54. The site must be developed and managed to ensure that no contaminants, including but not limited to chemicals, sediments, wastes or pollutants, are discharged off site or into the natural water body/stormwater drainage system from the property, and are managed in accordance with 'Best Practice Environmental Management Guidelines for Stormwater Management and Construction Techniques for Sediment Pollution Control' (EPA) at any time during construction or operation, to the satisfaction of the Responsible Authority/ are deposited by vehicles on the abutting roads when vehicles are leaving the property, to the satisfaction of the Responsible Authority.*

55. *Unless otherwise approved by the Responsible Authority, no earthworks or construction activity is permitted to take place within 30 metres of the waterway.*
56. *Adverse impacts on waterways or wetlands must be avoided by ensuring that broiler sheds and outdoor range areas are adequately separated from waterways via setbacks and buffers in accordance with 'Element 1 (E1): Location, Siting and Size (Standard E1 S2 Waterway Protection)' of the Victorian Code for Broiler Farms 2009 (as amended).*

#### **ANCILLARY DWELLINGS**

57. *None of the dwellings hereby permitted may be occupied before the use of the broiler farm has commenced.*
58. *The dwellings hereby permitted may only be occupied by persons employed on the subject site.*
59. *In the event that the broiler farm hereby permitted ceases to benefit from existing use rights under the Colac Otway Planning Scheme, the dwellings must be decommissioned and removed from the site in their entirety within 12 months of the use ceasing, and the land must be reinstated, all to the satisfaction of the Responsible Authority.*
60. *Access to each dwelling must be provided and constructed to the following standards:*
- a) All weather construction.*
  - b) A load limit of at least 15 tonnes.*
  - c) A minimum trafficable width of 3.5 metres*
  - d) Be clear of encroachments for at least 0.5 metre on each side and at least 4 metres vertically.*
  - e) Curves must have a minimum inner radius of 10m.*
  - f) The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.*
  - g) Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.*
  - h) Incorporate a turning area for fire fighting vehicles close to each building by one of the following:*
    - I. A turning circle with a minimum radius of eight metres.*
    - II. A driveway encircling the dwelling.*
    - III. The provision of other vehicle turning heads – such as a T or Y head – which meet the specification of Austroad Design for an 8.8 metre Service Vehicle*

61. *Each dwelling must be connected to a reticulated potable water supply or have alternative potable water supply with adequate storage for domestic use as well as firefighting purposes.*

#### **Water Supply - Firefighting**

62. *Water supply must be to the following standards:*
- a. Minimum 20,000 litres of effective water supply for fire-fighting purposes for each dwelling.*
  - b. Stored in an above ground water tank constructed of concrete or metal.*
  - c. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.*
  - d. Include a separate outlet for occupant use.*
  - e. Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64mm CFA 3 thread per inch male fitting).*
  - f. Be located within 60 metres of the outer edge of the approved building.*
  - g. The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.*

- h. Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.*
- i. Any pipework and fittings must be a minimum of 65mm (excluding the CFA coupling).*

#### **Wastewater**

**63. A domestic wastewater management system must be constructed concurrently with each of the 2 amenity blocks and the 4 dwellings hereby permitted, so that all wastewater is at all times contained within the curtilage of the site. The design and installation of any wastewater disposal system for any building on the land must comply with the EPA Guidelines for Onsite Wastewater Management (May 2024, or as amended) and the EPA Effluent Dispersal and Recycling Systems Guidance (May 2024, or as amended), to the satisfaction of the Responsible Authority.**

#### **BIODIVERSITY**

**64. To prevent damage to the existing native vegetation within the site or within the access road reserve, there must be no temporary or permanent storage of any materials, vehicles or equipment within areas of native vegetation identified to be retained and/or protected in accordance with the endorsed plans. All storage sites must be restricted to existing cleared areas close to existing roads and tracks, and must not adversely impact upon native vegetation, including the root zones of existing trees. Such sites must not be located on or near erodible surfaces, surface water runoff areas or areas infested with weeds.**

**65. Drainage outlets must be located so that there are no impacts on native vegetation during the construction of works or caused by the discharge of water from any drainage outlet.**

**66. The recommendations of the following reports must be implemented to ensure that the biodiversity values of the site are protected to the satisfaction of the Responsible Authority:**

- a. Biosis Flora and Fauna Assessment Final Report - 320 Mooleric Road Birregurra - 12 October 2023**
- b. Biosis Striped Legless Lizard Targeted Survey Final Report - 320 Mooleric Road Birregurra - Proposed access road - 29 January 2024**
- c. Biosis Flora and Fauna Assessment Final Report - Mooleric Road Birregurra – Pipeline and all-weather access road - 26 February 2024**

#### **LAND MANAGEMENT PLAN**

**67. Prior to the commencement of development, a Land Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Any plans must be to scale and with dimensions, be prepared by a suitably qualified person (e.g. an ecological consultant) and be submitted in electronic form. When approved, the Land Management Plan will be endorsed and will then form part of the permit. The plan must include (but not be limited to):**

- a) Site plan;**
- b) Site description;**
- c) Overall environmental objectives for management of the land and techniques to achieve these objectives;**
- d) A description of native plant and animals on site and in the area;**
- e) A description of the site outside the native vegetation areas;**
- f) Inclusion of all recommendations/mitigation measures (or similar) as specified in Biosis Flora and Fauna Assessment Final Report - 320 Mooleric Road Birregurra - 12 October 2023;**

- g) Inclusion of all recommendations/mitigation measures (or similar) as specified in Biosis Striped Legless Lizard Targeted Survey Final Report - 320 Mooleric Road Birregurra - Proposed access road - 29 January 2024**
- h) Inclusion of all recommendations/mitigation measures (or similar) as specified in Biosis Flora and Fauna Assessment Final Report - Mooleric Road Birregurra – Pipeline and all-weather access road - 26 February 2024**
- i) Identification of land management issues such as, but not limited to:**
  - i. techniques to protect and enhance the biodiversity of the land, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas**
  - ii. methods for the control and eradication of weeds**
  - iii. methods for the control of pest animals**
  - iv. the use of fencing which is permeable for native fauna**
  - v. any re-vegetation of the site using native and indigenous species**
  - vi. improving the condition of waterway frontages with vegetation**
  - vii. preventing stock access to waterways**
  - viii. preventing soil erosion**
  - ix. using and managing nutrients wisely**
  - x. improving agricultural chemical use**
  - xi. practices and procedures to ensure that no significant adverse environmental impacts occur as a result of the use**
- j) Goal setting and specification of actions and implementation and monitoring of the identified actions;**

**The management of the land and the activities on the site must be conducted in accordance with the endorsed plan at all times to the satisfaction of the Responsible Authority.**

**68. An Annual Report against the requirements of the endorsed Land Management Plan must be prepared and submitted to the Responsible Authority for the first five years following the commencement of the use of the broiler farm, and thereafter at the reasonable request of the Responsible Authority. Reports are to be submitted prior to the anniversary date of the endorsement of the Land Management Plan. The following must be included:**

- a. permit holder**
- b. planning permit number**
- c. reporting year (1-5)**
- d. date report is submitted**
- e. who completed the report**
- f. condition of site against each management commitment**
- g. actions taken during the year to achieve the management commitment**
- h. photographs which clearly depict management actions undertaken for the previous year.**

**Section 173 Agreement – Land Management**

**69. Prior to the commencement of any works, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority’s reasonable costs and expenses (including legal expenses)**

**incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on title, and must provide for the following:**

- a. The land must be managed in accordance with the Land Management Plan endorsed as part of planning permit PP159/2023-1, or in accordance with any amendment to that plan or any replacement Land Management Plan subsequently endorsed as part of a planning permit, to the satisfaction of the Responsible Authority.**

**The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987.**

## **LANDSCAPING**

**70. Prior to the commencement of development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan, which must be prepared by a suitably qualified person, must be in general accordance with the 'Landscaping – Government Road Birregurra, VIC, 3242' Report by Spirecom (dated September 2023) and must include landscaping in accordance with 'Element 1 (E1): Location, Siting and Size (Standard E1 S2 Waterway Protection)' and demonstrate compliance with 'Element 4 (E4): Landscaping' of the Victorian Code for Broiler Farms 2009 (as amended). The plan, which must be drawn to scale with dimensions, must show (but not limited to):**

- a. a survey (including botanical names) of all existing vegetation to be retained and/or removed**
- b. buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary**
- c. setbacks of landscaping from waterways and wetlands, and appropriate and buffer treatment**
- d. details of surface finishes of pathways and driveways**
- e. fencing and other protection measures for native vegetation to the north of the southern boundary of the site**
- f. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at planting and at maturity, and quantities of each plant**

**Screening plantings must include advanced tree specimens (minimum of 2 metres tall when planted).**

**Plant species should be Ecological Vegetation Class (EVC) appropriate indigenous species. All species selected must be to the satisfaction of the Responsible Authority.**

**71. Within 12 months of the commencement of the construction of the broiler farm, or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**

**72. Prior to the commencement of the use or development, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the**

*agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on title of the broiler farm and must provide for the following:*

- *prior to the commencement of development of the broiler farm, the owner must deposit with the Responsible Authority a sum of money fixed in accordance with Approved Measure E4 M1.8 of the Victorian Code for Broiler Farms 2009 (as amended)*
- *the sum or part of the sum is forfeited if there is any failure by the owner to carry out the agreement to the satisfaction of the Responsible Authority, with the amount forfeited based on the percentage of works undertaken.*
- *any money paid will be returned to the owner after the 3 year landscaping period to the extent that it has not been forfeited.*

*The agreement will be registered on the title of the broiler farm in accordance with Section 181 of the Planning and Environment Act 1987.*

**73. At the end of the 3 year landscaping maintenance period, an inspection of landscaping works must be requested and the written approval of the Responsible Authority to the works must be obtained.**

#### **CCMA CONDITIONS**

**74. Before the development starts, updated plans must be approved and endorsed by the responsible authority and Corangamite CMA.**

- a. **The plans must incorporate the recommendations from the Technical Memorandum (1.5 Recommendations from page 8 of the Birregurra Broiler Farm - Stormwater Management Plan, Existing Conditions Flood Assessment 12 March 2024).**
- b. **The recommended adjustments to the development proposal from the Technical Memorandum must be assessed against the existing conditions hydraulic model to determine post development flood conditions. The assessment must demonstrate that the development (including earthworks) does not:**
  - i. **Divert floodwaters to the detriment of any adjoining property.**
  - ii. **Increase flood velocity on any adjoining property.**
  - iii. **Increase flood levels on any adjoining property.**
  - iv. **Earthworks and buildings must not result in a detrimental loss of flood storage.**

#### **SOUTHERN RURAL WATER CONDITIONS**

**75. Operational use of groundwater or catchment surface water in an industrial manner within the footprint of the broiler farm must be licensed under Section 51 of the Water Act 1989.**

**76. The construction of dams on a waterway or licensed under Section 51 of the Water Act 1989 must be licensed under Section 67 of the Water Act 1989.**

## **DEPARTMENT OF TRANSPORT AND PLANNING CONDITIONS**

**77. Before the commencement of the use of the development hereby approved, the following works should be undertaken to the satisfaction of the responsible authority and at no cost to the Head, Transport for Victoria;**

- i. The existing Give Way signs at the intersection of the Princes Highway and Mooleric Road should be replaced with regulation Stop signs and stop line.**
- ii. Stop Sign Ahead signs should be erected on Mooleric Road on the approach to the Princes Highway.**
- iii. Relocate or replace the road name sign and 'quarry' sign located on the approach to Mooleric Road from the Princes Highway to maximise sight lines for vehicles exiting Mooleric Road onto the Princes Highway.**

### **EXPIRY**

**78. This permit will expire if one of the following circumstances applies:**

- a. The development has not commenced within three years of the date of this permit.**
- b. The development and vegetation removal is not completed and the use has not commenced within five years of the date of this permit.**

**In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition.**

### **Notes**

- 1. This permit does not authorise the commencement of any building works. Prior to the commencement of development, it will also be necessary to obtain building permits for the proposed development.**
- 2. It is the responsibility of the landowner and developer to ensure compliance with the Flora and Fauna Guarantee (FFG) Act 1988 and the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999, ensuring that any works on site comply with the requirements of that legislation. Legless Lizards were detected on site; therefore a referral should be submitted under the Environment Protection and Biodiversity Conservation Act 1999 and any required offsets must be secured before construction commences in areas of the site which comprise identified potential Legless Lizard habitat.**
- 3. Prior to the commencement of works associated with the 2 amenity blocks and the 4 dwellings, a separate application to install an onsite wastewater management system for each must be submitted to and approved by Council's Health Protection Unit.**
- 4. The approved location of the treatments plant(s) and disposal areas will need to be set back from waterways and channels running north south to the site. These waterways will need to be marked on any proposed site plan that accompanies the onsite wastewater permit application. Setbacks must be maintained in accordance with the EPA Guideline for Onsite Wastewater Management' (May 2024).**
- 5. The Health Protection Unit reserves the right to request that the Land Capability Assessment be submitted for approval by a suitably qualified person to support a detailed system design**



*at the wastewater permit application stage. A sealed treatment system is required in an area subject to inundation.*

- 6. A works within road reserve permit is required prior to any works being undertaken on Council managed road reserves within the Colac Otway Shire.*
- 7. Prior to preparing drainage plans, a legal point of discharge (LPoD) must be obtained in accordance with Building Regulation 133. A copy of the LPoD, which incurs a fee in accordance with the Building Regulations, must be submitted with the engineering plans.*
- 8. At least seven (7) days before any work starts, an Asset Protection Permit must be obtained from Council. Council infrastructure must be maintained in a safe condition during the construction period. Any damage caused by these works to Council assets must be reinstated to the satisfaction of the Council prior to the completion of works.*

#### **CCMA**

- 9. Prior to earthworks commencing, the permit holder must contact Corangamite CMA to confirm if a works on waterways application needs to be submitted for assessment.*

#### **Barwon Water**

- 10. The developer is to apply to Barwon Water for details relating to servicing requirements and costing for the provision of a potable water supply and where applicable, recycled water and/or sewerage services to the proposal. All communication between the developer/agent and Barwon Water quote Barwon Water reference number L020673.*

## **3. PROPOSAL**

A planning permit is sought at 320 Mooleric Road Birregurra for the use and development of the land as a Special Class Broiler farm, use and development of four (4) dwellings, associated buildings and works; and removal of native vegetation associated with the water pipeline and all-weather access to the site.

The proposed development would consist of two farms (1 & 2).

- The farm site would each consist of 12 broiler sheds (24 broiler sheds) in total.
- Each farm site could house 829,382 birds (total of 1,560,000\* birds). (\* Reduced from the 1,658,765 birds originally sought)
- Miscellaneous support buildings including workshops, amenities buildings, water tanks, gas storage tanks, generator sheds and silos.
- 4 dwellings are proposed between the farm sites providing residences to each farm manager and assistant farm manager.

Operating hours for the farms would be 24 hours a day, seven days a week. Most of the activity will be carried out between 7.00 am and 7.00 pm. However, during the de-population of the sheds, the hours of operation would include between 8.00 pm and 7.00 am.

Below is a summary of the proposal following the reduction of bird numbers:

<b>Aspect</b>	<b>Details</b>
Purpose	Birds (Free Range Broilers) grown for human consumption
Number of poultry production units	2 farms of Twelve Free Range Broiler sheds totalling 24 sheds

Number of poultry sheds	Twenty-four Free Range Broiler sheds each measuring 176 metres (m) long by 18.7 m wide and 37.4m between each shed
Type of poultry sheds	Free Range Broiler Sheds - Tunnel-ventilated, fully enclosed, climate controlled with pop holes
Maximum shed population	Free Range Broiler Sheds – 65,000 birds per shed,
Maximum site population	Free Range Broilers – 780,000 birds
Maximum farm population	Free Range Broilers – 1,560,000 birds
Bird Stocking Density	19.75 birds/m <sup>2</sup> (each shed size 3450m <sup>2</sup> in area – internal dimensions are 3291m <sup>2</sup> [bird space]) within the shed

*The normal stocking density for birds as per the "Australian Animal Welfare Standards and Guidelines for Poultry © Commonwealth of Australia 2022" stocking density for birds in a Tunnel ventilated or extractive systems - Evaporative cooling system, capable of one air exchange per minute is 38 kg/m<sup>2</sup> year-round. As the bird is moved to the processing facility at approximately 1.80 kg live weight, that equates to 21 birds/m<sup>2</sup>. However, Proten will stock between 19/m<sup>2</sup> and 19.75 /m<sup>2</sup>.(RSPCA Stocking Rates)*

Hours of operation	24 hours a day, 7 days a week
Production cycle length	Free Range Broilers - Approximately 6 weeks of bird occupation and a 1.5-week (10 days) cleaning phase per shed.
Number of production cycles per year	Six (each cycle is around 9 weeks)
Fan & cooling pad location	Farm 1 – fan at western end and cooling pad the eastern end Farm 2 - cooling pad at western end and fan the eastern end

The proposal also seeks a planning permit for 'buildings and works' which are associated with the proposed broiler farm. These include the following:

- Four (4) dwellings consisting of two (2) managers residences and two (2) assistant manager residences. These dwelling would be located between the two farms.
- Twenty four (24) bird sheds – 176m x 18.7m x 3.815m. Externally the sheds would be finished in green (pale eucalypt or alike) with a zincaluminum roof. Each farm contains 12 sheds.
- Dead bird freezer (12m by 3m) located adjacent to the northern entrance.
- Silos – 8.2m high and 3.6m wide located at the end of each bird shed
- Two stormwater retention basins are proposed towards the southern boundary (Farm 2 retention basin would be 136m x 72m x 3m with a capacity of 34.272ML and Farm 1 retention basin would be 106m x 56m x 3m, with a capacity of 11.872ML).
- A vehicle wheelwash is also proposed to be located at the entrance to the site.
- Located northwest of Farm 1 and southwest of Farm 2, each farm would also have:
  - Hay shed colourbond green 18 x 30m x 4.8m.
  - Two generator sheds colourbond green 6m x 10m x 3m.
  - Maintenance shed colourbond green 14m x 20m x 4.8m.
  - Amenities block Colorbond green 9m x 5.8m.

The actual construction disturbance footprint for this whole site (including access roads, servicing infrastructure and support infrastructure) will be approximately 40 hectares.

The proposal also includes works for a 60cm high and 10m wide bund around the two farms to divert water around the farms and provide a visual buffer. The bund would be partially planted with trees to act as a visual barrier. A 1.8m high chainmesh fence would be constructed on the inside of the bunding with open earth swale drains around the perimeter of both sets of broiler sheds and inbetween each shed to direct stormwater to the two stormwater retarding basins.

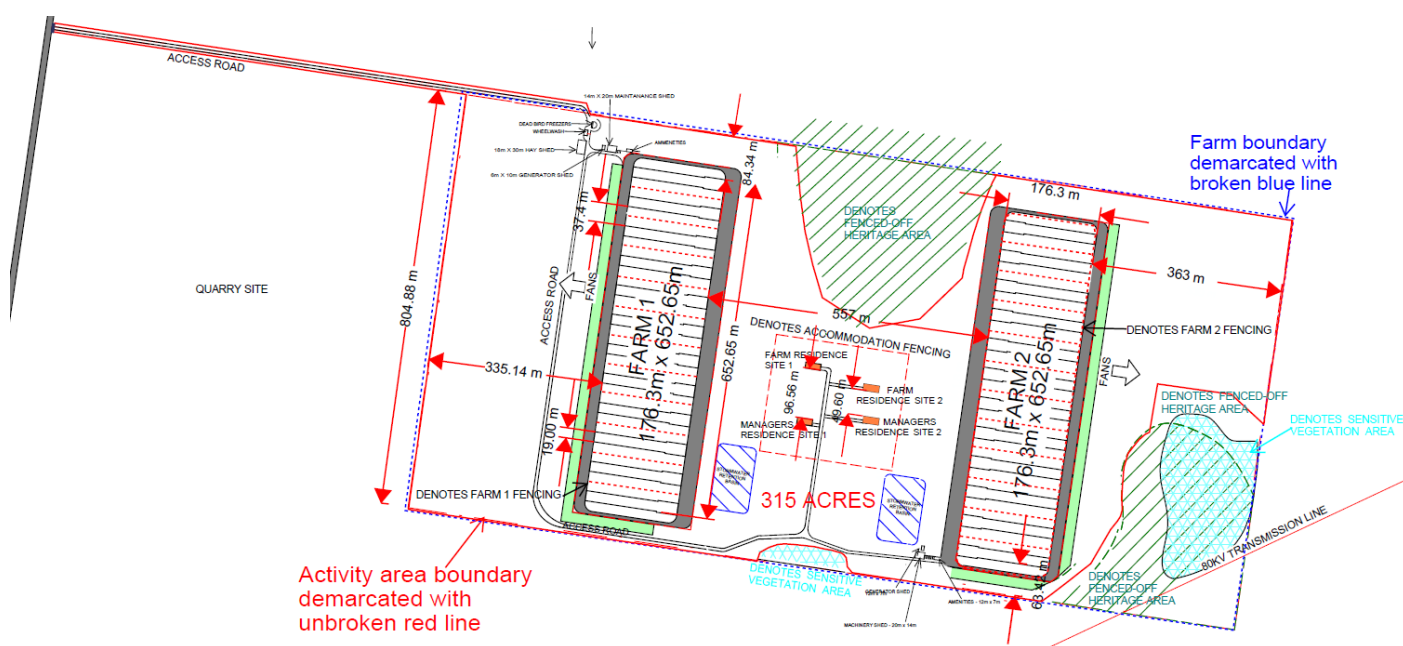
The applicant has advised that the layout has been developed so that this could easily be converted in the future into a free-range broiler farm if required. The layout would allow for the birds to range between the sheds within a fenced off area and would not be permitted to leave the confines the area between each of the sheds during the growing period. The roaming of the birds would only occur after they are around 21 days old and feathered. All the birds would be constrained to the areas as fenced off between the shed sites consisting of 140,800 m<sup>2</sup> each. The birds would be strictly confined to these areas and will not enter any sensitive areas of the site.

Litter from the sheds following normal cycle/rotation would be immediately removed by contractors in enclosed vehicles and disposed of offsite. No litter storage or spreading on site is proposed under this application. Similarly, mortalities will be taken offsite weekly by private company.

The broiler sheds will be located around 84.34m from the northern lot boundary, more than 335m from the western boundary, 63.4m from the southern boundary and 363m from the eastern boundary. Other sheds proposed include a maintenance shed, hay shed, generator shed, and amenities shed each for both farms 1 and 2; and one shared dead bird freezer and wheel wash located at the entrance to the site. There would be a separation distance of 557m between the 2 sets of farm sheds.

The site would be accessible via an entry off the northern boundary along the unmade road reserve. Access within the site would be available via a track along the western and southern sides of the site.

The image below is an extract of the proposed site plan. Mooleric Road is outlined in grey to the west of the site.



The red line shown on the site plan above, identifies the activity area for the proposed use and excludes areas of cultural heritage and excludes areas containing sensitive native vegetation within the site. The activity area also includes the government road reserve to the northwest of the site to provide access. This area does contain patches of sensitive native vegetation which is also proposed to be fenced off to protect it.

It is noted that the application includes the removal of scattered native vegetation. The native vegetation to be removed is minimal scattered native grasses within the unused road reserve, but not on the main farm site.

The land within the activity area, but outside of the footprint of the 2 broiler farms, outside of the fenced heritage and sensitive vegetation areas, would continue to be grazed by cattle as has been the scenario for many years together with continued broad acre agricultural production (Grazing, pasture improvement and cropping).

Under this application, no tree removal is proposed. Landscaping is proposed around the perimeter of the sheds to reduce the visual impact of the sheds. The existing tree shelter belts within the activity area would be retained and maintained.

#### Water Pipeline

It is noted that the day-to-day operation of the proposed broiler farm would require a regular water supply that would be supplied from a metered private line linked to a Barwon Water line that supplies the township of Birregurra. The proposed pipeline alignment will extend to the subject site along road reserves, including Birregurra Road and Darcys Lane and then directly north of Darcy Lane to the southwest corner of the subject site. The water pipeline is characterised as a ‘*minor utility installation*’ and does not form part of this application as it is exempt from requiring a planning permit under Clause 62.02-1 (Buildings and Works not requiring a permit).

The applicant has provided legal advice which has confirmed that the water pipeline should be characterised as ‘*minor utility installation*’. The legal advice adds that no planning permit is required for the use and construction of the pipeline under the scheme as the pipeline does not constitute a separate use of the various land parcels it traverses and in relation to construction. The applicant has also confirmed in writing to Council that the water pipeline does not form part of this application.

#### Cultural Heritage

Under Section 52(1) of the Aboriginal Heritage Act 2006, the Responsible Authority must not grant a statutory authorisation (such as a planning permit) for an activity (defined as “the development or use of land”) unless a Cultural Heritage Management Plan (CHMP) has been approved. As noted at the start of this report, the *land* is in an area of cultural heritage sensitivity, however the *activity area of the site* avoids any areas of cultural heritage. Advice has been received from Clarkeology in relation to Aboriginal heritage advice for the proposed poultry farm. The advice notes as follows:

*“In terms of the Aboriginal Heritage Regulations 2018, the proposed “activity” is the sum total of works and uses for a poultry farm on part of 320 Mooleric Road, Ombersly. The activity therefore includes all of the intimately connected and required design elements: sheds, access driveways, etc., as well as the four manager’s residences and two retention basins.*

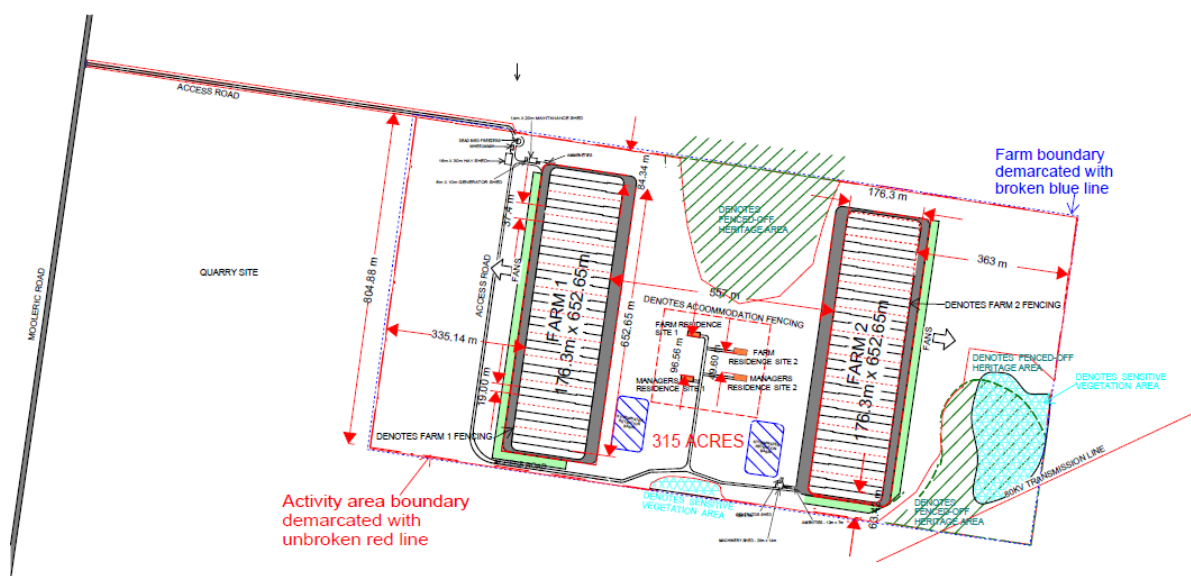
*In terms of the Aboriginal Heritage Regulations 2018, the footprint (horizontal extent) of all of the works and uses for the proposed poultry farm is that area described as the “activity area”. The*

activity area boundary is marked on the attached plan on the following page and was shown on the relevant maps in my letter of advice dated 1st December 2023.

In terms of the Aboriginal Heritage Regulations 2018, there is no requirement for the intimately connected and required design elements that are within the specified activity area boundary for the poultry farm proposal, to be separately considered as potential CHMP triggering elements. The “activity” either triggers a CHMP or it doesn’t.

Under Regulation 7 of the Aboriginal Heritage Regulations 2018, the CHMP requirement is triggered if both of the following conditions is satisfied: that the activity is a high impact activity, and that any part of the activity area is an area of cultural heritage sensitivity.

As there are no areas of cultural heritage sensitivity on the activity area, there can be no requirement under Regulation 7 for a cultural heritage management plan”.



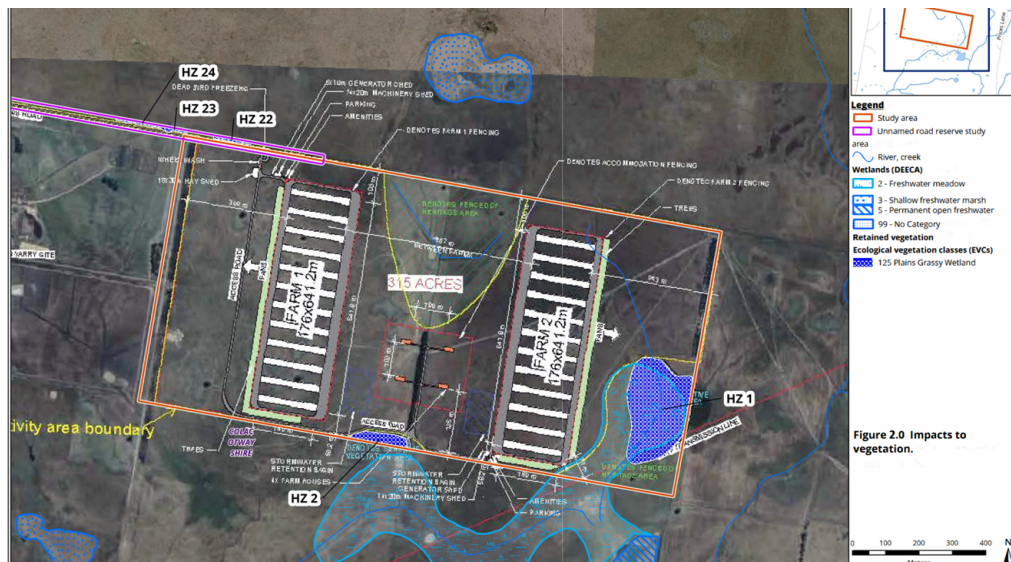
Note: the above plan (dated 08/07/23) shows that all of the proposed works and uses (including the dwellings and retention basins) are located within the activity area boundary (marked in red). No part of the activity area is an area of cultural heritage sensitivity, so the activity does not trigger a CHMP requirement under Regulation 7 of the Aboriginal Heritage Regulations 2018.

The applicant advises they have commissioned a CHMP for the necessary sections of the proposed pipeline. As no planning permission is required for the pipeline, this is irrelevant to the decision to be made on this application.

## 4. SUBJECT LAND & SURROUNDINGS

The site consists of six parcels of land, namely Lots 3 and 4 TP372519; Lots 1, 4, 6 and 7 TP247757) and comprises approximately 130 hectares of rural farmland and is a rectangular parcel of land located to the east of Mooleric Road. Of note is that the site subject to this application, is more accurately identified as the ‘activity area as shown on the site plan’ and excludes the areas of cultural sensitivity. The activity area as shown on the site plan also includes unused government road reserve north of Lots 1 and 3 TP372519. The site has an 1600m frontage along its northern boundary to an unused government road and a depth of 804.8m along the western boundary.

EVC125 Plains Grassy Wetland is identified native vegetation within the site and marked in blue on the plan below. The areas of the Plains Grassy Woodland have been identified on the site plan and excluded from the activity area due to its environmental sensitivity. Any EVC125 Plains Grassy Wetland that exists within the unused road reserve would also be fenced off.



The topography of the site is very lightly undulating to flat, ranging between approximately 122m Australian Height Datum (AHD) and 125m AHD. It has been significantly modified by historic land clearing and long-term agricultural production activities including a drainage channel. The site is located approximately 7 kilometres north of Birregurra, and 20 kilometres north-east of Colac. It is in the Farming Zone (FZ) and is currently used for sheep and cattle grazing.

There is a commercial quarry on the adjacent land to the west, between the application site and Mooleric Road. The main quarry operational area is located approximately 350m west of the site boundary. The Mount Gellibrand Windfarm is located to the north and northwest of the site. Surrounding land is used for agricultural activity with the closest residence being 1.2km to the southeast of the site.

## 5. PLANNING SCHEME PROVISIONS

### Planning Policy Framework

The objectives, strategies and policies of the Planning Policy Framework were considered in the assessment of this application, notably:

Clause 02.02 – Vision - Council commits to:

- Plan for growth in business and employment in towns and settlements.
- Promote healthy, safe environments which enhance community life and well-being.
- Manage infrastructure assets so that they are sustainable in the long term.
- Support long term sustainability.

Clause 02.03-6 – Economic Development - promote economic development by:

- Encouraging employment focused use and development.
- Supporting the growth of timber, meat and dairy processing facilities.

Clause 12.01-2S – Native Vegetation management - ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Clause 12.05-1S – Environmental sensitive areas – protect and conserve environmentally sensitive areas.

Clause 13.05-1S - Noise management – assist the management of noise effects on sensitive land uses.

Clause 13.05-1S - Air Quality management – assist the protection and improvement of air quality. The required Odour Environmental Risk Assessment (OERA) has been conducted and EPA accepts the findings and recommendations within the OERA.

Clause 14.01-1S – Protection of agricultural land - To protect the state’s agricultural base by preserving productive farmland.

Clause 14.01-2S – Sustainable agricultural land use - Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

Clause 17 – Economic Development - contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.

It is considered that the proposal would provide an acceptable response to the above relevant policy considerations. The proposal would contribute to the local economy and employment, is consistent with the Farming Zone in undertaking an agricultural activity without compromising the heritage values of the area.

Whilst there may not be any suitable businesses to undertake every facet of the broiler farm operation, this is an increased opportunity for businesses to come to Colac Otway Shire to assist in the servicing of this development. For example, a new transport company could be established for the delivery and removal of the litter from the site, washdown of the sheds, general maintenance and plumbing.

The applicant has stated that the sheds would be built by a specialised builder due to the specifications required, however those builders would need accommodation etc during the construction period and therefore there would still be onflow economic benefit to the Shire. The applicant has also specified that the dwelling plans submitted show the proposed house layout but does not necessarily mean that the dwellings would be constructed by an external company. The applicant has stated a desire to use and support local businesses and trades to the fully possible extent. It is expected that this proposal would create 30 to 40 jobs during construction and 12 jobs during operations – including 8 local staff and 4 families housed on site (2 x managers and 2 x Assistant Managers). The applicant estimates a \$1.5m spend per year in the local community on trades and suppliers.

The proposed buildings and works would be a significant investment in the Colac Otway district and is located in a sparsely populated area to reduce what are suggested as low level off-site impacts. The modern broiler farms are more sophisticated and utilize modern technologies to reduce any offsite odour impact.

The site would be capable of accessing suitable transport network. In the event a permit is issued, it is recommended that permit conditions ensure the compliance with the *Victorian Code for Broiler Farms 2009 (plus 2018 amendments)*.

## **Zone**

The site is within the Farming Zone (FZ), the purpose of which, as relevant, is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Clause 35.07-1 – A Broiler Farm is a Section 2 (permit required) use if the section 1 condition to a Poultry Farm is not met. A Poultry farm is a Section 1 (permit not required) use provided there are no more than 100 birds. This condition would not be met as more than 100 birds are proposed. Use of the land as a Broiler Farm is a Section 2 permit required use on the condition that the requirements of Clause 53.09 are satisfied.

Clause 35.07-1 – Use of Land for Dwellings is a Section 2 use as the conditions– Section 1 (permit required) uses in the Farming Zone are not satisfied, namely

- More than one dwelling is proposed
- located within one kilometre of the nearest title boundary of land subject to a permit for a wind energy facility.

Clause 35.07-4 – Buildings and Works Associated with Section 2 uses in the Farming Zone trigger a planning permit and therefore a permit is required for all buildings and works proposed. It is also noted that minimum setbacks are not satisfied. This is discussed in detail in the officer's assessment below.

## **Overlays**

No overlays affect the site.

## **Other relevant provisions**

### Clause 52.17 – Native Vegetation Removal

A planning permit is required to remove scattered native vegetation (native grass) for the construction of the all-weather road on the unused road reserve. A planning permit may also be required for the removal of scattered native vegetation along the proposed pipeline alignment however that does not form part of this application and is subject to separate planning permission if required.

### Clause 53.09 Poultry Farm

The purpose of Clause 53.09 is to facilitate the establishment and expansion of poultry farms, including broiler farms, in a manner that is consistent with orderly and proper planning and the protection of the environment.

Clause 53.09-3 requires that an application to use land or construct a building or construct or carry out works for a broiler farm must comply with the *Victorian Code for Broiler Farms 2009 (plus 2018 amendments)* where more than 10,000 chickens are permitted on the land.



Clause 53.09 decision guidelines are

- *The purpose of the relevant zone.*
- *The design, height, setback and appearance of the proposed buildings and works.*
- *The proposed landscaping.*
- *The need to protect amenity of existing uses on adjoining land. The impact of the use of the land on the surrounding area, including from the emission of noise, light, vibration, odour, dust, or waste products.*
- *The impact of the proposal on any wetlands, waterways or water bodies.*
- *The likely environmental impact on the natural physical features and biodiversity of the land, including consideration of any Nutrient Management Plan submitted with the application.*
- *Whether the development will support and enhance agricultural production.*

Clause 62.02-1 (Buildings and Works Not Requiring a Permit).

As mentioned above, the water pipeline does not form part of this application, being characterised as a 'minor utility installation' and therefore being exempt from the requirement for a planning permit under clause 62.02-1 (Buildings and Works Not Requiring a Permit).

### **Relevant Planning Scheme amendments**

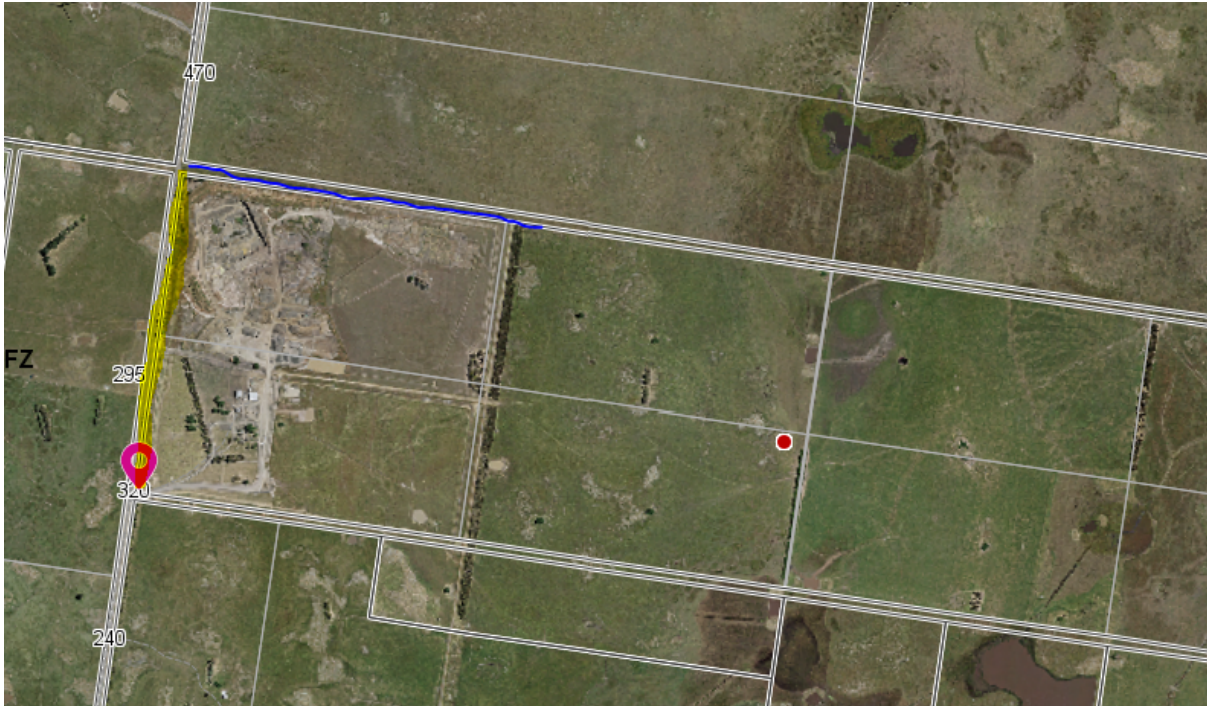
There are no planning scheme amendments relevant to the determination of this application.

## **6. REFERRALS**

### **Internal Referrals**

The application was referred internally to Council's Infrastructure Department, Health Protection Unit and Environment Unit. No objections were raised, subject to conditions being included on any permit issued.

Council's Infrastructure Department has considered this proposal and raises no objection subject to conditions recommended in this report. Council's Infrastructure Department has advised that the proposed development will require the developer to upgrade Mooleric Road from the Mooleric Quarry entrance to the junction of the unused government road north of the quarry land (as highlighted in yellow below).



It is also a requirement of the applicant that the unused government road reserve north of Lots 1 and 3 TP372519 will be constructed to the satisfaction of Council. A Section 173 Agreement is proposed for the applicant to be responsible for all construction and future maintenance costs of that section of road. There is a current lease agreement between owner of 320 Mooleric Road with DEECA that would need to be cancelled to discontinue the use of this land for grazing, to allow for the road to be constructed.

Council's Infrastructure Department has made a funding application under the Commonwealth *Heavy Vehicle Safety and Productivity Program* for the upgrade of the existing sealed section of Mooleric road. If the funding is not granted, or the road upgrade costs more than the funds made available through the funding program, the recommendation includes a permit condition requiring a Section 173 Agreement and payment by the permit holder of \$200,000 toward the road reconstruction. The permit applicant has confirmed they are agreeable to this requirement.

Council's Health Protection Unit advised that the proposed water usage for the 2 amenity blocks and the 4 dwellings is below the EPA 5000L cut off point. Although the applicant has indicated that it proposes to use an above ground spray system so no underground absorption fields are required, the application would need to be approved by Council's Environmental Health Protection Unit and meet the newly updated EPA Guideline for Onsite Wastewater Management' (May 2024). Council's Health Protection Unit has advised that no objection has raised, and the siting of the effluent disposal system would be determined at the time of the septic tank application. Conditions to this effect are recommended within this report.

Council's Environment Unit advised that the applicant provided a Flora and Fauna Assessment, a Striped Legless Lizard Targeted Survey Report for the unused road reserve north of Lots 1 and 3 TP372519 and a Flora and Fauna Assessment Report for the pipeline along Mooleric Road and the all-weather road proposed in the unused road reserve north of Lots 1 and 3 TP372519. The applicant also submitted an Environment Management Assessment and Environment Management Plan. Neither of the latter plans address the findings of the preceding Biosis reports, therefore revised reports have been included as a condition of approval should a permit be issued.

## External Referrals

Externally the application was referred to Barwon Water, Southern Rural Water, the Corangamite Catchment Management Authority, the Country Fire Authority (CFA), the Department of Energy, Environment and Climate Action (DEECA), the Department of Transport and Planning, the Environment Protection Authority (EPA), Earth Resources, Agriculture Victoria, APA as a licensee under the Pipelines Act 2005 (Vic) and Eastern Maar. At the time of writing this report, DEECA and Eastern Maar had not responded to the referrals. Council officers made numerous requests for DEECA to provide a response to inform Council of their position. None of the other external authorities or bodies raised any objection, subject to conditions being included on any permit issued.

### EPA Comments

The “Victorian Code for Broiler Farms 2009 (the Code)” provides a basis for the planning, assessment, and approval of broiler farms in Victoria. Compliance with the Code is mandatory for the establishment of all new broiler farms in Victoria. The Code classifies broiler farms and applies differing assessment requirements, notification, and review rights depending on this classification.

The Code establishes minimum separation distances required between broiler farms and sensitive uses to minimise any off-site impacts of the industry. In accordance with the Code and a farm capacity of 1,658,765 birds, an OERA is required to be completed.

Under the Code, the proposed farm is therefore classified as a Special Class Broiler Farm as:

- *the farm capacity is greater than 400,000 birds.*

Section 6 of the Broiler Code details the requirements for an Odour Environmental Risk Assessment (Odour ERA).

The Broiler Code requires that:

- *An Odour (Environmental Risk Assessment) ERA must be conducted in accordance with the requirements of the State Environment Protection Policy - Air Quality Management (SEPP AQM).*
- *Under Clause 66.05 of the Victorian Planning provisions and all planning schemes, notice of an application for a Special Class Farm, or Farm Cluster must be given under Section 52 (1) (c) of the Planning and Environment Act 1987 to EPA Victoria.*
- *In its response, EPA Victoria should state whether the Odour ERA is consistent with the principles of the SEPP (AQM).*
- *The responsible authority must not accept any Odour ERA not conducted in accordance with the SEPP (AQM).*

The EPA also acknowledges that broiler farms can generate odour impacts through the formation of wet litter, manure, spilt or spoiled feed, and improper management of dead birds. For Special Class and Farm Clusters, the Broiler Code (the Code) requires the completion of an Odour ERA in accordance with section 6 of the Code.

Due to insufficient data being available to undertake a full odour risk assessment for the proposed broiler farm, Air Environment recommended a staged approach to address these information gaps as specified below: (i.e staged on ground monitoring of the sites as they come into production)

1. On ground assessment when the first 4 sheds are in production
2. On ground assessment when the first 8 sheds are in production

3. On ground assessment when the first 12 sheds are in production.

EPA supports the staged approach to proceed with the application and to address identified data gaps in the assessment. EPA considers that the assessment approach for the Odour ERA is appropriate, and that the recommendations listed on page 13 of the OERA will provide an additional level of rigour in assessing and understanding risks at the site, EPA are satisfied that the findings of the Odour ERA are reasonable.

In line with the Victorian Code for Broiler Farms, EPA confirm that:

- *the Odour ERA has been appropriately conducted;*
- *the Odour ERA has adequately addressed the relevant odour amenity issues; and*
- *the Odour ERA is consistent with the principles of the Environmental Reference Standards.*

Whilst there are limitations with the Odour ERA, the assessment, in its current form is in line with what is required under the Code. It is on this basis, that EPA does not object to the proposal and advises that the 6 recommendations (including proposed revisions) outlined in the updated Odour ERA are adopted.

EPA has also confirmed that for Special Class and Farm Clusters, the Broiler Code (the Code) requires the completion of an Odour ERA in accordance with section 6 of the Code. EPA's role in this application was to review the Odour Environmental Risk Assessment (Odour ERA) only. All other matters are for Council's consideration as the responsible authority including waste and traffic management. No other matters were factored in EPA's response given their role is to technically review and provide advice on the suitability of the OERA.

#### Agriculture Victoria Comments

Agriculture Victoria has reviewed the application documentation and notes that the proposal must comply with the Victorian Code for Broiler Farms 2009 (plus 2018 amendments) with consideration to the available industry guidelines (Planning and Environment Guideline for Establishing Meat Chicken Farms (2021), produced by AgriFutures). The above is required as the Broiler code relies on the redundant State Environmental Protection Policy (Air Quality Management). Agriculture Victoria notes the following:

- A) Storm water runoff from the outdoor range areas appears to be collected with roof and hard stand stormwater and may not be considered as clean storm water. Rainfall runoff from the shed roofs and from the immediate site surrounding surfaces will be directed into the grassed swales which discharge into the storm water retention basin.
- B) The Odour Impact Assessment and subsequent odour modelling has been performed on the basis of 1,560,000 birds (as opposed to the application for 1,658,765 birds). It is unclear if the range areas have been considered as potential odour emission sources in the modelling, or whether it would have any effects.
- C) The Odour Impact Assessment suggests the consideration of mitigation measures may include the installation of stub stacks on the tunnel ventilation fans at the end of each shed or the introduction of cross-flow ventilation fans along the side of each shed, and also the installation of stub stacks on the cross-flow fans.

Agriculture Victoria considers that:

Whilst Council must ensure that, as per Clause 53.09-3, Requirement – Broiler farm; An application to use land or construct a building or construct or carry out works for a broiler farm must comply with the Victorian Code for Broiler Farms 2009 (plus 2018 amendments) any planning permit condition to that effect must now consider EPA recommendations.

Guidance should be sought from the Environment Protection Authority Victoria as to:

- the requirements of an Odour Environmental Risk Assessment (Odour ERA),
- what may be expected for the Environmental Management Plan for a Special Class Broiler farm,
- the requirement that the proposed Special Class Broiler farm considers the available industry guidelines Planning and Environment Guideline for Establishing Meat Chicken Farms (2021).

Storm water runoff collected from the shed, and surrounds (including range area) may not be considered Clean Storm water if the range areas are included in this collection. Caution in its re-use for bird drinking water and cooling should be considered.

Note – the applicant provided a written response to Agriculture Victoria’s advice and consequently reduced the number of birds onsite to **not more than 1,560,000** birds to ensure that the risk to the closest sensitive receptor will be within the acceptable risk matrix. Further comments are included in the officer assessment section of this report in relation to the stub-stacks and the surface / stormwater run-off and its treatment. The Ag Vic Planning and Advisory Service considers the reply by the applicant responds to the issues raised in their response to Council dated 22 November 2023 and therefore had no further comment to make on the application.

#### Corangamite Catchment Management Authority (CCMA)

Although the site is not covered by a Flood Overlay or Land Subject to Inundation Overlay, Council sought the comment of the CCMA. CCMA have advised that current mapping to indicates a significant drainage line passing directly through the proposed development site. This drainage line has an upstream catchment area of 327 hectares and is likely to produce significant flows. Flood extent estimates identifying potential flood prone land have been modelled for this area (Regional Floodplain Mapping Project, Barwon Catchment (2016). This data indicates a known flood risk at this site. The CCMA requested a surface water management plan by a suitably qualified and experienced professional to:

- Demonstrate the extent, depth, velocity of flooding from the 1% AEP flood event through the site.
- Demonstrate that 1% AEP flows from internal and external catchments can be managed through the site without disturbing the hydrology of the catchment, downstream environments, and landholders downstream of the property.
- Demonstrate that stormwater and wastewater run-off from the broiler farm does not contaminate nearby waterways.
- Demonstrate that stormwater generated within the site will be managed via internal swale drainage and conveyed to a sediment basin to control particulate pollution to meet best practice standards.

The applicant provided up to date mapping showing a comparison of flood extents between the currently mapped 2016 vs 2024. This compared 1% AEP flood extents from the 2016 Flood Mapping Study with that of the 2024 TUFLOW model for the site. Following the consideration of the Technical Memorandum (GHD, Birregurra Broiler Farm - Stormwater Management Plan, Existing Conditions

Flood Assessment 12 March 2024), the CCMA advised that no objection raised subject to conditions recommended within this report.

#### Barwon Water Comments

Barwon Water were consulted on this application, including the proposal to connect to a reticulated water supply and no objection was raised. As Barwon Water is not a formal referral authority for this proposal, information was provided in their response which forms the basis of permit notes should this proposal be supported.

#### Southern Rural Water Comments

Southern Rural Water does not object subject to conditions recommended at the end of this report. Southern Rural Water notes that:

- Roof runoff can be harvested, stored and used within the operation without licensing under Section 51 of the Water Act 1989 (WA89)
- Dams used for Section 51 purposes must be licenced under Section 67 Water Act 1989
- Dams meeting ANCOLD or Potentially Hazardous criteria under Water Act 1989 need to be licenced under Section 67 Water Act 1989
- Water used for stock use, but not intensive animal operations (Broilers / Feedlot), is as a private right and does not require a licence under Section 51 Water Act 1989

Based on the information provided, Southern Rural Water has not identified any licensing requirements in accordance with Section 67 and/or Section 51 of the Water Act 1989.

#### Country Fire Authority (CFA) Comments

The CFA were consulted on this application and no objection was raised and not conditions recommended. The CFA advised of the standards required to be met in relation to access and water supply for fire-fighting. These requirements have been incorporated into conditions recommended at the end of this report.

#### Department of Transport (DOT) Comments

The Head, Transport for Victoria has considered the application and in principle has no objection to the proposal but subject to conditions which have been recommended within this report.

#### Eastern Maar

The application was referred to Eastern Maar Aboriginal Corporation and no response was received.

#### DEECA

The application was referred to Department of Energy, Environment and Climate Action (DEECA) and no response was received.

#### APA (Licensee under the Pipelines Act 2005 (VIC))

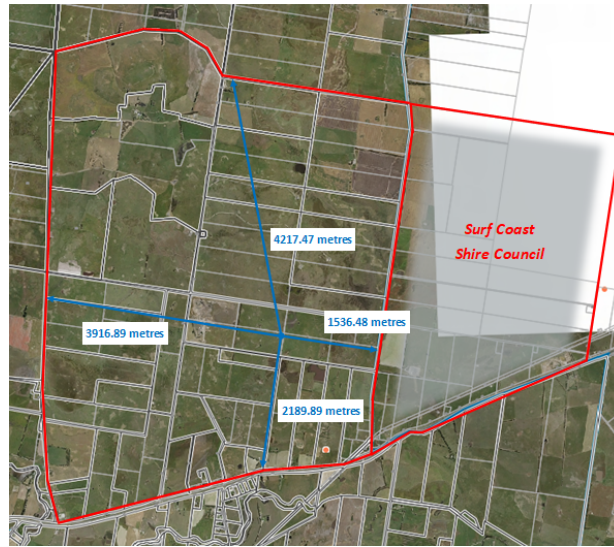
APA does not object to the proposal given it is not for a sensitive land use and the subject works are located approximately 650m from the high-pressure gas pipeline, outside of the pipeline measurement length.

## 7. PUBLIC NOTIFICATION & RESPONSE

### COMMUNICATION

The application does not satisfy the requirements to Clause 53.09-4 (Exemption from notice and review) and therefore public notice of the application was given.

The application was advertised to all surrounding landowners for a radius distance of between 2km and 4km extending south to the Princes Highway, north to Mount Gellibrand, West to McDonnells Road and east to Armytage Road in the Surfcoast Shire.



One site notice was displayed for a period of 16 days at junction onto Mooleric Road from the government road (north of the quarry). Notice of the application was also given in the Colac Herald and the Birregurra Mail.

Ten (10) letters of objection were initially received. A Consultation Meeting attended by the applicant and objectors, which was facilitated by Council, was held on Monday, 6 May 2024. In response to matters raised, the applicant submitted additional information on traffic movement, the striped legless lizard clarification, wastewater management, and cultural heritage. The responses were circulated to the objectors. One objection was subsequently withdrawn.

Objections based around the following topics:

#### Scale of Development

1. No existing strategy in Colac Otway Shire for Intensive Animal Husbandry on this scale.
2. Application documentation is voluminous but lacking substantive content.
3. Scale of farm is overdevelopment and intensive system used.

Response – There is no specific local planning policy within the Colac Otway Planning Scheme in relation to intensive animal husbandry, however there is strong state policy and guidelines within the Colac Otway Planning Scheme to assess this application. In Clause 14.01-2S, the strategies include to ‘Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.’ The objector suggested that there is no overall precinct strategy for a broiler farm in this location as is the case in the Lethbridge area. The Lethbridge area is made up of a cluster of

broiler/egg farms as opposed to a single farm proposed in this instance. Clause 53.09 provides direction on how to assess an application for a Broiler Farm and specifically the application must comply with the *Victorian Code for Broiler Farms 2009* (Plus 2018 Amendments). The Code is an incorporated document under Clause 72.04 of the Victoria Planning Provisions. The Code was developed to provide clear environmental standards for the establishment of new, or expand existing, broiler farms, and assurance for the surrounding landholders who may be impacted by broiler farming activities. The code does not mandate the location of broiler farms occur in strategically identified locations and provides appropriate guidance for broiler farms to be suitably located in the Farming Zone.

The *Victorian Code for Broiler Farms 2009* (Plus 2018 Amendments) provides the basis for the planning, design, assessment, approval, construction, operation and management of broiler farms in Victoria. Compliance with the *Victorian Code for Broiler Farms 2009* (Plus 2018 Amendments) is mandatory for the establishment of all new broiler farms and expansions in Victoria. The scale of the farm has been assessed in accordance with the Colac Otway Planning Scheme and *Victorian Code for Broiler Farms 2009* (Plus 2018 Amendments).

#### **Traffic and Amenity impacts**

4. Odour/dust created from northerly wind.
5. Enforcing the conditions would be difficult to ensure compliance.

Response – any dust expected from the operation would be associated with traffic movements as the birds, litter and feed would all be within the sheds or removed immediately from the site. It is worth noting that any unsealed access or internal roads are a considerable distance from the nearest dwelling. A permit condition has been included in the recommendation for dust suppression solutions to be addressed in the construction of the internal driveway. The RSPCA conducts 6 monthly audits and the company that purchases the birds when ready for production also conducts internal monthly audits. Other audits would be conducted in accordance with the *Victorian Code for Broiler Farms 2009* (Plus 2018 Amendments).

6. Traffic impacts have not been assessed, particularly on the residents of Mooleric Road and how this would impact them in relation to noise and disturbance.

Response -

The residence located at 30 Mooleric Road is only 9.5m from the road pavement and 1.6m off the property boundary. The amount of traffic, particularly the night traffic, may have an impact on the amenity of residents located at 30 Mooleric Road. It is worth noting that the occupiers of this residence have lodged an objection. The applicant has offered to treat the dwelling with noise reduction methods including double glaze the windows, erect additional acoustic fencing and soundproof the ceiling. The applicant is also agreeable to undertake an acoustic report on the dwelling at 30 Mooleric Road and undertake the necessary works to reduce traffic related noise impacts at this site.

At the consultation meeting, in the absence of an acoustic report, the applicant agreed to a speed limitation of 40km along Mooleric Road to reduce any potential noise impact, in particular to 30 Mooleric Road. This is similar to the restriction on heavy vehicles associated with the Birregurra quarry.

An acoustic report is required to confirm the extent to which increases in heavy vehicle traffic will impact the residence of 30 Mooleric Road. Ideally noise testing and the provision of suitable mitigation



works can be undertaken with a full level of cooperation between the permit applicant and the residential property owner.

Permit conditions have been applied to require suitable noise testing with the intent to properly understand the possible noise impacts and mitigation measures that can be taken to reduce the impact of traffic noise on 30 Mooleric Road. The recommended permit conditions also apply works requirements and cost responsibilities on the proponent to ensure any identified unreasonable impacts of noise are mitigated to reduce impacts on this residential property.

The permit conditions also provide a reasonable timeframe for the owner of 30 Mooleric Road to require acoustic protection works. Equally the permit conditions allow for the use to commence where the owner of 30 Mooleric Road after a reasonable period of time withholds consent to allow noise testing or noise mitigation works. In this situation the owner of 30 Mooleric Road would be forfeiting the opportunity to gain greater levels of noise amenity protection than would be typically available to a dwelling in a Farming Zone.

The proposed permit conditions also require all truck movements associated with the construction of Mooleric Road, the unused government road and the development site to operate between the hours of:

- a. 7:00 am to 6:00 pm, from Monday to Friday
- b. 7:00 am to 1:00 pm on Saturday
- c. No truck movement on Sunday or on public holiday.

And that the operator must ensure that trucks to and from the site do not travel at a speed exceeding 40km per hour on Mooleric Road and the unused government road during construction and operation.

A further permit condition has been included in the recommendation that other than for the pickup and delivery of live birds, any deliveries and collections to or from the subject land must occur between the hours of

- d. 7:00 am to 6:00 pm, from Monday to Friday
- e. 7:00 am to 1:00 pm on Saturday
- f. No truck movement on Sunday or on public holiday.

This does not include emergency deliveries associated with the immediate wellbeing of the birds.

The applicant has been liaising with the affected objectors directly and offered to soundproof the residence – the applicant would consider funding some or all of this work. The applicant's suggested works include

- a) *The construction of an acoustic fence between their property and Mooleric road. Installing an Acoustic fence around the home is one of the options to help soundproof the property. While it won't block all noise, this barrier will help reflect and absorb sound waves. This acoustic barrier in itself will reduce the noise level by up to 12dB.*
- b) *Acoustic Windows. There are soundproof windows that can be installed to significantly reduce the amount of sound getting into their home from the street. These are essentially double-paned windows that are too difficult for most sound waves to get through.*
- c) *Doors. Much like windows, sound can also creep in through your doors. Worn-out seals or hollow doors provide very little soundproofing. Replacing the exterior doors with solid wood or composite will help block out traffic noise. If the residents want to keep the existing doors, then the existing doors can be soundproofed, using soundproofing rubber around the door's edges, or acoustical caulk or an insulating sealant to fill in small gaps and cracks.*

The amount of traffic, in particular nighttime traffic, is discussed in detail in the Assessment section of this report.

7. Access to site using the Government Road.
8. Mooleric Road not sealed and not coping with current quarry traffic and is required to be upgraded.

Response – Council’s Infrastructure Department has assessed the proposed against the current condition of both Mooleric road and the unused Government Road. Refer to the Referral section of this report.

### **Biodiversity**

9. The existing Government Road was declared by Council as an area of ‘Significant Roadside Vegetation’ and the development should be deferred until this classification changes.
10. Biodiversity impacts have not been adequately assessed.
11. Duty to protect the environment and the wildlife which inhabit the area:
  - Broilgas, which live in catchment dam,
  - Risk of fox numbers increasing, and
  - Growling grass frogs and Striped Legless Lizard
12. Commonwealth Government is aware that the road reserve along the north of 320 Mooleric Road, intended for use as access to the broiler farm, is likely to constitute the critically endangered ecological community Natural Temperate Grassland of the Victorian Plain. Construction of a road over this grassland would destroy both the grassland and the striped legless lizard, which would require Commonwealth approval.

Response - These matters have been discussed in detail throughout this report – refer to Clause 52.17.

### **Avian Influenza**

13. No assessment of increased risk of Avian Influenza to humans and agriculture in Colac Otway Shire.
14. An Avian Influenza outbreak has not been addressed within the submission.

Response – the consideration of any Avian Influenza is a matter for consideration through Government endorsed biosecurity practices and farm hygiene that must be implemented on poultry farms to:

- reduce the risk of disease agents moving on to farms from outside sources (eg wild bird populations or from other farms),
- the movement of disease agents between sheds on the same farm,
- carryover of disease agents from one batch to the next in the shed environment.

15. Poison use for vermin can be taken by native animals.
16. Pest and wild bird control (operating in free-range mode there would be intrusion of these species into the sheds where they would have access to feed).

Response –

The applicant has advised that any poison proposed to be used would be stored within shedding and would be acceptable by authorities such as the RSPCA and conservation authorities. The shedding housing the broiler birds would be fully enclosed and for biosecurity purposes restricted to the broiler birds only. The bird feed would be totally enclosed in silos and shedding. Permit conditions will require that feed and bedding is totally enclosed. National Farm Biosecurity Manual for Chicken Growers provides a minimum set of biosecurity standards for all poultry and sets out expectations for avoiding impacts on native animals through site vermin control practices.

## Stormwater/Wastewater

17. Regional water sources are not guaranteed for this project.

Response –

The water supply will be utilizing water onsite or otherwise piped through reticulated water supply. Barwon Water is the authority providing the water supply and does not object to the proposal.

18. Increased risk of pollution to Barwon River and tributaries - water coming across the highway feeding into the channel could upset the collection of water, which could be contaminated with chemicals and antibiotics.

19. The area being prone to flooding and the water runoff, having effects on neighbouring properties and the local Birregurra Creek.

Response –

Both Council's Infrastructure Department and the Corangamite Catchment Management Authority have reviewed the proposal and consider that all drainage and stormwater matters would provide an acceptable outcome. As advised in this report, the applicant provided up to date mapping providing a comparison of flood extents 2016 vs 2024 that compared 1% AEP flood extents from the 2016 Flood Mapping Study with that of the 2024 TUFLOW model for the site. (The existing conditions TUFLOW hydraulic model was developed based on the ARR 2019 guidelines. It covers an area of approximately 440ha and includes the project site extending another 500m to the north, west and east and more than 800m south of the site under investigation). This considers all potential 1% AEP (equivalent to 1:100 year) events. With the proposed works, all areas around the retention basins and the broiler farm shedding will be bunded with a 60cm high earth wall that will redirect any stormwater or overflow away from the broiler farm or contain it within the bunding. This response is considered to result in no impact to the existing flows from the 1% AEP events. It is also noted that permit conditions sought by the CCMA require a post development study to be submitted and approved prior to the commencement of any works.

20. Why has the proponent constructed groundwater bores if it is not intended to use them?

Response –

The groundwater bores onsite were initially completed to assess the availability and suitability of the ground water on the site as part of our due diligence for the proposal and understanding the groundwater levels. There is no proposal to utilize groundwater as part of this proposed operation.

21. Retention basins and the likelihood there would be interactions with groundwater as the water table is much higher.

Response –

Southern Rural Water were consulted as part of this application process who advised that they offered no objection to the proposal and it is noted that the applicant has agreed to alter a retention basin to a maximum depth of 3m to minimise any groundwater disturbance potential and a proposed permit condition requiring that.

22. Impact of manure deposited in the ranges between the sheds when the facility coverts to "free range". Projected population of 1.66 million chickens (about 14,000 tonnes of manure would be generated). Whilst most would be contained in the shed litter, 2% or 280 tonnes of manure would be deposited in the range areas and would ultimately find its way after a rain event into the retention basins.

Response –

All manure / spent litter would be retained within the shed until such time as the birds are removed and then the manure / spent litter is directly transferred into a closed vehicle and removed from the site.

### **Cultural Heritage**

23. Indigenous cultural heritage implications not properly assessed.

24. Expert archaeological evidence produced in 2015 for the quarry application notes the existence of a registered cultural heritage site on Darcys Lane, Birregurra. The relevant information was contained in a Cultural Heritage Map produced by Ecology and Heritage Consultants under the supervision of an archaeologist. The registered number for the site is 7621-0057. The water supply for this site would make use of Darcys Lane and reference should be made to this registered site.

Response –

In accordance with the Planning and Environment Act 1987 and the Aboriginal Heritage Regulations 2018, a planning application cannot be determined until cultural heritage matters are satisfactorily addressed. The relevant matters have been discussed in the proposal section of this report.

### **Devaluation of land**

25. Value of submitter's farm that would be less favourable.

Response - devaluation of land is not a valid planning consideration.

## **8. OFFICER'S ASSESSMENT**

### Farming Zone Clause 35.07 - Four dwellings

This site is in the 80ha minimum lot area where a dwelling use would not require a permit. Should a permit be issued, a permit condition would require the consolidation of all lots and therefore the total land area would exceed 80ha. The use and development of all four dwellings is subject to a planning permit as the minimum setback requirements would not be met, namely building or works associated with accommodation located within one kilometre from the nearest title boundary of land subject to a permit for a wind energy facility. The distance between the lot boundary containing the wind energy facility and the proposed dwellings is around 818m. The separation distance between the closest wind turbine and the closest dwelling would be 1.118km. Whilst the setbacks are not satisfied, it triggers a planning permit and does not prohibit the dwellings being located within these setbacks. The intention of this requirement is to protect wind farms from the encroachment of sensitive uses and amenity-based complaints.

Notice of the application was given to the windfarm operator who offered no objection to the proposal. It is unlikely that the proposed dwellings will impact any future expansion of the windfarm given it is located at the most eastern end of the windfarm and there is other land between the two properties in separate ownership. It is also relevant that the proposed dwellings are an ancillary use to the proposed broiler farm and therefore, conditional on the broiler farm obtaining a planning permit and then continuing to operate. The dwellings are required for the agricultural use to be conducted on the land due to the need for constant supervision onsite should automated controls fail and need immediate attention.

Furthermore, should a permit be granted, permit conditions would require that these dwellings are only occupied by employees of the broiler farm and that should the broiler farm use cease, the dwellings would be removed from the land. Each dwelling is capable of treating and retaining its own

wastewater within the site, all weather access would be available as would electricity and a potable water supply.

Whilst it is noted that the subject land would be within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990, building or works associated with the dwellings would be greater than 700m from the quarry site boundary.

#### Farming Zone Clause 35.07 and Poultry Farm - Clause 53.09 – Broiler Farm

The relevant decision guidelines for this application are

- *The purpose of the relevant zone.*

The land is zoned Farming and supports the use of the land for agriculture and to encourage land use based on comprehensive and sustainable land management practices.

- *The design, height, setback and appearance of the proposed buildings and works.*

All broiler farm buildings have been assessed against the minimum setbacks specified in Clause 35.07-4 -

- 20m from any road; All buildings comply except for the dead bird freezer is located at the entrance to the site being 11m from the road boundary.
- 5m from any boundary; All buildings comply.
- 100m from any dwelling not in the same ownership; All buildings comply.
- 100 metres from a small second dwelling not in the same ownership; All buildings comply.
- 100 metres from a waterway, wetlands or designated flood plain; the northern broiler farm sheds of Farm 2 are within 62m of the fenced heritage area that includes waterways/drains.

The building setbacks that are not satisfied are considered acceptable given no traffic other than that associated with the broiler farm would need to travel the adjacent road; and the floodplain manager has been consulted in relation to the separation between the waterways and the proposed buildings and no objection was raised to the proposal subject to permit conditions included in the recommendation.

- *The proposed landscaping.*

Landscaping and planting will be provided to the perimeter of the sheds to reduce the visual impact of the sheds. Approved locally indigenous trees will be planted in these landscaped areas as shown on the plan. The existing tree shelter belts are to be retained and are to be managed and maintained in good condition including any replacement planting and inter-planting as required. The proposal makes provision for new landscaping to aid in screening of buildings and amenity protection. Earthen landscape bunds are proposed between the western and eastern boundaries and the proposed development footprint and on the southern side of the proposed development. The new plantings will aid in management of odour and noise and filter the distant views of the development from neighbouring roadways and properties. Proposed earthworks to establish a level building pad for the development footprint will result in height of the buildings being low and following the natural ground level from the higher northern boundary to the lower southern boundary meaning the buildings will not be highly visible.

- *The need to protect amenity of existing uses on adjoining land. The impact of the use of the land on the surrounding area, including from the emission of noise, light, vibration, odour, dust, or waste products.*
- *The impact of the proposal on any wetlands, waterways or water bodies.*
- *The likely environmental impact on the natural physical features and biodiversity of the land, including consideration of any Nutrient Management Plan submitted with the application.*

Also refer to the assessment below under Victorian Code for Broiler Farms 2009 (plus 2018 amendments) (the Code). Stormwater management has been discussed in the referrals and Public Notice section of this report.

- *Whether the development will support and enhance agricultural production.*

The proposed development is an agricultural production use. The bird (Broiler) meat rearing farm will have a growth cycle of approximately 60 days, with a maximum bird occupation of 49 days and a 'down-time' of around 11 days for shed clean out and preparation for the next batch of birds. There would be 6 production cycles per year, with each cycle typically comprising the following steps:

1. Delivery of Bedding Material
2. Delivery of Chicks
3. Chick Nurturing
4. Removal of Birds
5. Removal of Poultry
6. Cleanout

#### *Traffic*

All the construction activities will require employees to travel each day to and from the site. It is expected that there will be on average 10 workers on site during most of the construction period. The number of construction trucks to the site is estimated to be approximately 284 during the construction period, and light vehicles used by construction staff will be approximately 10 vehicles per day. It is to be noted that the truck movements are not likely to be consistent and therefore there could be 20 trucks using the road on some days with other days having only 1 truck movement during the construction period.

For the broiler farm operation, on average there would be about 5 heavy vehicles and 3 light vehicles (considering both way) per day for each farm. The maximum number of movements on one day would be 21 heavy vehicles and 12 light vehicles, totalling 33 vehicle movements (maximum of 12 during evening/night) and this maximum of 33 is only expected once every month.

Heavy Vehicles (B-doubles and semi-trailers) would be used for the supply of litter, supply of feed, broiler pickup and removal of manure/shed clean out. Rigid trucks would supply gas, baby chickens and dead birds. All trucks and large vehicles would travel Mooleric Road during the day to provide the above servicing, with the exception of the broiler pickup, which is proposed at night. The applicant provided details of the expected movements per farm per batch period of 9 weeks – see attachment.

#### **PER FARM and PER BATCH -**

##### **B-Double**

- feed supply would involve a range of movements with the minimum being 2 movements in week 1 and gradually progressing up to a maximum being 20 movements in week 5 (not more than 3

per day) and then reducing down as the broilers are removed. Weeks 8 and 9 being the only weeks where feed not supplied.

- litter supply would involve 19 movements in week 9 (not more than 4 per day)

**Semi-Trailer**

- Broiler pickup would involve up to 156 movements between weeks 5 to 7 (not more than 12 per night and 60 per week per farm)
- Shed cleanout/manure removal would involve up to 30 movements in week 7 (not more than 5 per day)

**Rigid truck**

- Gas supply would involve 6 movements in weeks 1 to 3 (not more than 2 per day)
- The baby chicken supply would involve 12 movements in week 1 (not more than 2 per day)
- Dead bird pickup would involve 2 movements – one in week 4 and one in week 7

**Light vehicle**

- Light vehicles such as utes/sedans would occur daily with the busiest weeks being weeks 5 to 7 with up to 20 movement (196 movements over a 9 week period with 72 of these movements expected for nightshift employees).

ACTIVITY	VEHICLE TYPE	TOTAL	TOTAL PER YEAR PER FARM	AVERAGE MOVEMENTS /DAY PER YEAR-SINGLE SITE	TOTAL PER YEAR FOR WHOLE PROPERTY	AVERAGE MOVEMENTS /DAY PER YEAR- TWO SITES	NIGHT MOVEMENTS PER YEAR FOR WHOLE PROPERTY
LITTER SUPPLY	B - DOUBLE	19	110		220		
CHICK SUPPLY	RIGID TRUCK	12	67		134		
FEED	B - DOUBLE	75	416	1	832	2	
GAS SUPPLY	RIGID TRUCK	6	32	0	64	0	
BROILER PICKUP	SEMI - TRAILER	156	875	2	1,750	5	1,750
SHED CLEAN OUT / MANURE REMOVAL	SEMI TRAILER	30	165	0	330	1	
DEAD BIRD PICK UP	RIGID TRUCK SMALL	2	11	0	22	0	
HEAVY VEHICLES		299	1,674	5	3,349	9	
LIGHT VEHICLE AND STAFF MOVEMENT	UTE / SEDAN	196	1,098	3	2,195	6	437
		495	2,772		5,544		2,187

The broiler collection would involve night vehicle movement and the number of movements (in and out is one movement) expected are

- Light vehicles – 10-12 cars for staff around 8pm and 6am; and
- 12 Heavy vehicles (semi trailers) would pass 1-2 movements per hour every hour from 8pm to clear the sheds. This would be expected to occur for 13 days over a 17 day period every nine weeks. Note that this 17 day period would be different for each farm.

Nighttime heavy vehicle traffic movements would be significant throughout the year, commencing from week 5 of the commencement of the use. On a 4 week rotating cycle, when both farms 1 and 2 are fully operational, the expected nighttime heavy vehicle traffic movements, with no more than 12 movements per night, would be

- 1<sup>st</sup> week 00
- 2<sup>nd</sup> week 48
- 3<sup>rd</sup> week 60
- 4<sup>th</sup> week 36

Council needs to consider the fact that the land is appropriately zoned for farming purposes and a broiler farm is a farming use that has strong state policy support. The dwelling located at 30 Mooleric Road is also within a Farming Zone and is extremely close to the road, and based upon the advice of the owners, it is understood that the dwelling has been there, before planning controls were around. Under current planning controls, a planning permit would be required to construct a dwelling if within 20m of a road. In all zones, including residential zones, it is not uncommon for dwellings to be located close to highways where traffic is uncontrolled and heavy vehicles travel all night, every night. The 30 Mooleric Road dwelling is 300m from the Princes Highway and likely to be impacted by traffic noise from the highway. It is important to note that occupiers of dwellings in Farming Zones cannot expect a pristine amenity in terms of noise levels within farming areas. For example, dairy farms regularly involve nighttime traffic movements and dwellings along these traffic routes do not require or have right to additional noise protection measures.

Noise impacts related to heavy vehicles using Mooleric Road will need to be the subject of an assessment of likely noise levels above those that currently impact 30 Mooleric Road. As stated earlier, these base levels are expected to be higher due to the proximity of the dwelling to the Princes Highway.

The applicant has advised that they have offered various options to eliminate/reduce the expected traffic noise impact to the occupants. At the time of writing this report, it is understood there has been no resolution. Permit conditions are therefore recommended to both assess existing noise impacts and allow future noise impacts to be mitigated through future works to benefit and reduce noise impacts on the dwelling at 30 Mooleric Road. This will be dependent on the owners of 30 Mooleric Road being agreeable to both noise testing and works being undertaken to reduce any noise related impacts on their dwelling.

#### Clause 52.17 - Native vegetation

Biodiversity assessments carried out by qualified ecologists were submitted with the application that provides an assessment on the subject site and the unused government road. A planning permit is required to remove scattered native vegetation that occurs within the study area. Scattered native vegetation occurs outside patches of mapped native vegetation and would likely be impacted within the proposed footprint of the all-weather road proposed in the unused road reserve. Impacts to



scattered native vegetation require a planning permit but are not assessed under the *Guidelines for the removal, destruction and lopping of native vegetation*.

The Guidelines classify native vegetation into two categories (DELWP 2017a):

- A **scattered tree** is defined as a native canopy tree that does not form part of a patch of native vegetation.
- A **patch** of native vegetation (measured in hectares) is either:
  - An area of native vegetation, with or without trees, where at least 25% of the total perennial understorey cover is native plants.
  - An area with three or more native canopy trees where the drip line (i.e. the outermost boundary of a tree canopy) of each tree touches the drip line of at least one other tree, forming a continuous canopy.
  - Any mapped wetland included in the Current wetlands map, available in DEECA systems and tools.

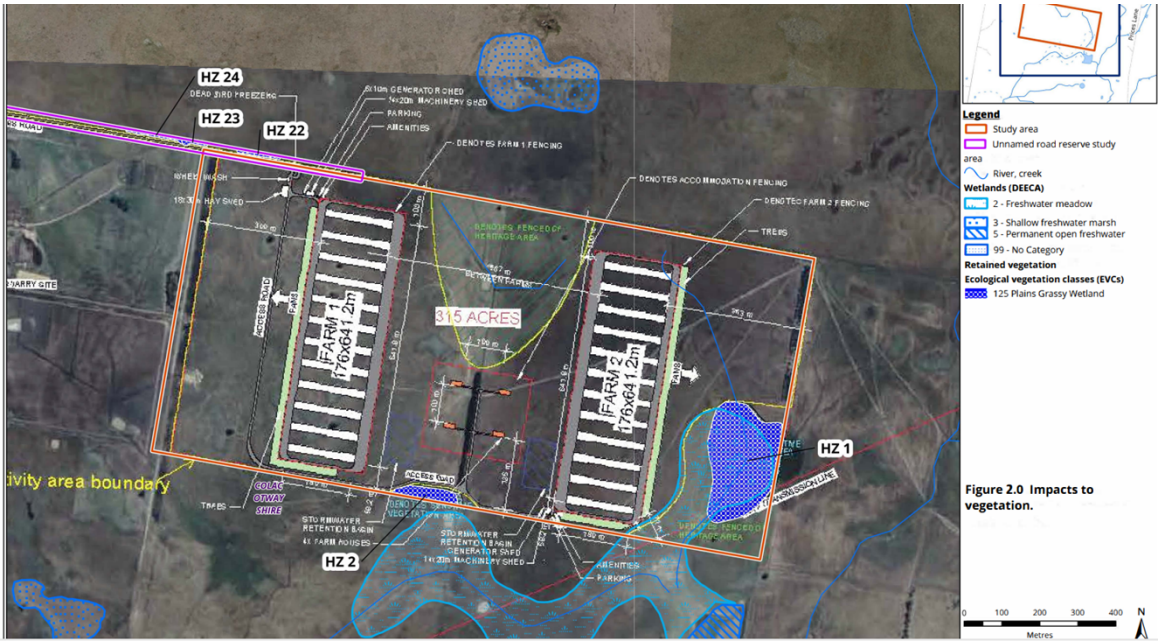
The native vegetation proposed to be disturbed does not equate to either a scattered tree or a patch and therefore, a planning permit is triggered but is so minor and immeasurable, that no offsets are required. The proposal includes the retention and protection of patches of native vegetation identified in the biodiversity assessment and therefore, whilst there would be some minor vegetation disturbance, it would be limited.

It is expected that during the development of the pipeline that there maybe be some similar impacts to scattered native vegetation that trigger a planning permit and this detail is included in the reports mentioned below but **do not impact the proposed activity areas included as part of this application**.

**a) BIOSIS Flora and Fauna Assessment FINAL REPORT - 320 Mooleric Road Birregurra - 12 October 2023**

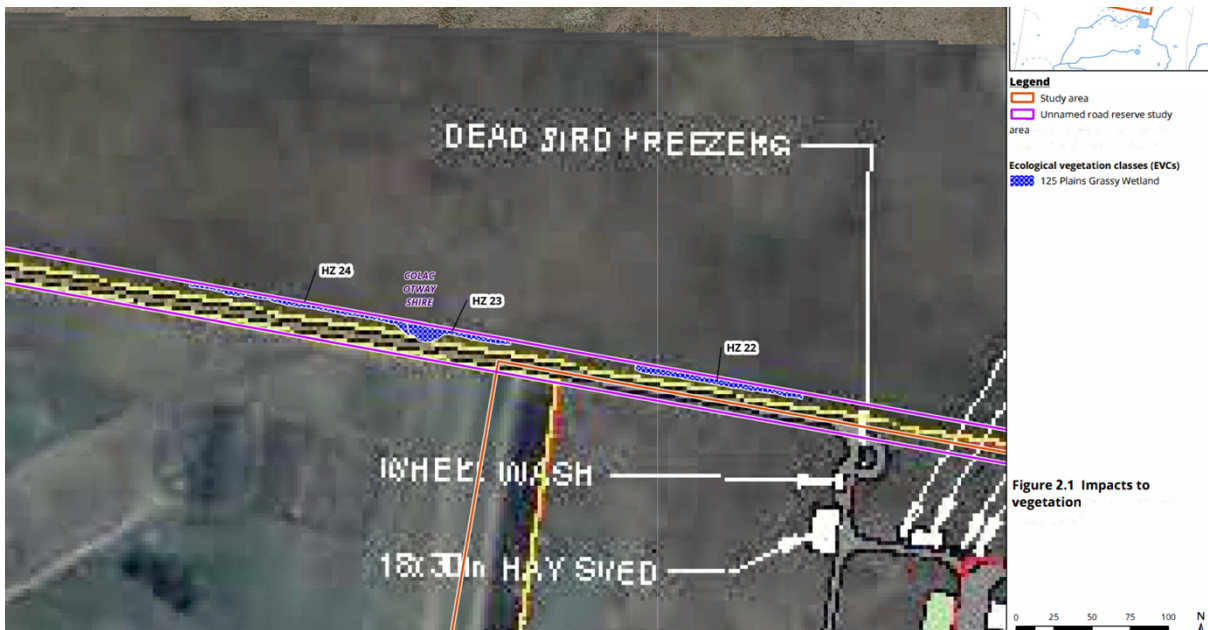
This report is an assessment on native vegetation within the activity area of the subject site including the unused government road north of Lots 1 and 3 TP372519.

EVC125 Plains Grassy Wetland is identified native vegetation within the site and marked in blue on the plan below. The areas of the Plains Grassy Woodland have been identified on the site plan and excluded from the activity area and therefore no permit is required for the removal of native vegetation.



It is noted that the EVC125 Plains Grassy Wetland that exists within the unused road reserve identified below would also be fenced off to avoid any disturbance to this vegetation to any patch, but noting that scattered native vegetation maybe impacted which triggers a planning permit requirement.

The Biosis Flora and Fauna assessment has assessed that a *known breeding wetland is located within 860 metres of the mapped Plains Grassy Wetland, north of the application site. Ecological values on the application site are limited to the fenced area of Plains Grassy Wetland in the south-eastern corner of the study area and a potential movement corridor for locally breeding Brolga, which could be associated with the breeding wetland in the adjacent property, within approximately 200 metres north of the study area and 860 metres of the Plains Grassy Wetland.* It is noted that The report concluded that no further assessments are required if development is excluded from this area. This Plains Grassy wetland is excluded as shown in the southeast corner of the site.



**b) BIOSIS Striped Legless Lizard Targeted Survey FINAL REPORT - 320 Mooleric Road Birregurra - Proposed access road - 29 January 2024**

This report is based on a targeted survey for Striped Legless Lizard *Delma impar* for the proposed access road to the proposed broiler farm. The proposed works include an upgrade to the unused government road to an 'all weather' road. The impact area of the road construction is proposed to be six metres wide and approximately 1.2 kilometres long.

Three reptile and two amphibian species were recorded during the targeted surveys - Striped Legless Lizard, Eastern Three-lined Skink *Acritoscincus duperreyi*, Tussock Skink *Pseudemoia pagenstecheri*, Southern Brown Tree Frog *Litoria ewingii* and Spotted Marsh Frog *Limnodynastes tasmaniensis*. Additionally, one skink *Scincidae* spp. was observed but unable to be identified to the species level during the targeted surveys, as it evaded capture and moved too quickly to obtain visual identification.

Four Striped Legless Lizards were recorded during the surveys; one at the southern boundary of road reserve and three at the northern boundary of road reserve. Head scales were photographed on two occasions when a Striped Legless Lizard was captured, and it was determined they were the same individual captured on two separate days. The Striped Legless Lizards observed on the southern boundary and one of the individuals observed on northern boundary evaded capture and were not able to be photographed. Hence, it is unknown whether the same individual was recorded all four times. However, it is likely that at least two different individuals were recorded as the sighting points on both sightings are located approximately 150 metres apart. The unnamed government road where Striped Legless Lizard were recorded supports several small patches of Plains Grassy Wetland EVC 125, and native vegetation is scattered throughout a largely disturbed area that supports predominantly introduced vegetation such as Toowoomba Canary-grass *Phalaris arundinacea*. Although Striped Legless Lizards typically prefer native grasslands, the findings are consistent with the current understanding of the species requirements which can include sites with exotic grasses that are used for breeding and foraging by the species (Threatened Species Scientific Committee 2016, Hartley et al. 2005). The surface rocks within the road reserve may be utilised by Striped Legless Lizards that could move in from the more suitable habitat to the north, which supports moderate quality habitat with large tussock grasses, surface rocks and inter-tussock spaces.

It is proposed that these habitat areas would be fenced off and remain protected. The proposed fencing along the road reserve would be post and barbed chainwire. Measures to reduce impacts to Striped Legless Lizard and their habitat can be minimized before, during and after works. The mitigation measures recommended within this report have been included in the recommendation should the application be supported.

*Matters of Environmental Significance and Threatened Species Responsibility.*

It is the responsibility of the landowner and developer to ensure compliance with the *Flora and Fauna Guarantee (FFG) Act 1988* and the *Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999*, ensuring that any works on site comply with the requirements of that legislation. Legless Lizards were detected on site, therefore it is the applicant's responsibility to seek a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) and any required offsets must be secured before construction commences in areas of the site which comprise identified potential Legless Lizard habitat. The applicant is well aware of this requirement and advises that in the event a permit is granted, they would seek an EPBC Act referral for the impact proposed to the Striped Legless Lizard prior to any construction on the road or subject site. A note to this effect has been included in the recommendation.

**c) BIOSIS Memo dated 15 July 2024 Matter 39426 and BIOSIS Flora and Fauna Assessment FINAL REPORT - Mooleric Road Birregurra – Pipeline and all-weather access road - 26 February 2024**

It is again reiterated that no planning permission is required for the proposed water pipeline outside the activity area as this is a minor utility installation however, the applicant was also requested to demonstrate that no native vegetation removal was required for the installation of the pipeline. This Flora and Fauna Assessment report covers the proposed alignment of the pipeline, including the unused government road also assessed in the 2 reports listed above. The Biosis Memo is specifically relating to the unused road reserve and the removal of native vegetation. The memo information is repeated in the Flora and Fauna Assessment.

The applicant has confirmed that scattered native vegetation would be disturbed through this process, however as the alignment of the pipeline would avoid the destruction of the scattered trees or patches of native vegetation by either avoidance or underground boring below the native vegetation. In relation to the potential for the pipeline to impact Flora and Fauna, the applicant has submitted a 'Flora and Fauna Assessment' by Biosis dated 26 February 2024.

The submitted Biosis report adds that *"Based on the current design (provided by Spirecom on 14 December 2023), the proposed construction of the pipeline and the all-weather road will not require the removal of any native patch vegetation. Directional drilling will be used beneath all patches of native vegetation (including a 2m buffer between the start of boring and the patch of vegetation) to ensure impacts are avoided. Trenching will be used to install the pipeline in areas where native vegetation patches or important fauna habitat have not been mapped. As a result, impacts to scattered native vegetation are still likely to occur. Impacts to scattered native vegetation require a planning permit, but are not assessed under the Guidelines for the removal, destruction and lopping of native vegetation and native vegetation offsets do not need to be secured"*.

It is considered that the applicant has satisfactorily demonstrated that they followed the three step approach to ensure that there is no new loss to biodiversity

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

The proposal has demonstrated how they intend to avoid native vegetation removal and minimise impacts by fencing out patches of native vegetation and environmentally sensitive areas on the unused road and the subject site. It is noted that an EPBC referral is required for the unused government road reserve and the applicant is aware of this requirement and commencing that process. Council can still process and determine this application without this information however the applicant cannot commence without the approval under the EPBC Act.

Victorian Code for Broiler Farms 2009 (plus 2018 amendments) (the Code)

A broiler farm is classified as Special Class if any of the following apply:

- the farm capacity is greater than 400,000 birds or
- the development is unable to meet the minimum separation distance requirement (as defined by Formula 1) but a reduction in separation distance is warranted through the adoption of odour reduction technology on farm (see 'Farms that cannot meet the minimum separation distance requirements' below).

An Odour Environmental Risk Assessment (OERA) must be completed in accordance with Section 6 of this Code. Under Clause 66.05 of the Victoria Planning Provisions and all planning schemes, notice of an application for a Special Class broiler farm must be given to EPA Victoria in accordance with Section 52(1)(c) of the Planning and Environment Act 1987. In its response, EPA Victoria should and have advised Council whether:

- the Odour ERA has been appropriately conducted
- the Odour ERA has adequately addressed the relevant odour amenity issues
- the Odour ERA is consistent with the principles of the SEPP (AQM).

The Code states that all planning permit applications (regardless of the farm classification) for a new or expanded broiler farm must be assessed against each element. The elements are identified below in this report. The Code defines objectives, standards and approved measures as follows:

- **Objectives:** An objective describes the desired outcome to be achieved from the completed development and operation of the broiler farm. All permit applications must satisfy the objectives for each element.
- **Standards:** A standard contains the requirements to meet the objective. In most cases, a standard is expressed as a design or operational requirement. All permit applications must comply with all relevant standards.
- **Approved measures:** An approved measure is an approach, action, practice or method that permit applicants should incorporate into their development proposal to comply with the standard. Where the development proposal adopts all the approved measures for a standard, the application is deemed to comply with the standard.
- **Alternative measures:** Development proposals will usually meet an approved measure. Circumstances of a particular development proposal may however provide a need or an opportunity to propose alternative ways of meeting the objectives and standards. The responsible authority may consider an alternative measure if the applicant can demonstrate that the relevant Code objectives and standards can still be met with equivalent or superior performance. Responsible authorities should consider development proposals that include new technology and innovative approaches if these can be demonstrated to satisfy Code requirements.

The broiler farm operation - Below are extracts from the Odour Environmental Risk Assessment (OERA) which provide a general overview of the proposed broiler farm activity.

Each of the 24 sheds can hold 65,000 birds. The capacity of each 12-shed module is therefore 780,000 birds, with the entire site able to accommodate 1,560,000 birds. The OERA states that it is assumed that four sheds are filled per day, taking three days to fill each farm. A further assumption is that the two farms are offset from one another in the 53-day cycle. Sheds 1 to 4 of Farm 1 were assumed to be filled on Day 1, with the equivalent Farm 2 sheds commencing filling on Day 27. Each shed within a given farm is therefore at a similar stage of the cycle, however the two farms will each differ markedly in stage. The total number of birds present in the entire two farm varies over time from 780,000 to 1,556,000, with an average of 1,093,965 birds.

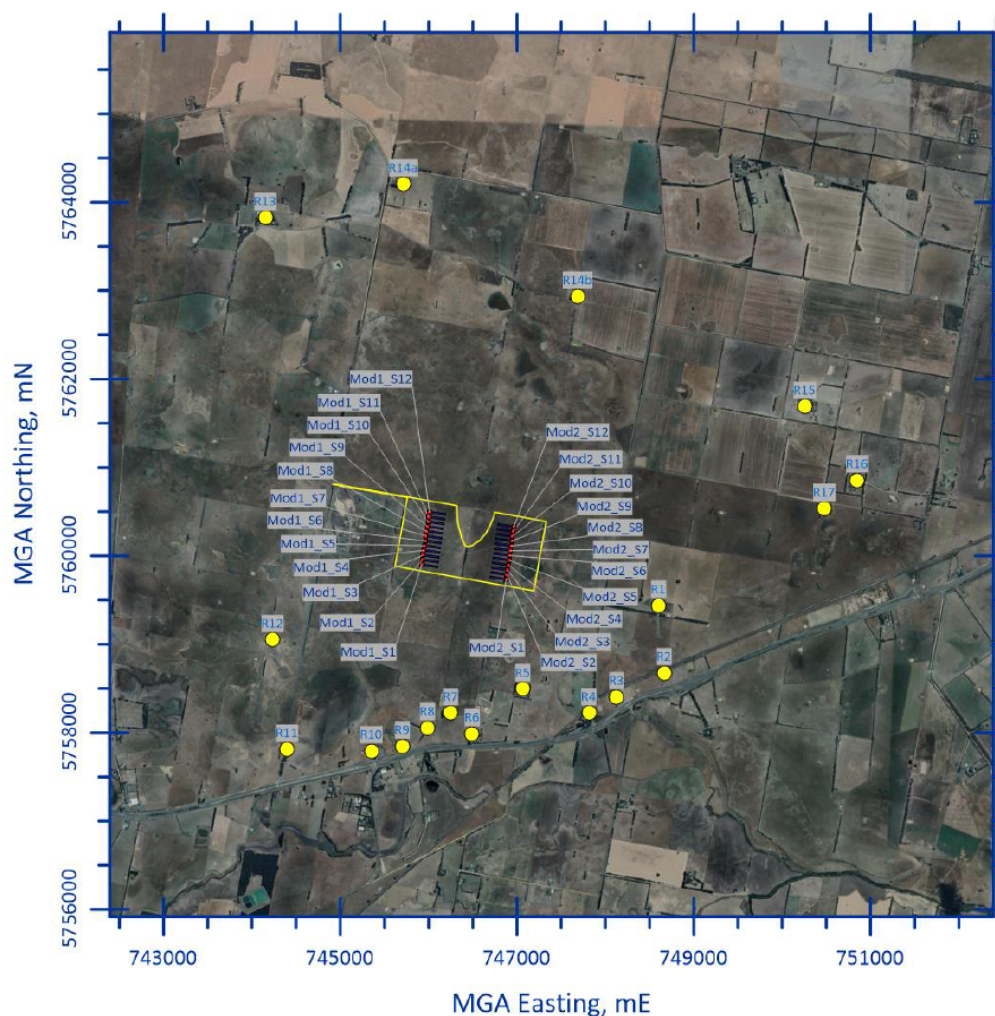
Odour emissions would follow a regular 53-day cycle, with just over six full cycles per year. Odour emissions gradually build up over time, suddenly reducing at the time of the first pick (Day 32), gradually rising again with time until the final pick (Day 42) when the remaining birds are removed. Odour emissions are zero during the shed cleanout/disinfection period.

The broiler sheds will be fully enclosed and climate controlled. The tunnel ventilation systems used would be fully computer controlled and alarm monitored, with back-up power available via emergency standby generators. The installation of modern variable speed ventilation fans. Single

speed fans are either on or off, and therefore act in a pulsed manner, with still periods where odour can accumulate within a shed followed by a ventilation phase where large amounts of odour are emitted. The variable speed fans adopted for the proposed Mooleric broiler farm provide precisely the required ventilation rate and are therefore in constant use. They do not allow odour to accumulate but rather continually emit small quantities of odour. In practice this is a significant odour mitigation measure.

A modern cooling system will be employed, which dries air prior to cooling it and introducing it to the shed. In-shed humidity is therefore very well controlled, allowing relative humidity to be maintained at its 60% set point. This helps reduce the moisture content of the manure, and hence the odour accumulating at the base of the shed.

The closest part of the envelope of odour sources was reported to be 1246m from the closest dwelling to the south-southeast of farm 2, out of the nearest eighteen dwellings identified as sensitive receptors to the broiler farm. The furthest part of the farm envelope of odour sources from the same dwelling was reported to be 2271m.



Prior to the beginning of each growth cycle, the floor of the cleaned and disinfected shed will be covered with a six-to-eight-centimetre layer of a suitable clean and fresh bedding material such as rice hulls, soft wood shavings, or chopped straw. This material acts to soak up any moisture. A rotavator will be used at least once a fortnight, to mix and aerate the bedding. Experience within other broiler sheds has shown that the substrate remains bone dry if it is carefully managed in this way and does

not allow the conditions conducive to causing anaerobic decomposition of the poultry litter to occur. This management practice therefore significantly reduces in-shed odour concentrations and subsequent odour emissions. The shed floors will be built-up above the adjacent surface level with a hard layer of compacted clay. This will ensure that moisture cannot seep into the shed from below.

Drinker technology equivalent to industry best practice will be installed and maintained to minimise the formation of wet litter. Litter monitoring will be undertaken typically three to four times each day to ensure that it is dry and drinker leakages have not occurred. Where practicable any wet areas exceeding two square metres will be removed and replaced with dry material on no less than a daily basis.

When manure / spent litter is removed from each Mooleric broiler farm shed, at the end of each eight-week growth cycle, it will be loaded directly onto a truck using bobcats rather than being stockpiled onsite. The filled truck will be covered, and the manure will immediately be transported offsite for disposal at a composting facility or sold as a commercial raw product. This will remove this odour source. Wherever possible handling of poultry litter will be avoided during adverse (wet or windy) weather conditions. The shed ventilation system will not be used during the litter removal process.

There will be no bio bins onsite for the disposal of bird morts, as these often become a significant odour source. Instead, morts will be collected daily and will be placed in a freezer maintained at -18 °C. Frozen morts will be removed on a weekly basis for biosecurity reasons. The freezer site will be maintained in a clean condition and is designed to be easy to clean in the event of a spill.

Air Environment (author of the OERA) has not conducted any field odour intensity surveys in the vicinity of any broiler farms to date, and the only surveys that we are aware of are commercial-in-confidence and cannot be used here. It is therefore recommended that an ambient odour survey program be conducted as each shed is constructed and commissioned with birds placed. This will provide time for a series of field odour intensity surveys to be conducted around the newly commissioned farm module.

A detailed ambient odour assessment report would be prepared for Council and EPA review. Further odour dispersion modelling would be conducted to allow the performance of the odour model to be evaluated (ground-truthed). This would provide more confidence in the model's ability to predict odour impacts. Survey results would also be used to inform the need for any additional odour mitigation measures on either or both farm modules. The most likely of these would be the retrofitting of stub stacks to some of the shed duty fans. It is recommended that a further ambient odour survey program would be conducted once the entire farm is constructed and commissioned to enable the impacts from the development to be assessed.

A Level 3 assessment provides detailed risk assessment tools for complex industries and issues, or where the other levels of assessment have been exhausted due to insufficient evidence to determine the level of odour risk. Where possible, the Level 3 approach adopts multiple, independent lines of evidence that support each other. The following tools are available for use as appropriate, however their use may be limited at greenfield sites:

- Comparisons with similar operations.
- Risk assessment using field odour surveillance data.
- An assessment of complaints.
- Odour complaint case study.
- Community odour surveys/questionnaires and odour diaries.
- The use of dispersion modelling.

The key focus of the Level 3 Assessment was the odour dispersion modelling study and OERA. The modelling study was designed to characterise the dispersion of odour emissions from the two modules. Hourly varying emission rates were calculated based upon bird age, mass, and count in each shed as well as the ambient temperature at the site.

It is expected that under the current assumptions, the development of the two by 12 shed farms at the site would cause no odour risk at nearby dwellings. However, the odour detection threshold of 1 odour unit is exceeded at all but one of the dwellings with a medium or low risk of odour annoyance remaining at eight and 10 dwellings respectively. Consequently, mitigation measures were considered including the installation of stub stacks on the tunnel ventilation fans at the end of each shed or the introduction of cross-flow ventilation fans along the side of each shed, and also the installation of stub stacks on the cross-flow fans. These mitigation measures have been assessed by Air Environment at other broiler farms in Victoria and determined to have a positive effect of between 15% and 62% reduction in odour impact depending upon local meteorology and distance to the receptor.



Figure 8-1 Example of stub-stack tunnel ventilation

## Compliance with Code elements -

### Element 1: Location, siting and size

*Through the provision of appropriate setback and separation distances, do the location and size of the broiler farm and the siting of the broiler sheds, temporary litter stockpiles, compost piles and litter spreading areas:*

- *minimise the risk of adverse amenity impacts on nearby existing, planned and potential future sensitive uses as a result of odour, dust and noise?*

#### *Odour*

The application was referred to the EPA and their comments are available within this report. As previously stated, the EPA Victoria have advised Council that the Odour ERA has been appropriately conducted; has adequately addressed the relevant odour amenity issues and is consistent with the principles of the SEPP (AQM). To meet the odour risk assessment to the satisfaction of the EPA, it was agreed with the EPA that staged on ground monitoring of this site will be carried out as the shed come into production, e.g.

1. On ground assessment when the first 4 sheds are in production
2. On ground assessment when the first 8 sheds are in production



3. On ground assessment when the first 12 sheds are in production.

As identified above, the EPA do not currently hold data that is available and therefore this will provide the required data and ensure compliance with the Code. The rationale behind this is to provide the EPA with data that they currently don't have. Proposed permit conditions are included in the recommendations to ensure compliance. The EPA has advised that the stubstacks won't be required unless it is necessary and this is unknown until the on-ground assessments are undertaken, hence the staged approach to the odour risk management described above. These on ground assessments would determine if the stubstacks are necessary, how many may be required and how often they may need to be operational - this is dependent on temperature and number of birds. Odour can depend on the staging of the life cycle of chickens – worst week is week 5-6 of cycle. EPA advises that 40% of cycle has no odour.

*Dust*

As there is no composting or storing of spent litter onsite, there is no expected dust from the broiler farm operation. There is the expectation that dust may occur through the vehicle traffic around the site. This can be managed through permit conditions requiring dust suppression as part of the road construction.

*Noise*

From the proposed broiler farm site, an Operational Noise Impact Assessment as submitted as part of the application. The report identified the sensitive uses within the vicinity of the site, with the closest dwelling being 1.26km from the closest edge of the development. This assessment assumed all equipment operating continuously day and night.

The predicted noise levels satisfy the project noise trigger level by

- 24 dB(A) for the daytime and 22 dB(A) the evening period and 17 dB(A) nighttime.

The resultant noise levels from combined operational activity, when considered at worst case full, steady load are well below the recommended maximum noise level of

- 45 dB(A) daytime limit and 37 dB(A) evening time limit and 32 dB(A) nighttime limit,

Therefore, unacceptable noise impacts are not expected, and it is unlikely that the nearest noise-sensitive properties would be adversely affected by the proposed development.

- *not adversely affect the use and development of nearby land?*

The broiler farm is an agricultural use proposed within the Farming Zone. Surrounding land use is a quarry and a wind energy facility, both of which have offsite amenity issues to the surrounding land. Other nearby land is used for grazing and this proposed broiler farm is not considered to have any adverse affect on the existing adjoining land uses.

- *avoid pollution of ground and surface waters?*

The design, construction and operation of the proposed broiler farm has addressed any potential pollution of ground and surface water. The sheds would be constructed with a concrete floor and a short concrete side wall, the retention basins that would contain all stormwater within the bunded broiler farm area, will be lined with an impermeable material. It is also noted that the applicant has agreed to an amended plan condition to reduce the depth of one detention basin from 4m to 3m.

- *avoid adverse impacts on the visual quality of the landscape?*

Landscaping is proposed around the proposed broiler farm and the site is located on an unused government road that does not provide direct access to any other site; and is located at least 1km back from Mooleric Road.

- *minimise biosecurity risks?*

The Code is applied and regulated through legislation that sits beyond Council and includes biosecurity which is under the control of State and Federal agencies. Any matters relevant to the planning application will be addressed in permit conditions including an Environment Management Plan (EMP). The EMP will be a working document that is updated in accordance with the Code.

All approved measures are satisfied in Element 1 with the exception of the 3 approved measures discussed below –

- Approved Measure E1 M1.4 - The nearest external edge of any new shed or temporary litter stockpile / compost pile is / are set back at least 100 m from the broiler farm property boundary

E1 M1.4 - The objective in this instance is *to ensure that the development does not adversely affect the use and development of nearby land*. The setback to the south is proposed at 58m for farm 2 and 63.4m for farm 1. The applicant considered that the Farming Zone minimum setbacks of 20m from the road and 5m from another boundary would be acceptable. The land to the south is currently used for grazing purposes and it is not considered that the construction of buildings at least 50m from the southern boundary would impact on the existing use. Given the overall proximity to the proposed broiler farm, it is unlikely that an application would be received for a sensitive use such as a dwelling and the lot size is currently less than the required 80ha minimum that allows for an 'as of right' use of the land for a dwelling. Similarly, the setback to the northern boundary is less than 100m for both farms, being around 83-85m. This is also considered an acceptable outcome in that the objective is satisfied as the northern boundary adjoins an undeveloped unused government road. In the event that the Planning Committee considers this to be unacceptable, a permit condition could be added to include additional landscaping, however given that the objective under the Code is satisfied and the Farming Zone minimum setbacks are satisfied, and there are no adverse impacts to the land use, this is not considered necessary.

- Approved measure E1 M2.1 - A natural vegetative buffer zone of at least 30 m (or any greater distance specified in the planning schemes, or by the Catchment Management Authority) is maintained along waterways. No buildings, roads, outdoor range area or litter storage or litter re-spreading areas are located in the vegetative buffer zone. The measuring point for a waterway is the point water may reach before flowing over a bank (the bank-full discharge level).
- Approved measure E1 M2.2 - A clearance of a further 20m from the edge of the natural vegetative buffer zone to the nearest external edge of any broiler shed or outdoor range area is provided to ensure adequate shed ventilation, minimise vermin habitat and provide adequate access to the sheds and fire-fighting protection.

E1 M2.1 – the objective is *to avoid pollution of ground and surface waters* and the standard is to ensure *adverse impacts on waterways are avoided by ensuring that broiler sheds, temporary litter stockpiles, compost piles, outdoor range areas and litter spreading areas are adequately separated from waterways, or other risk mitigation measures are incorporated and approved by the responsible authority*.

The land in its current form has directed drainage into formed channels that traverse north/south through the centre of the site between the 2 farms and the four dwellings. Sections of the channels

are identified on Council's mapping as waterways but not a gazetted waterway, whilst other sections are not.



Council referred the application to the floodplain manager, CCMA, who advised that they consent to the proposed development subject to permit conditions included in the recommendation. The CCMA also advised that the north/south channel is not a gazetted waterway and the channel in the northeast section of the site is also manmade and not a waterway. It is also noted that that channels are not vegetated other than southern section of the centre channel, which that vegetation will be retained. The channels in the central northern section of the site are located within the no-go fenced areas due to the cultural heritage status of the land (shown above in yellow hatching) and it is recommended that this area is maintained as is without any disturbance, including vegetation plantings. The CCMA concur with this approach. The northeast channel, where not within a sensitive area and forms part of the subject site, with the necessary approvals if any from the CCMA, would be moved to the east outside the proposed bunded area around the broiler sheds. As previously stated, there are no temporary litter stockpiles, compost piles, or litter spreading areas proposed as part of this development and any free-range areas would be between each of the farm sheds. The shedding and the free-range areas would be a minimum of 40m from the protected boundary or the channel, whichever is closest in the southeast corner and the northeast corner of Farm 2. When adding the 2 above measures, a setback of 50m is required, however it is considered that the objective and standard of E1 M2.1 is satisfied as there would be a minimum 10m wide elevated vegetation bunded area to prevent any of pollution of ground and surface waters.

#### **Element 2: Farm design, layout and construction**

- *Does the design and construction of the broiler farm minimise the risk of adverse amenity and environmental impacts, and support the cost- effective operational efficiency of the farm?*

The broiler farm development is designed and constructed to minimise the risk of adverse off-site impacts and support the cost-effective operational efficiency of the farm. The applicant has other operational farms in Victoria and therefore is aware of the operational practices of a broiler farm. All approved measures of the Code have been satisfied or a condition is included with the recommendation to address that requirement where not already demonstrated.

There have been concerns raised with the use of reticulated water and the applicant has advised that the water collected in the stormwater retention basins would be re-used for drinking water for the birds once treated to a suitable level. When the basins water level is low, the reticulated water supply would be utilized. The total water usage for the site is expected to be 90megalitres per annum.

The re-use of the stormwater would drain to the basin and then treated through a sand filter process within the workshop building and transferred through to the water storage tanks adjacent to the bird sheds. The water in the storage tanks would be further treated, if necessary, prior to be used for drinking water. In the event that the site does become a free-range broiler farm, the sanitation methods would be increased.

### **Element 3: Traffic, site access, on-farm roads and parking**

- *Do the location, design and construction of farm access points, internal roads and parking areas support the safe and efficient entry and exit to the site, movement of vehicles and operation of the farm and minimise noise and lighting impacts?*

Sufficient information was provided for Council to assess that the site is capable of satisfying this element. Permit conditions are recommendation to ensure compliance with the Code. It is noted that this element does not require any assessment of vehicle movement outside the site other than the immediate entrance point.

### **Element 4: Landscaping**

- *Is landscaping used to minimise the visual impact of broiler sheds and litter storage areas, reduce the risk of light and dust impacts on nearby sensitive uses, and protect, manage and enhance on-farm native vegetation and biodiversity?*

Landscaping is proposed around the proposed broiler farm. The primary source of external lighting will comprise one luminaire mounted at a height of approximately 3 m over the front and rear loading-unloading areas of each poultry shed. Each luminaire has been aimed downwards and only used, when necessary, in times of low light and/or heavy fog. Permit conditions including a security bond for the landscaping would be required if a permit is issued, together with conditions ensuring compliance with light and dust impacts. There would not be any external litter storage areas.

### **Element 5: Waste management**

- *Are measures in place to manage spent litter from the farm operations to minimise odour and dust generation, prevent the pollution of surface water, groundwater and land, and minimise biosecurity risks?*

No spent litter would be distributed on the land. When manure / spent litter is removed from the shed at the end of each growth cycle and it would be loaded directly onto a truck rather than being stockpiled onsite. The filled truck will be covered, and the manure will immediately be transported offsite for disposal. This will thus remove this odour source.

- *Are measures in place to manage the disposal of dead birds from the farm operations to minimise odour and dust generation, prevent pollution of surface water, groundwater and land, and minimise biosecurity risks?*

There will be no bio bins onsite for the disposal of bird morts, as these often become a significant odour source. Instead, morts will be collected daily and will be placed in a freezer maintained at -18 °C. Frozen morts will be removed on a weekly basis for biosecurity reasons.

- *Are measures in place to manage chemical waste from the farm operations to prevent the pollution of surface water, groundwater and land?*

A permit condition has been included in the recommendation to ensure that all chemical storage is within a bunded area.

#### **Element 6: Farm operation and management (Environmental Management Plan (EMP))**

- *Are measures in place to ensure best practice management of the farm to avoid or minimise the risk of adverse impacts on the surrounding environment and neighbouring sensitive uses?*
- *Does the EMP adequately describe the day-to-day operation and management of the farm, including contingency plans?*
- *Does the EMP adequately describe the routine auditing program proposed for the farm?*

A preliminary EMP was submitted as part of the application documentation. Permit conditions will require the submission of an amended EMP to ensure compliance with the Code and in particular this element 6 seeks that the EMP be regularly reviewed and updated in line with continuous improvements of the environmental management system on farm. The 'Auditing requirements' section of the Code outlines how to update the EMP within the scope of the Responsible Authority's approval.

### **9. OFFICER DIRECT OR INDIRECT INTEREST**

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

Item: 9.5

**Request to Discontinue Road Reserve and consolidate into 80a Hart Street Colac & Notice of intention to dispose of the consolidated land.**

<b>OFFICER</b>	David Butterfield
<b>ACTING GENERAL MANAGER</b>	Steve O'Dowd
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil

## 1. PURPOSE

To approve discontinuance of the Road Reserve that runs parallel to Council owned property 80a Hart Street Colac, consolidate the land into a single parcel and to seek authorisation to provide Public Notice of Council's intention to dispose of the consolidated land parcel.

## 2. EXECUTIVE SUMMARY

It is proposed that the unused Road Reserve that runs east-west on the southern boundary of 80a Hart Street, Colac, be discontinued. Once discontinued, this land could be consolidated to become part of the property 80a Hart Street, Colac.

Notice of Council's intention to discontinue the Road Reserve was given on 5 April 2024 by advertising the intention in the Colac Herald and on the Colac Otway Shire Council website for a period of six weeks, inviting interested parties to make a written submission. Council received one submission. The submitter was heard by the Submissions Committee on 5 June 2024.

### 3. RECOMMENDATION

***That Council:***

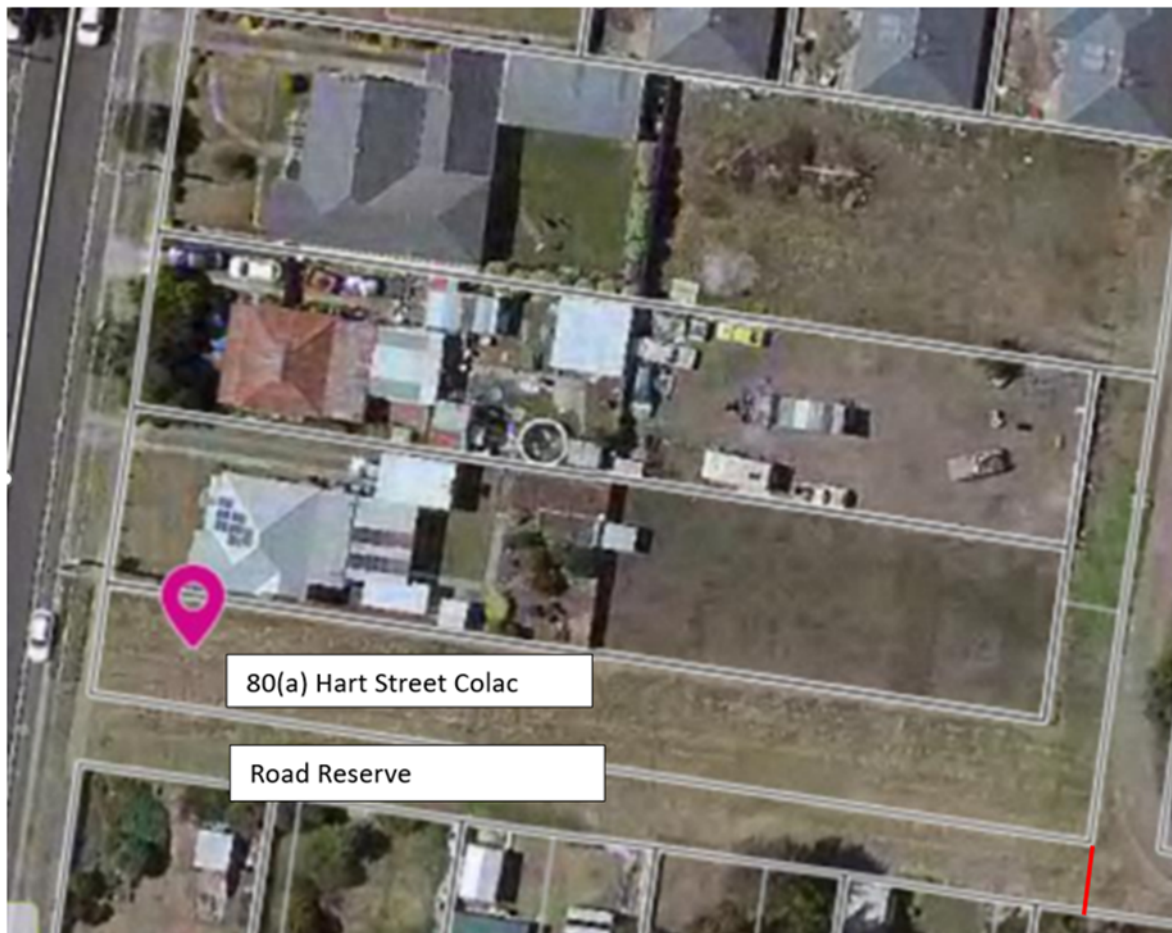
- 1. Notes that its Notice of Intention to discontinue part of an unused road reserve adjacent to 80a Hart Street, Colac, was exhibited in accordance with Section 12 of the Road Management Act 2004 and Section 206 of the Local Government Act 1989 and with Council's previous direction given on 27 March 2024.***
- 2. Notes that one submission was received in response to the Notice of Intention to discontinue part of the unused road, and that the submitter was heard at Submissions Committee meeting on 12 June 2024.***
- 3. Having considered the submission received, determines to proceed with discontinuance of the unused road reserve parallel to 80a Hart Street, Colac.***
- 4. Authorises the General Manager of Community and Economy to do all things required to discontinue the Road Reserve as shown on Figure 1 (up to the red line) pursuant to Section 12 of the Road Management Act 2004 and Section 206 of the Local Government Act 1989 and then consolidate the land into the Title for 80a Hart Street Colac.***
- 5. Upon completion of the discontinuance and consolidation process, gives notice of its intention to dispose of the property 80a Hart Street Colac for a period of 6 weeks, calling for public submissions from interested parties.***
- 6. Provides an opportunity for any person wishing to speak to their written submission at a meeting of the Submissions Committee in relation to point 5 above.***
- 7. If any submissions are received in response to point 5 above, consider these submissions prior to considering at a future Council Meeting whether to proceed with disposal of the property.***
- 8. In the event that Council receives no submissions in response to point 5, authorises the General Manager of Community and Economy to:***
  - a. Obtain a valuation for the consolidate title from a person who holds qualifications or experience specified under section 13DA(2) of the Valuation of Land Act 1960.***
  - b. Do all things necessary to commence a disposal process by way of private treaty, for a sale price that is no less than 90% of the valuation obtain in point 8(a) at the time of entering a contract of sale.***
- 9. Determines that the net proceeds of any sale of 80a Hart Street, Colac, that arises from this decision should be transferred to the Unallocated Surplus Reserve.***

## 4. KEY INFORMATION

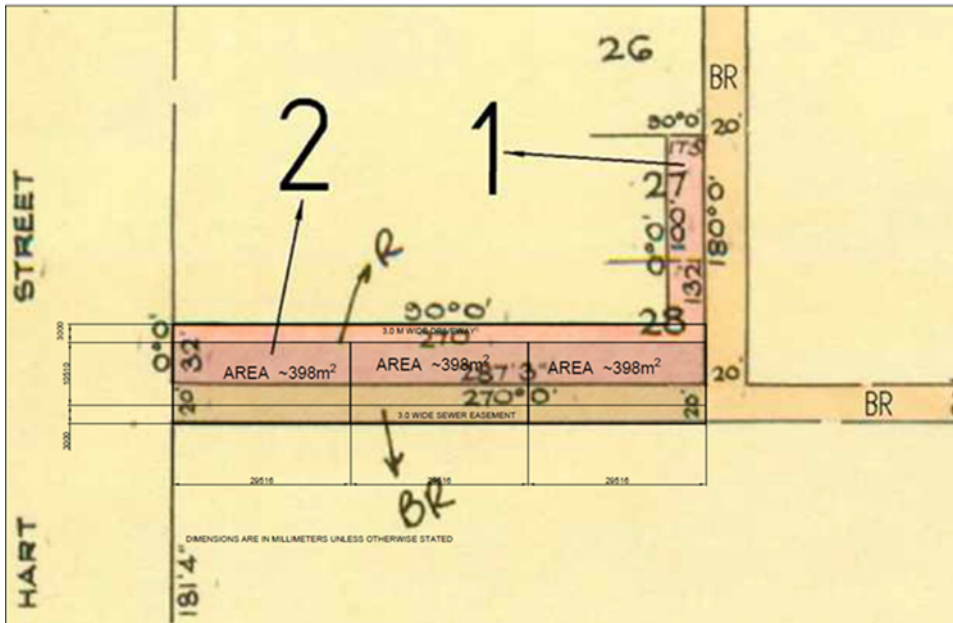
The subject Road Reserve is a freehold title in the name of Colac Otway Shire Council. Council is also the Registered Proprietor of the property 80a Hart Street Colac.

Council has determined that there is no operational or future strategic use for the property that is currently a Road Reserve and further for the property 80a Hart Street Colac. Council considers that if the road reserve is discontinued and consolidated into the title for 80a Hart Street Colac, it will mean that the consolidated property will have a greater value, if Council ultimately decides to sell the land.

**Figure 1 – Discontinuance of road reserve is to end at the red line**







## 5. CONSIDERATIONS

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

- 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 municipal community is to be engaged in strategic planning and strategic decision making.

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

*Local Government Act 2020*

*Local Government Act 1989*

Acquisition and Disposal of Council Property Policy.

*Road Management Act 2004*

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

There are no known environmental or sustainability issues.

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

Council has given public notice of its intention to discontinue the Road Reserve. Council has received one submission, and that submitter presented the submission to the Submissions Committee on 12 June 2024.

It is proposed that Council will give public notice of its intention to dispose of the consolidated land known as 80a Hart Street Colac and seek written submissions from interested members of the public.

### Public Transparency (s58 LGA 2020)

There are no known transparency issues, save that any submissions received will have names and identifying features redacted from any future Council Report.

## **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

Strong Council leadership has resulted in identification of property that is surplus to the operational needs or the future strategic needs of Council. As a part of the continuous improvement practices of Council, any land that is surplus to Council's needs should be considered for disposal. The use or allocation of any proceeds of sale of land will be determined by Council in accordance with the Acquisition and Disposal of Council Property Policy.

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

The cost of discontinuance and consolidation of title is estimated to be not more than \$10,000. This figure includes Surveying costs.

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

Not applicable.

## **Risk Assessment**

Risk is mitigated by Council giving notice of its intention to dispose of the subject property and inviting public submissions. All submissions will be considered before any Resolution for disposal of property is sought.

## **Communication/Implementation**

All notices will be published in the Colac Herald, Council's website and the Apollo Bay News.

## **Human Rights Charter**

The Author and Co-authors of this Report have considered the contents of the Human Rights Charter and confirm that no persons Human Rights have been diminished in the preparation of this document.

## **Officer General or Material Interest**

A general interest has been declared by the Chief Executive Officer and the General Manager for Corporate Services; details of the general Interest will be provided at the Scheduled Council Meeting.

## **Options**

### Option 1 – Adopt as per Recommendation

This option is recommended by officers as it will progress the discontinuance of the Road Reserve and will commence the Statutory procedures to give notice of the intention to dispose of Council property and seek submissions from interested parties.

### Option 2 – Not consolidate the Road Reserve into 80a Hart Street Colac

This option is not recommended by officers as it will result in the subject property remaining a Road Reserve and not commence the Statutory Processes that are required prior to considering a disposal of the subject property.

### Option 3 – Give notice of Council intention to dispose of 80a Hart Street Colac without consolidation of the Road Reserve.

This option is not recommended by officers as it will not realise the best possible value for the subject property. It has been identified that the Road Reserve is superfluous to the ongoing operational or the future strategic needs of Council's Road network.

Option 4 – Take no action

This option is not recommended as the land has been identified as superfluous to Council's ongoing needs.

Item: 9.6

## Safer Local Roads & Streets Program - Potential Projects

<b>OFFICER</b>	Kanishka Gunasekara
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To seek endorsement from Councillors on potential projects that could be funded through the State Government's Safer Local Roads and Streets Program (SLRSP). This program has allocated \$2 million for road safety projects in the Shire to be delivered by Council over a two-year period.

### 2. EXECUTIVE SUMMARY

Colac Otway Shire is being offered \$2 million non-competitivededicated funding for enhancing road safety to reduce road trauma on local roads over the next two years under the State Government's Safer Local Roads and Streets Program (SLRSP). The Transport Accident Commission (TAC) and Department of Transport and Planning (DTP) have held an initial workshop with Shire staff and require Council to nominate projects for evaluation under the program guidelines.

This report seeks Council direction on projects to be considered for funding so that further discussions can occur with DTP and TAC and a formal funding application lodged by 28 November 2024. A range of projects have been suggested in the report for locations across the Shire, including changes to speed limits, new roundabouts and raised pedestrian crossings, treatments such as rumble strips and road safety audits. A resolution from Council is required to ensure there is support for the prioritisation of projects being pursued under the program.

### 3. RECOMMENDATION

**That Council:**

1. ***Notes the opportunity for itto nominate projects for improvement of road safety on its local roads network under the Safer Local Roads and Streets Program, with a total value of \$2million.***
2. ***Endorses the following projects to be considered for approval by the Department of Transport and Planning and Transport Accident Commission under the Safer Local Roads and Streets Program:***
  - a. ***Connor Street, Colac (Corangamite to Hart Streets) – Two Raised Pedestrian Crossings.***
  - b. ***Bromfield Street, Colac (Corangamite to Gellibrand Street) – Two Raised Pedestrian Crossings.***
  - c. ***Pascoe Street, Apollo Bay (Moore to Nelson Street) – New Raised Pedestrian Crossings and a Roundabout at Moore Street.***
  - d. ***Armstrong Street, Colac – New Compact Roundabout at Armstrong Street and Pound Road intersection & Road Safety Audit to identify other improvements***
  - e. ***Implementation of Colac CBD 40km/hr speed limit.***
  - f. ***Safety Treatment at Intersection of Conns Lane & Cape Otway Road, Birregurra.***
  - g. ***Bushbys Road, Barongarook – Safety treatment works***
  - h. ***Gellibrand Street, Colac – New Mid Block Pedestrian Crossing***
  - i. ***Road Widening at a Blind Corner on Mingawalla Road approaching Sunny Hills Road Intersection, Beac.***
  - j. ***Warrowie Road and Mckay Road Intersection, Irrewarra – Road Safety Audit***
3. ***Notes that the projects endorsed in point 2 will be presented to the Department of Transport and Planning and Transport Accident Commission before funding applications are submitted and some projects may not progress if they are not supported by Department of Transport and Planning and Transport Accident Commission or do not meet the eligibility criteria.***
4. ***Notes that the combination of projects put forward as final applications will be designed to maximise the use of the funding available.***
5. ***Submit a funding application through SmartyGrant for the endorsed projects once reviewed by the Department of Transport and Planning and Transport Accident Commission.***

### 4. KEY INFORMATION

Council, along with other Councils, is being offered \$2 million dedicated funding for enhancing road safety to reduce road trauma on local roads over the next two years under its Safer Local Roads and Streets Program (SLRSP). The program targets:

1. Low-speed and mixed-use roads and streets
2. Intersections; and
3. High-speed local roads

The program is being rolled out across the State with Councils participating in different phases of the program to stagger the resourcing of implementation.

DTP and TAC jointly conducted a workshop with Council on 28 May 2024 outlining the conditions of the funding round and the types of projects that could be funded through this program. The next step is for to provide concept designs for potential projects to be vetted by DTP and TAC at a workshop on 29 July 2024. Project considered eligible for funding can then be further developed before lodging a formal funding application through the SmartyGrant portal before the deadline of 28 November 2024. Below is a timeline for the program.



### Potential Projects

A list of potential projects to be considered under the program is provided below and was discussed with Councillors at a briefing on 10 July 2024.

Proposed Projects		Preliminary estimate (exc. GST)
1	<b>Connor Street – Raised Pedestrian Crossings</b> Design and construction of two wombat crossings on Connor Street as identified in early drafts of the Civic Health & Railway Precinct Plan. The crossings would provide safe connects for pedestrians between the hospital and services on the north side of Bromfield Street.	\$390,000
2	<b>Bromfield Street, Colac (Corangamite to Gellibrand Street) – Improvements suggested by the Colac CBD Entrance Strategy</b> Design and construction of two wombat crossings between Corangamite Street and Gellibrand Street to enhance pedestrian safety, one located at the roundabout intersection and a midblock crossing opposite the Bendigo Bank.	\$385,000
3	<b>Pascoe Street, Apollo Bay (Moore to Nelson Street) – Wombat Crossings and Roundabout suggested by Apollo Bay Community Infrastructure Plan</b> Design and construction of new wombat crossings and a roundabout at the Moore Street/Pascoe Street intersection to enhance pedestrian safety. Would assist pedestrians accessing the commercial and foreshore areas from residential areas west of Pascoe Street.	\$640,000
4	<b>Armstrong Street, Colac – Trinity College – Compact Roundabout &amp; Other Improvements</b> Design and construction of a compact roundabout at the intersection of Armstrong Street and Pound Road to ensure the safety of pedestrians, especially for the students at Trinity College. A Road Safety Audit to be conducted to identify further traffic calming treatments on Armstrong St, Pound Rd and Hart St, and if further treatment is required, funding to be sought from this program to implement them.	\$575,000

<b>Proposed Projects</b>		<b>Preliminary estimate (exc. GST)</b>
5	<b>Implementation of Colac CBD 40km/hr speed limit</b> Funding for signage across the CBD to implement the decision of Council to reduce the speed limit to 40 km/hr as per the Colac CBD and Entrance Strategy.	\$17,000
6	<b>Safety Treatment at Intersection of Conns Lane &amp; Cape Otway Road, Birregurra</b> Design and construction of traffic treatment measures to reduce the likelihood of accidents and improve traffic flow.	\$120,000
7	<b>Bushbys Road, Barongarook – Safety treatment works</b> Road Safety Audit to identify any deficiencies in the existing infrastructure that needs improvements and if any treatment required. Funding is sought through this program only for the Road safety Audit. If any infrastructure improvements are required, a separate cost estimate will be prepared, and a funding request will be prepared for consideration.	\$10,000
8	<b>Road Widening at a Blind Corner on Mingawalla Road approaching Sunny Hills Road Intersection, Beac</b> Design and construction of widening of a section of road to enhance visibility and safety at a hazardous blind corner.	\$140,000
9	<b>Gellibrand Street, Colac – New Mid Block Pedestrian Crossing</b> Design and construction of a wombat crossing and kerb extensions to ensure safety of pedestrians crossing Gellibrand Street at the new toilet block.	\$150,000
10	<b>Warrovie Road and Mckays Road Intersection, Irrewarra</b> Council has previously installed flashing lights and rumble strips to improve safety at this intersection but there is still some concern about safety. Speed reduction in Mckays Road could be considered. A Road Safety Audit is proposed to examine options. If any infrastructure improvements are identified from the audit, a separate cost estimate will be prepared, and a funding request will be prepared for consideration.	\$3,000
<b>Total</b>		<b>\$2,430,000</b>

### Eligibility of Projects

Council officers have had a preliminary discussion with DTP about the program guidelines and this has informed the projects put forward in this report. Further assessment will be undertaken against the guidelines for projects that are endorsed by Council. Prior crash history and data concerning traffic/pedestrian conflicts will be used by DTP and TAC to assess the priority of project funding. It is noted that improvements on State managed road would not be funded by the program. Opportunities such as an upgrade to the Nelson Street/Great Ocean Road intersection in Apollo Bay (as per the Community Infrastructure Plan) would not be eligible.

The Infrastructure Development team examined options for different projects that would be eligible, informed by community feedback related to safety concerns and initiatives in the Council's strategic documents. Whilst Council is currently applying for grant funding to prepare a Road Safety Strategy, there is not currently a consolidated strategy directing Council's priorities in this regard. The Colac

CBD and Entrances Strategy and Apollo Bay Skenes Creek and Marengo Community Infrastructure Plan do provide guidance on pedestrian safety improvements for those township areas.

The potential projects were discussed with Councillors at a briefing on 10 July 2024 and some adjustments were made to incorporate feedback.

The total estimated cost for the identified projects exceeds \$2million. As the projects are reviewed by DTP and TAC and further work is undertaken, more accurate cost estimates can be prepared. It will be at this stage that Council will need to decide whether some projects are removed to align the program with the available budget. It is considered that the two raised pedestrian crossings on Bromfield Street and the upgrade to the blind bend of Mingawala Road at Beeac would be a lesser priority if insufficient funding is available, and this is reflected in the recommendation. Councillors will be kept up to date with progress.

The 2024-25 budget includes funding to reconstruct Pascoe Street in Apollo Bay due to its assessed condition and need for renewal. There is an opportunity to implement complementary road safety initiatives in Pascoe Street that implement adopted plans for streetscape improvements in the Apollo Bay Skenes Creek and Marengo Community Infrastructure Plan. Similarly, the reconstruction of a section of Bromfield Street west of Corangamite Street is likely to be included in the 2025-26 asset renewal program, and there might be an opportunity to deliver works associated with those works that deliver pedestrian safety initiatives from the Colac CBD and Entrances Strategy (e.g. mid-block crossing). These two key strategic plans align well with the SLRSP program objectives and could be delivered cost efficiently if done in conjunction with road reconstruction works on these streets, maximising the benefit to the community

## 5. CONSIDERATIONS

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

This report is consistent with the Governance Principles by giving priority to achieving the best outcome for the municipal community, including future generations and by ensuring the financial viability of the Council. The projects are being transparently considered in open Council before a funding application is made.

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

The various road safety projects suggested would be supported in law by the applicable rules in the *Road Safety Road Rules 2017* that are prescribed under the *Road Safety Act 1986*.

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

Environmental impacts related individual road safety projects will be assessed as part of the detailed design process if funded.

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

There is no community engagement proposed at the current time. There may be community engagement on specific projects were they to be approved for funding, depending on the nature and scope of the project.



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

This report outlines to the public the projects which are being considered for funding under the program, before commitments are made for progression of the funding application.

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

Alignment to Council Plan 2021-2025:

Theme 2 - Valuing the Natural and Built Environment

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

The following is a Strategy within the Plan:

*"2.5.1 Maintain Road and drainage assets to ensure they are safe and reliable"*

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

All projects approved under the program would be fully funded by DTP. The program represents an opportunity for a number of road safety initiatives to be achieved without funding by ratepayers. The projects being suggested are considered to be higher priority in addressing road safety risk.

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

The proposed projects would not have any impacts on Council's service performance. The cost of project management would be incorporated into the program funding.

### **Risk Assessment**

Implementations of funded projects would reduce risk to the community by enhancing the safety of local roads.

### **Communication/Implementation**

The community will be informed of the successful projects to be funded through this program when this is known.

### **Human Rights Charter**

No impact.

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

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

### **Options**

#### Option 1 – Endorse the proposed projects as the potential projects for funding

This option is recommended by officers as all these projects are aligned with the funding guidelines and will improve the safety of the community. Some of the proposed projects have already been identified as required improvements to increase pedestrian safety in adopted strategic plans such as the Colac CBD and Entrances plans, the Community Infrastructure Plan for Apollo Bay, Skenes Creek and Marengo and recent work looking at the Civic and Hospital precincts in Colac.

#### Option 2 – Not endorse the proposed projects

Officers do not recommend this option, as DTP requires the scope of potential projects to be finalised by 29 July 2024 to allow the Council to submit a funding application by 28 November 2024. Council

will have to undertake detailed designs for each project before the funding application is lodged, so it is important that the list is finalised by 29 July 2024.

Option 3 – Endorse a different list of projects

Council could choose to put forward different projects for funding but this is not recommended as the criteria of the program relates to addressing safety risk on local roads. Projects that are on State managed sections of road would not be funded, nor would works which are not demonstrated to address road safety. Careful consideration has been given to those projects which would be of most benefit to the Shire from a road risk perspective, with a variety of projects across the municipality.

Item: 9.7

## Elliminyt Recreation Reserve Pavilion Redevelopment - proposed funding application to Housing Support Program

<b>OFFICER</b>	Jarrold Woff
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To seek Council's endorsement to apply for funding to the Federal Government's *Housing Support Program – Community Enabling Infrastructure Stream* for the Elliminyt Recreation Reserve Pavilion Redevelopment project.

### 2. EXECUTIVE SUMMARY

The Federal Government has recently released the *Housing Support Program – Community Enabling Infrastructure Stream*, which will provide funding for projects that support the delivery of increased housing supply through the construction of enabling infrastructure and community amenities.

A review of Council's pipeline of projects against the funding guidelines has identified that the redevelopment of the Elliminyt Recreation Reserve Pavilion would be a suitable candidate for this funding program.

The program would support up to 100% of the total project cost for successful local government projects. Applications to the program close 16 August 2024 and a resolution of Council is sought to lodge an application for the Elliminyt Recreation Reserve Pavilion Redevelopment project.

### 3. RECOMMENDATION

**That Council:**

- 1. Notes that the Elliminyt Recreation Reserve Pavilion Redevelopment project is a priority in its adopted Advocacy Framework and Advocacy Priorities and that concept plans and cost estimates have been prepared for this project.**
- 2. Endorses the Elliminyt Recreation Reserve Pavilion Redevelopment project to be submitted to the Federal Government's Housing Support Program – Community Enabling Infrastructure Stream, seeking a grant of \$6,600,000 (esc. GST) which represents the total project budget.**
- 3. Authorises the Chief Executive Officer to submit the application for the Elliminyt Recreation Reserve Pavilion Redevelopment to the Housing Support Program – Community Enabling Infrastructure Stream.**
- 4. Authorises the Chief Executive Officer to enter into a funding agreement should the application for the Elliminyt Recreation Reserve Pavilion Redevelopment be successful.**

### 4. KEY INFORMATION

#### **Housing Support Program (HSP)**

The *Housing Support Program (HSP)* is a \$1.5 billion Australian Government initiative to help facilitate the National Housing Accord 2022 by funding projects which will deliver enabling infrastructure and provide community amenities to support new housing developments. The HSP has a number of streams, with the focus for this report being the *Community Enabling Infrastructure Stream*.

The HSP will support:

- Infrastructure projects that support new housing, such as connecting essential services like water, power, sewage, and roads.
- Infrastructure projects that provide amenities to support new housing, including shared facilities like community centres and parks.
- Building planning capability, including resources to support increased delivery of new housing and master planning to support increasing housing in well-located areas.

The *Community Enabling Infrastructure Stream* will focus on infrastructure projects that support new housing. It is open to local government authorities and the states and territories, and aims to remove barriers to housing construction by delivering enabling infrastructure and community amenities.

Applications for funding can only be made by:

- a local government authority (LGA); or
- a state or territory government.

#### **Elliminyt Recreation Reserve Pavilion Redevelopment**

The Elliminyt Recreation Reserve Master Plan was adopted by Council in December 2018 following extensive community engagement. A key feature of the master plan is the redevelopment of the pavilion incorporating changerooms for players and officials along with community/social space.

The Elliminyt Recreation Reserve is home to the following key user groups:

- South Colac Sports Club (South Colac Football Netball Club)
- Colac Cycling Club
- Elliminyt Tennis Club
- City United Cricket Club
- Colac and District Football Netball League U10 and U12 competitions

The existing off-field facilities are in need of redevelopment in the near future due to termite damage. Furthermore, the existing facilities do not meet sporting code facility standards or the needs of the users.

In partnership with the key users, Council has prepared schematic designs to guide the future redevelopment of the off-field facilities to cater for future generations. The project is considered 'funding ready' with designs ready to progress to tender documentation.

### **Alignment to the Housing Support Program**

The development of the Elliminyt Recreation Reserve aligns with one of the primary aims of the *Housing Support Program – Community Enabling Infrastructure Stream*, being amenities to support new housing development(s) such as parks, sporting facilities, community halls, libraries and/or common outdoor spaces.

The Elliminyt Recreation Reserve is located in close proximity to two areas of Elliminyt that have recently been rezoned for residential development, being the Hillview and Irrewillipe Road Elliminyt planning scheme amendments. Combined, these rezonings will result in approximately 1,000 additional housing lots in Elliminyt.

The rezoning of the land will assist in bringing housing online in the short term. However, due to the size of the development areas, there are no additional active recreation areas and/or community facilities proposed. Therefore, it will be important for the Elliminyt Recreation Reserve to continue to provide as a key community hub and for its facilities to be suitable to cater for future population growth.

Providing quality and accessible community infrastructure is important in helping facilitate housing development and creating attractive localities where people want to live. Importantly, the redevelopment of the Elliminyt Recreation Reserve pavilion will provide the required sporting facilities for current and future participants. There is currently a deficit of quality community meeting space in Elliminyt so importantly the off-field facilities at the Elliminyt Recreation Reserve will also provide a much-needed community meeting space for a wide range of community activities. This will be vital as the Elliminyt population experiences residential growth.

## **5. CONSIDERATIONS**

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

The redevelopment of the Elliminyt Recreation Reserve pavilion aligns with the overarching governance principles, in particular achieving the best outcomes for future generations, as well as ongoing environmental sustainability of facilities.

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

The *G21 Regional Growth Plan* sets Colac an aspirational population target of 20,000 people by 2050 and forms part of State planning policy.

The *Colac 2050 Growth Plan* guides the growth of Colac, with a vision of a population of 20,000 by 2050, and to help Colac become an even better place to live, work and visit. The *Colac 2050 Growth Plan* states that for some community infrastructure types in Colac/Elliminyt, there is not sufficient or appropriate facilities to cater for existing and future demand. The Plan identifies that some community facilities are dated, poorly designed and/or in poor condition. Some facilities do not comply with accepted design standards and do not meet contemporary design trends or promote service integration. It states that modified, expanded or new facilities will be required. This is the case for the Elliminyt Recreation Reserve, with the off-field facilities identified for immediate redevelopment to cater for the needs of this growing community.

The *G21 and AFL Barwon towards 2030 Strategy* identifies that the Elliminyt Recreation Reserve off-field facilities need improvement, particularly due to the lack of gender neutral changeroom facilities and umpires facilities.

This project has been identified in the *Elliminyt Recreation Reserve Master Plan* as a high priority. It has also been identified in Council's *Asset Management Plan*.

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

Environmental matters have been considered in the preparation of the schematic designs for the pavilion redevelopment. The Quantity Surveyor cost plans include an allocation for environmentally sustainable design (ESD) initiatives, with building environmental and sustainability opportunities to be further considered through the detailed design process.

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

The Elliminyt Recreation Reserve Pavilion Redevelopment project is consistent with the Elliminyt Recreation Reserve Master Plan endorsed by Council in 2018, which was developed through significant community engagement. Council officers have worked closely with the key user groups of the reserve to develop the design of the new pavilion.

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

Not applicable.

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

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 5: Grow the Colac Otway Shire's permanent population by at least 1.5%

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

The cost estimate for the Elliminyt Recreation Reserve Pavilion Redevelopment is \$6.6 million and are considered to be reflective of the construction market and the cost for public facilities of this type and scale. The Quantity Surveyor cost plans include construction, ESD initiatives, design contingency, construction contingency, cost escalation, and professional fees.

As the Housing Support Program supports up to 100% of the total project cost for successful local government projects, it is recommended to apply for the full \$6.6 million for this project.

Many of Council's facilities across the shire, including the Elliminyt Recreation Reserve Pavilion, are nearing, at or beyond their useful lifespans. Improving buildings at recreation reserves will have an ongoing impact on Council resources when considering Whole of Life costs.

The current pavilion is an existing asset and has depreciation, renewal and maintenance costs recognised in its financial statements and budgets. An asset of this type, with a \$5 million asset value would represent an annual 'cost' of approx. \$110k noting that this is predominantly an accounting entry for depreciation.

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

The off-field facilities at the Elliminyt Recreation Reserve need redevelopment in order for the reserve to continue to provide for active recreation and community activities.

#### **Risk Assessment**

Not applicable to this report.

#### **Communication/Implementation**

Council officers have worked with user groups at the Elliminyt Recreation Reserve to understand their needs and to develop the design of this project. Should the grant application be successful, officers will work with user groups through the construction phase to minimise the impact of works on active and passive sporting activities at the reserve.

#### **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 – Authorise the Chief Executive Officer to submit an application for the Elliminyt Recreation Reserve Pavilion Redevelopment project to the *Housing Support Program – Community Enabling Infrastructure Stream*.

This option is recommended. The proposed redevelopment of the Elliminyt Recreation Reserve Pavilion is considered eligible to the *Housing Support Program – Community Enabling Infrastructure Stream* and if successful will see this much needed project fully funded with external grant funding.

Option 2 – Do not authorise the Chief Executive Officer to submit the application for the Elliminyt Recreation Reserve Redevelopment project to the *Housing Support Program – Community Enabling Infrastructure Stream*.

This option is not recommended as it would mean that an opportunity to obtain external grant funding and deliver a fully funded pavilion at the Elliminyt Recreation Reserve may be missed.

Item: 9.8

## Donaldson Street Park Redevelopment - proposed funding application to VicHealth's Growing Healthy Communities Grant Program

<b>OFFICER</b>	Nicole Frampton
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To seek Council's endorsement to submit a funding application to VicHealth's *Growing Healthy Communities Grants* program for Stage 2 of the Donaldson Street Park Redevelopment project.

### 2. EXECUTIVE SUMMARY

In March 2024, Council submitted an application for funding under Round 1 of the Victorian Government's *Regional Community Sports Infrastructure Fund (RCSIF)* for the Donaldson Street Playspace Redevelopment project. The application sought a grant of \$400,000 from the program with Council's matching contribution of \$100,000 being allocated from Round 4 of the *Local Roads and Community Infrastructure Fund (LRCI)*. Council has recently received notification that the application has been unsuccessful.

To deliver the park improvements and upgrades as per the Donaldson Street concept plan that was developed following extensive community engagement, a staged delivery of the park upgrades will be required as funding becomes available.

VicHealth's recently announced *Growing Healthy Communities Grants* program supports creating more active, inclusive and connected neighbourhoods through sport, recreation, arts and community programs using local places and spaces. This program could be considered to construct the proposed basketball/soccer area and path network to provide suitable access to the space whilst also providing physical activity options as Stage 2 of implementing the Donaldson Street concept plan.



### 3. RECOMMENDATION

**That Council:**

- 1. Endorses the Donaldson Street Park Upgrades Stage 2 project to be submitted to VicHealth's Growing Healthy Communities Grants program, seeking a grant of \$150,000 (exc. GST).**
- 2. Authorises the Chief Executive Officer to submit the application for the Donaldson Street Park Upgrades Stage 2 to VicHealth's Growing Healthy Communities Grants program.**
- 3. Authorises the Chief Executive Officer to enter into a funding agreement should the application for the Donaldson Street Park Upgrades Stage 2 be successful.**

### 4. KEY INFORMATION

#### **VicHealth's Growing Healthy Communities Grants**

Grants of up to \$150,000 are available for organisations working to support young Victorians (0-25 years) and their families overcome structural barriers to achieve good health and wellbeing. Barriers are anything that limits people's access to the resources they need to be healthy. VicHealth acknowledges/identifies that these barriers can be more significant, to name a few, for individuals facing mental health or psychological distress, and people from lower socio-economic backgrounds. These barriers can lead to unfair, unequal and avoidable health outcomes for these communities.

VicHealth are seeking to fund innovative ideas that will address the question – How do we break down the barriers for children, young people and their families to be as healthy as possible? Applications must respond to one or more of the following challenges:

- Active, inclusive and connected communities.
- Local food systems.
- Cultural safety.

Projects that address the "Active, inclusive and connected communities" challenge could include:

- Initiatives across sport, recreation, and the arts that will get young people to move more and/or feel connected to their local communities.
- Innovative ideas that push the boundaries of local spaces - libraries, schools, parks, and other community places.
- New or existing projects that address young people's needs and integrate physical activity and social connection in inclusive spaces.

The program opened on 3 July 2024, with applications needing to be submitted by 5pm, Wednesday 31 July 2024. Successful recipients will be notified in December 2024, with projects required to commence after January 2025 and be completed by January 2027.

#### **Donaldson Street Playspace Redevelopment**

The Donaldson Street parkland is the primary parcel of open space in Colac West. The Donaldson Street playspace was installed in 2002 and is nearing the end of its asset life and does not meet

community playspace standards. In addition, the open space is uninviting due to poor access, limited landscaping and lack of suitable picnic and leisure facilities.

Community engagement on this project commenced in November 2023, and Council has a clear understanding of the community's aspirations for this open space. Concept designs have been prepared along with cost estimates to implement the various components of the improvements to the park.

Council has allocated \$100,000 from the Federal Government's *Local Roads and Community Infrastructure* (LRCI) Fund Round 4 to upgrade the playspace in the park. Council submitted a funding application to the Victorian Government's *Regional Community Sports Infrastructure Fund* (RCSIF) to implement the community's entire vision for the space, which includes a basketball/soccer area as well as renewed play equipment, improved path networks to provide access to and throughout the space, tree planting and landscaping, and park furniture including a replacement barbecue, new shelter, picnic settings and bench seats.

Council has recently received notification that its application to the RCSIF was unsuccessful, meaning that staging of the park improvements in accordance with the concept plan will be required to implement the community's vision for the space. Council will need to seek other funding opportunities to implement further stages of the park improvements.

Constructing the basketball/soccer area and park path network as a Stage 2 project would fit under the *Growing Healthy Communities Grants* program. Donaldson Street Park is the only community space in Colac West, an area which experiences high levels of socio-economic disadvantage, and therefore the project has strong alignment with the program's objectives. The upgrade project is designed to encourage young people to undertake physical activity in a local community space, resulting in improved health outcomes.

Funding of up to \$150,000 is available through the *Growing Healthy Communities Grants* program and doesn't require a matching contribution from applicants. It is recommended that Council submit an application for the full \$150,000 to undertake the Donaldson Street Park Upgrades Stage 2 project.

## 5. CONSIDERATIONS

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

This report aims to align with all overarching governance principles in that it explores opportunities for potential grant applications and upgrades to community infrastructure in an open, transparent and strategic manner. It considers the achieving an outcome that will have long lasting benefits for our 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)

Community engagement for the Donaldson Street Playspace Redevelopment commenced in November 2023, and through a number of sessions with the community, Council has a clear understanding of the community’s aspirations for this important community open space.

**Public Transparency** (s58 LGA 2020)

Not applicable.

**Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Theme 2 - Valuing the Natural and Built Environment

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

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

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

Cost estimates have been prepared to implement Stage 2 of the Donaldson Street Park Upgrades project. As the Stage 2 proposed park infrastructure will be classified as new assets, there will be an ongoing impact on Council resources when considering Whole of Life costs and Council’s Asset Management Plan.

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

Not applicable.

**Risk Assessment**

Not applicable.

**Communication/Implementation**

Council officers have worked with the Colac West community and nearby residents of Donaldson Street Park to understand their needs for the space and develop a park concept plan to improve this important open space area for the local community. Should the grant application be successful, officers will work with the community through the construction of the various components.

**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 – Authorise the Chief Executive Officer to submit an application for the Donaldson Street Park Redevelopment project to VicHealth’s *Growing Healthy Communities Grants* program.

This option is recommended. The proposed project aligns closely to the objectives of the *Growing Healthy Communities Grants* program and if successful will see further implementation of the community’s vision for the Donaldson Street Park improvements.

Option 2 – Do not authorise the Chief Executive Officer to submit an application for the Donaldson Street Park Redevelopment project to VicHealth’s *Growing Healthy Communities Grants* program.

This option is not recommended as it would mean that an opportunity to obtain external grant funding to deliver components of the community’s vision for improving the Donaldson Street Park would be missed.

## Item: 9.16 Governance Rules 2024

<b>OFFICER</b>	Kendrea Pope
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Revised Government Rules proposed for adoption

### 1. PURPOSE

To brief Council on proposed revisions to the draft Governance Rules following the public exhibition period and present a Council with the final document for adoption.

### 2. EXECUTIVE SUMMARY

The draft Governance Rules endorsed for public exhibition included essential updates to ensure the rules align with the Local Government Act 2020 and improvements which reflect the accumulated experience of councillors over the current council term.

Through a series of workshops and briefings in March, April and May, councillors worked on proposed improvements which were highlighted in yellow in the draft Rules that included:

- Updating various provisions to ensure they align with the Local Government Act 2020 including sections governing the election of the Mayor and management of conflicts
- 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
- Conventions around the use of the casting vote and
- Improvements to Public Question Time to enable more informed responses and better management of the agenda.

Minor editorial amendments are numerous and include removal of conflicting provisions including those related to voting and procedural matters, removing unnecessary numbered references to the

provisions in the Act which will limit the longevity of the Rules and inclusion of gender-neutral language.

The consultation approach included a public submission period and a Submissions Committee meeting. Two submissions were made on the draft Governance Rules focussed on provisions governing public question time and these are attached, with two of those submissions objecting to the requirement in the draft rules to provide the topic of a question at the point of registration and one objecting to the registration requirement itself. At the Submissions Committee held on 10 July 2024 Mr Prabha Kutty addressed his submission and clarified that while he had concerns on the limitations around public question time and submissions processes more generally including the time limits set in the Rules, he did not object specifically to the requirement to register the topic of a question.

Two minor changes have been incorporated into the provisions around public question time. The first to allow the Chair discretion to follow up questions put by a member of the public to ensure all matters raised are fully addressed and the second to allow a member of the public to submit a short statement of context for questions being asked in the meeting.

### 3. RECOMMENDATION

*That Council:*

- 1. Notes and considers the submissions to the draft Governance Rules made during the public exhibition period.***
- 2. Endorses the Governance Rules 2024 (Attachment 1) which have been revised following public exhibition.***
- 3. Authorises Council officers to make minor editorial amendments to formatting, section and cross-reference numbering and document control information to the Governance Rules document prior to its publication.***

### 4. KEY INFORMATION

The review of the Governance Rules has taken into account the governance principles articulated in the Act, broader principles around good decision making, and practical considerations related to the efficient and effective management of meetings.

Consideration has also been given to the Rules adopted in other Councils including the two sets of Rules published on the Local Government Inspectorate's Website as models which are suitable for consideration within the sector. It is noted that in both these examples, there are requirements relating the public questions, with one example demonstrating an approach which is permissive only of questions in writing and the other requiring registration of the full question before Council. It is not considered necessary to adopt such restrictive provisions and the proposed Governance Rules are recommended as striking a balance between encouraging greater public participation in Council meetings and facilitating the efficient management of Council business.

## 5. CONSIDERATIONS

### **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**

The risk of not making essential changes to the Governance Rules relate specifically to the provisions which are non-compliant with the 2020 Act and this risk whilst low is sufficiently material to warrant addressing the necessary changes prior to the election.

### **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.





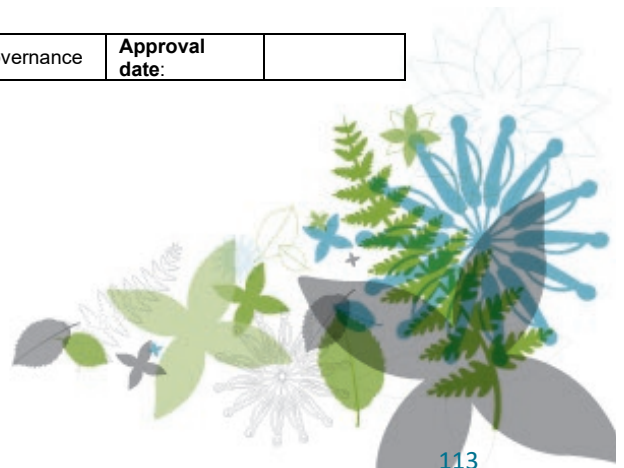
Colac Otway  
SHIRE

# GOVERNANCE RULES

Date adopted by Council:

Next review date:

CM reference		Responsible:	Manager Governance	Approval date:	
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# GOVERNANCE RULES

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## 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

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#### 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.

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#### 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.

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#### 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

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
<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



<b>Procedural Motion</b>	<b>Form</b>	<b>Mover</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
<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	The temporary suspension of the rules of the meeting is removed  The Mayor retains the ability to determine to reinstate the meeting procedure	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.





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## 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.

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#### 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. A person addressing the Council may however make a very short succinct statement as necessary to provide essential background or context to a question.
- 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 The Chair may where necessary ask members of the public to confirm that all aspects of their question/s have been answered and request further follow up outside the meeting by the CEO or delegate where necessary.
- 47.9 Like questions may be grouped together and a single answer provided.

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#### 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.

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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

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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.



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## 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.

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## 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 62.2 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) The affected Councillor (or Councillors) will be treated as being absent from the Council meeting
- 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 62.2, 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 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

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## 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.



Item: 9.10

## Adoption of Revised Procurement Policy

<b>OFFICER</b>	David Butterfield
<b>ACTING GENERAL MANAGER</b>	Steve O’Dowd
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Revised Procurement Policy for adoption - July 2024 [9.10.1 - 34 pages]</li><li>2. Current Procurement Policy Version 3.4 [9.10.2 - 18 pages]</li></ol>

### 1. PURPOSE

To consider the adoption of Council’s revised Procurement Policy.

### 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 revised Procurement Policy 2024. Council also undertook benchmarking of other Council’s Procurement Policies in considering changes to be made for best practice for Colac Otway Shire.

The draft revised Procurement Policy was put on public exhibition for a period of six weeks, closing on Friday 5 July 2024. No submissions were received.

### 3. RECOMMENDATION

***That Council:***

- 1. Notes that the draft Procurement Policy was exhibited in accordance with its direction given on 22 May 2024.***
- 2. Notes that no submissions were received in response to the exhibition of the draft Procurement Policy.***
- 3. Adopts the revised Procurement Policy (Attachment 1).***

### 4. KEY INFORMATION

The revised Procurement Policy includes recommendations from the Internal Audit 2023 and feedback from internal and external stakeholders.

The recommendations of the Internal Audit into Procurement and the benchmarking exercise with other Councils, identified several issues and have been addressed in the revised draft Procurement Policy.

These 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, and 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, as detailed.
- ‘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.

The draft Procurement Policy has been to several Council briefings, the Audit and Risk Committee, and was on public exhibition for a period of six weeks (see below for dates). Feedback from Council briefings and the Audit and Risk Committee have been incorporated in the revised Procurement Policy.

Key review dates of the Procurement Policy:

- Councillor Briefing on 21 February 2024.
- Councillor Briefing on 6 March 2024 (version 2).
- Audit and Risk Committee at its meeting on 14 March 2024.
- Councillor Briefing on 1 May 2024.
- Out to public for six weeks, closing on 5 July 2024 (with no submissions received).

## 5. CONSIDERATIONS

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

The overarching governance principles that the Procurement Policy align with are:

- 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.
- 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 ongoing financial viability of the Council is to be ensured f) the transparency of Council decisions, actions and information is to be ensured.

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

Alignment to policies and relevant laws:

- a) Competition and Consumer Act 2010.
- b) Freedom of Information Act 1982.
- c) Local Government Act 2020.
- d) Privacy and Data Protection Act 2014.

- e) Public Records Act 1973.
- f) Security of Payments Act 2002.
- g) Council's Procurement Procedure.
- h) Policy 16.2 Colac Otway Shire Council's Fraud and Corruption Control Policy.
- i) Policy 16.8 Colac Otway Shire Council's Borrowing Policy.
- j) Policy 18.2 Colac Otway Shire Council's Information Privacy Policy.
- k) Policy 18.9 Colac Otway Shire Council's Gifts, Benefits and Hospitality Policy.
- l) Corporate Procurement Card Procedure.
- m) Corporate Procurement Card Operational Policy.
- n) Colac Otway Shire Council's Staff Code of Conduct.
- o) Colac Otway Shire Councils Councillor Code of Conduct.
- p) S7 Instrument of Sub-Delegation from CEO to Council staff.
- q) Environment Protection Act 2017; and
- r) Local Government Best Practice Procurement Guidelines, 2013

The Procurement Policy sits within Council's Policy Framework.

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

Not applicable.

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

As per Council Resolution number 2, at meeting on 22 May 2024, that Council:

***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, subject to the inclusion of wording to the approval of the Chief Executive Officer that clearly recognises that Council will consider opportunities to create smaller packages of work when appropriate with the aim of making Council's contracts more accessible for smaller or locally based suppliers.***

The draft revised Procurement Policy was placed on the Colac Otway Shire website for public exhibition to the public, for either written feedback or to attend a hearing at the Submission Committee on 10 July 2024. The six-week exhibition period closed on 5 July 2024 with no submissions received.

**Public Transparency (s58 LGA 2020)**

The Public Transparency Principles that apply include:

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act.
- (b) Council information must be publicly available unless—
  - (i) the information is confidential by virtue of this Act or any other Act; or
  - (ii) public availability of the information would be contrary to the public interest.
- (c) Council information must be understandable and accessible to members of the municipal community.
- (d) public awareness of the availability of Council information must be facilitated.

The principles above are foundational to all procurement processes and ensure that Council budgets (which are derived from the community rate payers and other Government funding) are spent in line

with all relevant legislation and policies and can withstand the scrutiny of any Freedom of Information request, internal and external audits, and investigations.

### **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

- The Procurement Policy aligns with Council Plan Theme 4 – Strong Leadership and Management:
  - 4.2.3 Manage procurement to get best value for the community.
  - 4.4.5 Council decisions are open and transparent, and the public has access to relevant Council information.

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

Not applicable.

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

The Procurement Policy supports the following Service Performance Principles:

(c) quality and costs standards for services set by the Council should provide good value to the municipal community.

(d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring.

(e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The exhibition period for the draft Procurement Policy was communicated via Council's website and local print media.

Council's new Procurement Policy will be placed on Council's website, Council's Intranet, and training will be organised for Council staff highlighting the key changes to the policy.

### **Human Rights Charter**

The author and co-authors of this report have considered the Human Rights Charter in the preparation of this report and confirm that no person's human rights have been diminished herein.

### **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 new Procurement Policy 2024

This option is recommended by officers as it has incorporated the recommendations of the Internal Audit.

### Option 2 – Adopt/endorse/note the... with amendments

This option is not recommended as no submissions were received and all recommendations from the Internal Audit have been incorporated.

### Option 3 – Do not adopt the Procurement Policy

This option is not recommended by officers as the current policy does not incorporate Internal Audit recommendations.



## Council Policy

### 3.5 – PROCUREMENT POLICY

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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:

- (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.

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;

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- (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

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- (f) Sustainable procurement

### 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);

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- 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.

### 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

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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;
- (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:

- (a) Avoid material or general conflicts of interest, whether actual, potential or perceived;
- (b) 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

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- (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.

#### 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:

- (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.

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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.

#### **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.

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### 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:

- (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.

#### 5.1.5.2 Packages of Work

When planning a procurement activity, including when developing a Procurement Plan, consideration should be made as to whether work packages could be contracted to smaller or locally based suppliers to participate in the procurement activity. If it is identified that this may result in more responses and greater opportunities for local suppliers, then the requests for quotation or tender should be structured so that responses may be for single, multiple or all package.

### 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).

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- 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.

#### 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.

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### 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 shall 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;
- 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:

- (a) The actual or expected value of a contract over the full contract period (including provision sums, provisional items and all options to extend);
- (b) 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
- (c) 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.

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### 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.

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

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Procurement Threshold (Including GST)	Minimum Market Engagement	Payment Method	Agreement Type	Record Keeping
<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
<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.

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## 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).
- 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:

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- 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.
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.

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.

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### 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:

- (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;

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- (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.

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

- (a) Council's CEO is provided with a negotiating plan prior to commencement and is provided with updates of progress as appropriate;
- (b) Council officers conducting the negotiations have high level skills, training and experience in commercial negotiations;
- (c) 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;
- (d) The negotiation process is adequately resourced;
- (e) Preparation of a negotiation plan and strategy includes aims, objectives, constraints and agreed minimum bargaining positions;
- (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;
- (g) Expert technical and legal advisers are involved at the appropriate times;
- (h) Appropriate confidentiality is maintained;
- (i) Following completion of the negotiations, an evaluation is conducted to assess whether the aims of the negotiations were achieved; and

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- (j) 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:

- (a) In matters of *emergency* including public health, security or safety as a result of an unforeseen event or occurrence;
- (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;
- (c) An absence of competition; there is one or a limited number of available tenderers in the market or suppliers able to submit quotations;
- (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.

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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'.

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.

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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.

### 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.

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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.

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.

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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.

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

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- (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) 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.

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## 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.
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.

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## 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:

**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.

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**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) 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.

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**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.

**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.

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**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.

**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:

- (a) *Competition and Consumer Act 2010*;
- (b) *Freedom of Information Act 1982*;
- (c) *Local Government Act 2020*;
- (d) *Privacy and Data Protection Act 2014*;
- (e) *Public Records Act 1973*;
- (f) *Security of Payments Act 2002*;
- (g) Council's Procurement Procedure;
- (h) Policy 16.2 Colac Otway Shire Council's Fraud and Corruption Control Policy;
- (i) Policy 18.2 Colac Otway Shire Council's Information Privacy Policy;
- (j) Policy 18.9 Colac Otway Shire Council's Gifts, Benefits and Hospitality Policy;
- (k) Corporate Procurement Card Procedure;
- (l) Corporate Procurement Card Operational Policy;

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- (m) Colac Otway Shire Council’s Staff Code of Conduct;
- (n) Colac Otway Shire Councils Councillor Code of Conduct;
- (o) S7 Instrument of Sub-Delegation from CEO to Council staff;
- (p) Environment Protection Act 2017; and
- (q) Local Government Best Practice Procurement Guidelines, 2024.

**11 Commencement**

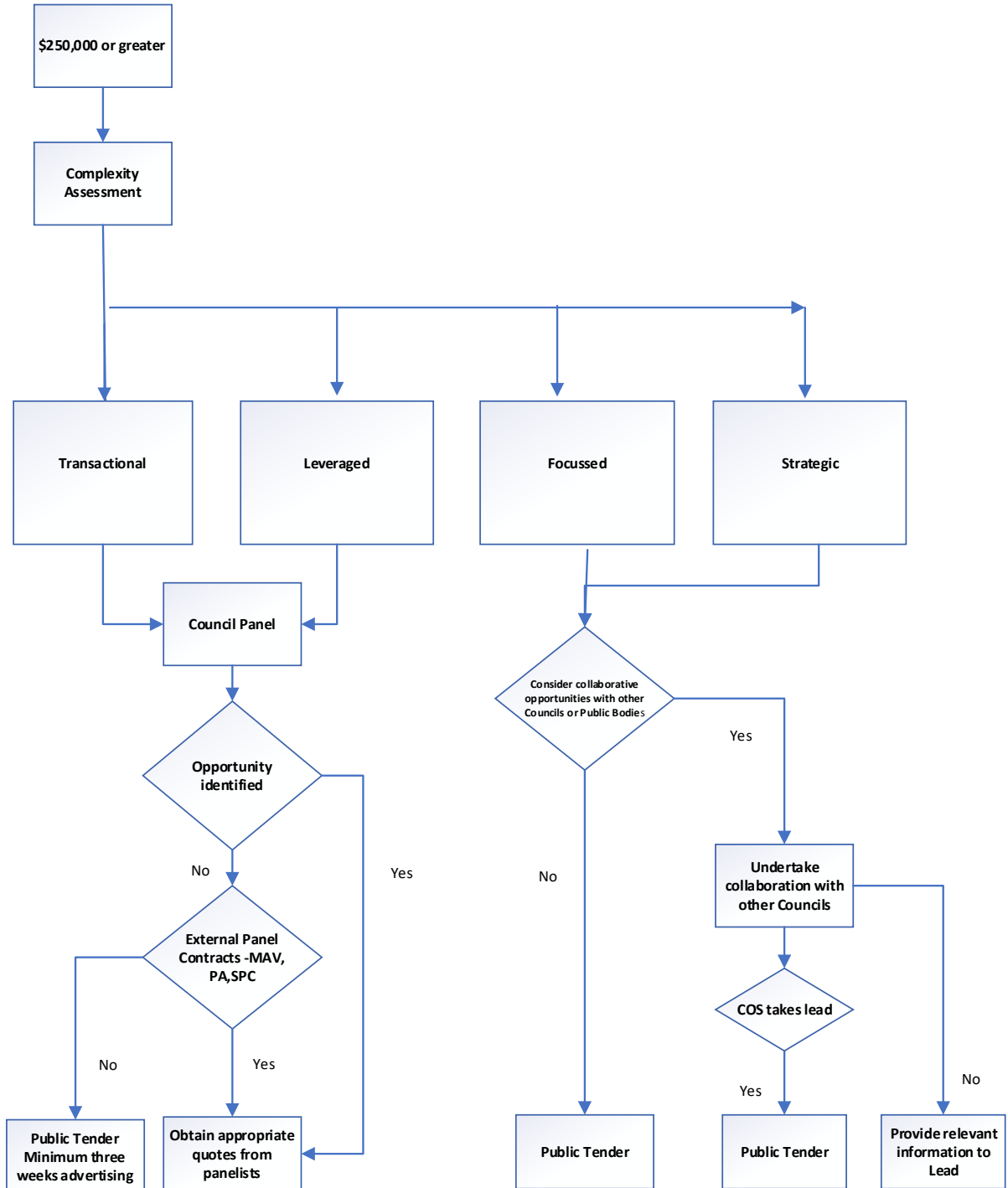
The provisions of this Procurement Policy come into operation on the 1 July 2024.

**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.



**Appendix 1 – Complexity Assessment**



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## 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

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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

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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





## Council Policy

### 3.4 – PROCUREMENT POLICY

#### PURPOSE

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.

#### SCOPE

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.

#### COMMENCEMENT

The provisions of this Procurement Policy come into operation on the 1 July 2021.

#### DEFINITIONS

In this Policy:

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

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

**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 direct or indirect interest.

**Committees** means Community Asset, Advisory and Delegated Committees in accordance with the Act.

**Content Manager** means Council's Electronic Document and Records Management System.

**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 an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger

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the environment or an element of the environment in Victoria including, without limiting the generality of the following:

- (a) an earthquake, flood, wind-storm or other natural event;
- (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.

**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.

**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.

**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 change to the contract either agreed to by the superintendent and contractor or resulting from a direction to undertake Goods, Services or Works that differ from those in the contract.

## REFERENCES

This policy should be read in conjunction with the following:

- (a) *Competition and Consumer Act 2010*;
- (b) *Freedom of Information Act 1982*;
- (c) *Local Government Act 2020*;
- (d) *Privacy and Data Protection Act 2014*;
- (e) *Public Records Act 1973*;

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- (f) *Security of Payments Act 2002*;
- (g) Council's Procurement Procedure;
- (h) Council's Fraud Prevention Policy;
- (i) Council's 16.8 Borrowing Policy;
- (j) Council's Information Privacy Policy;
- (k) Council's Gifts, Benefits and Hospitality Policy;
- (l) Corporate Procurement Card Procedure;
- (m) Corporate Procurement Card Operational Policy;
- (n) Council's Staff Code of Conduct Policy;
- (o) Council's Councillor Code of Conduct Policy; and
- (p) S7 Instrument of Sub-Delegation from CEO to Council staff.

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## STATEMENT OF POLICY

### 1. Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting best practice principles, policies and procedures. It is recognised this will also support the achievement of Council objectives regarding sustainable and socially responsible procurement, support of the local economy and obtaining Value for Money, which in turn, will lead to a better outcome for Council in the provision of services for the community. Councillors, Council Officers, contractors and consultants while engaged by Council are required to comply with this Procurement Policy and Councils Procurement Procedure in all circumstances.

### 2. Treatment of GST

All monetary values stated in this policy include GST except where specifically stated otherwise.

### 3. Best Practice Principles and Framework

#### 3.1 Value for Money

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

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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:

- (a) developing, implementing and managing a procurement framework that supports the co-ordination and streamlining of activities throughout the lifecycle;
- (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.

### 3.2 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) 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;
- (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
- (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.

Councillors cannot participate in any aspect of the procurement process with the exception of the following:

- (a) acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract; or
- (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

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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.

### 3.3 Fair and Honest Dealing

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.

### 3.4 Accountability and Transparency

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.

### 3.5 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 Policy which provides a framework for preventing the risk of fraud and strengthening organisational integrity.

### 3.6 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);

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- (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.

### 3.7 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 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:

- (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) managing and coordinating 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.

### 3.8 Probity Advisor

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:

- (a) endorsement of the procurement plan;

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- (b) attendance at tender closing, briefing sessions and tender evaluation meetings;
- (c) ensuring probity principles are achieved; and
- (d) submission of an independent report.

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

### 3.9 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.

### 3.10 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.

### 3.11 Record Keeping

Council Officers need to ensure that all records relating to procurements are stored in Content Manager. 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.

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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).

### 3.12 Gifts 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:

- (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.

### 3.13 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.

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- (e) Replace – Choose to replace or offset the resources purchased in a product.

### 3.14 Support for Local Content

Council will include in its tender process a mandatory minimum weighting of five percent for Local Content when engaging and contracting with suppliers. This is to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the region.

Criteria	Description	Weighting
Local Content	Principle place of business.	2.0%
	Percentage of Goods, Services or Works sourced from within the Shire.	2.0%
	Employment of trainees and apprentices from within the Shire.	1.0%

With the exception of contracts that are the subject of a tender, in every instance where it is reasonable to do so, Council Officers shall seek at least one quote from a local business.

### 3.15 Collaborative Procurement

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.

### 3.16 Model of Procurement

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.

### 3.17 Procurement Delegations

Delegations define the limitations within which Council Officers are permitted to work. Delegation of procurement authority allows specified Council Officers to approve certain purchases, quotations, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity. There are two types of delegations relevant to procurement:

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- (a) financial delegations specify the amount of money that Council Officers are authorised to expend on behalf of Council; and
- (b) procurement delegations specify the authority conferred on Council Officers to conduct specific procurement related functions.

Council Officers are authorised to undertake a procurement up to the limit of their financial delegation. Recommendations where the expenditure is over the CE Delegation must be approved by Council.

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

### 3.18 Market Engagement Methods

Procurement Value (Including GST)	Minimum Market Engagement	Payment Method	Agreement Type	Record Keeping
\$0 to less than \$2,000	One (1) verbal quote	Petty cash, procurement card or purchase order.	Purchase order terms and conditions.	Receipt of purchase.
\$2,000 to less than \$10,000	Two (2) verbal quotes	Purchase order.		Verbal quote form must be attached to the purchase order in Council's finance system.
\$10,000 to less than \$50,000	Two (2) written quotes		Purchase order terms and conditions. Contract if engaging a consultant.	Quotes and written quote form must be attached to the purchase order in Council's finance system.
\$50,000 to less than \$150,000	Three (3) written quotes		Contract required.	
\$150,000 to less than \$250,000	Five (5) written quotes			

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Procurement Value (Including GST)	Minimum Market Engagement	Payment Method	Agreement Type	Record Keeping
\$250,000 or greater	Complexity Assessment (refer <b>Appendix 1</b> )			In accordance with Council's Procurement Procedure.

### 3.19 Public Tender Process

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

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.

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Stage	Process
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.

### 3.20 Alternative proposals

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.

### 3.21 Exemptions from Market Engagement Methods

An exemption to the Market Engagement Methods and procedures may be requested under the following circumstances:

- (a) in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence;
- (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;
- (c) an absence of competition for technical reasons;
- (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;

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- (e) where the acquisition is of a cultural or artistic nature i.e. a live show or art piece; and
- (f) where the procurement is on Council's procurement exemptions list (refer to **Appendix 2**).

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.

### 3.22 Mechanisms

Once a Market Engagement Method has been determined, Council Officers need to obtain authority to purchase the Goods, Services or Works on behalf of Council. There are three mechanisms available to purchase Goods, Services or Works:

- (a) petty cash (\$50 limit);
- (b) procurement card; or
- (c) approved purchase order.

If petty cash or a procurement card is not used for the procurement, then an approved purchase order must be generated before committing to the procurement.

### 3.23 Contracts

All procurement related contracts entered into by Council must be reviewed and endorsed by the Coordinator Procurement and Contracts prior to execution.

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### 3.24 Variations

Contract Variations must be approved in accordance with Council's delegations. Variations should not exceed the available budget.

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.

## 4. 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	Ensure overall organisation compliance with the policy.

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CM reference	D21/14933	Date of adoption	24 June 2021
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Party / Parties	Roles and Responsibilities
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.
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.

## 5. Privacy and Human Rights Consideration

All personal information collected by Council in connection with procurement activities will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of investigating procurement matters.

The procurement policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Please refer to [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au) for assistance with this section.

### DOCUMENT CONTROL

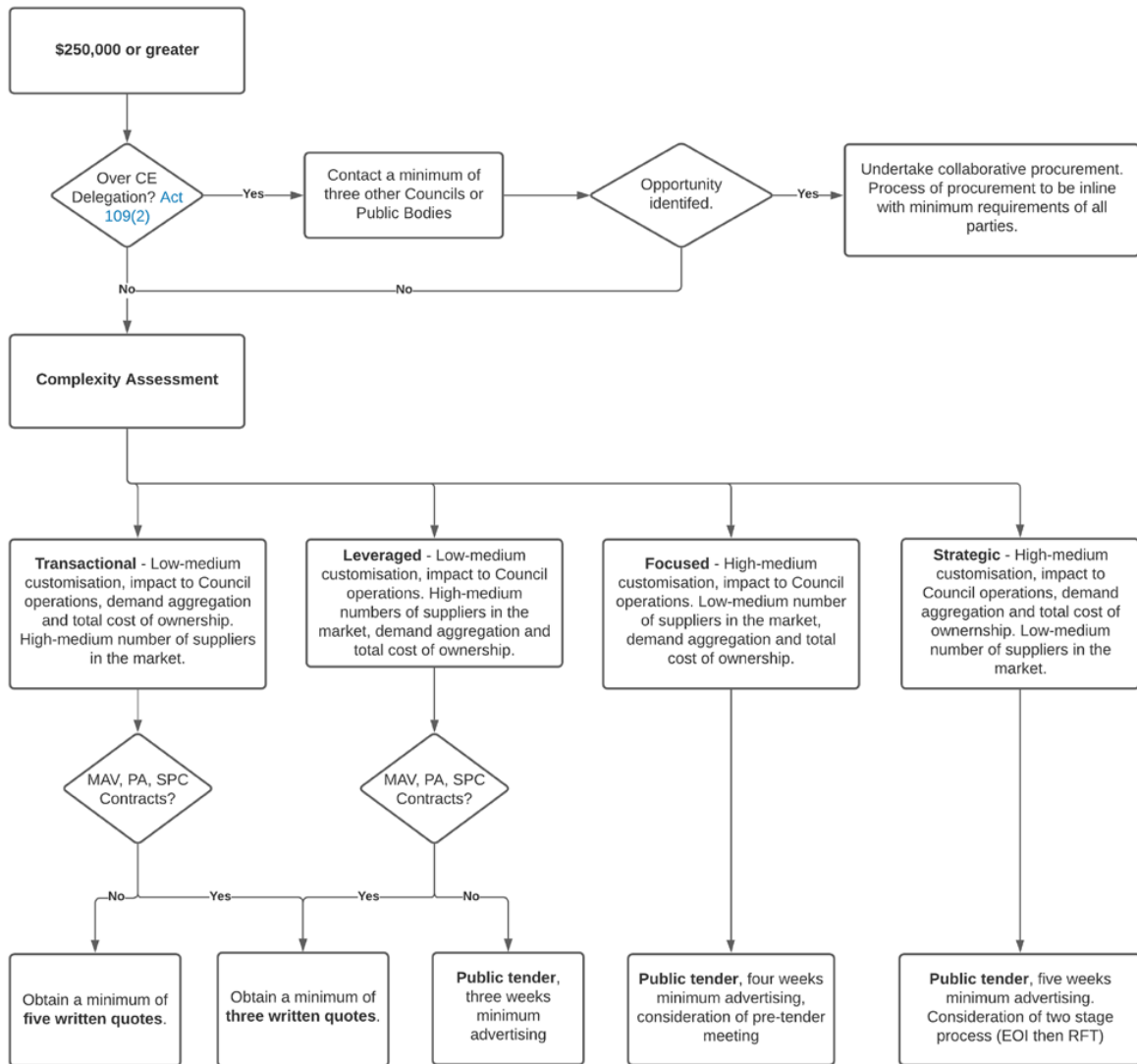
<b>Policy owner</b>	Coordinator Procurement and Contracts	<b>Division</b>	Corporate Services
<b>Adopted by council</b>	24 June 2021	<b>Policy Number</b>	3.4
<b>File Number</b>	D21/14933	<b>Review date</b>	At least once during each 4 year term of the Council.

#### Uncontrolled when printed

CM reference	D21/14933	Date of adoption	24 June 2021
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**Appendix 1 – Complexity Assessment Procedure**



Uncontrolled when printed

CM reference	D21/14933	Date of adoption	24 June 2021
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## Appendix 2 – Exemptions

The following procurements are either exempt from market engagement and/or the requirement for a Purchase Order. With the Chief Executive's approval, exemptions can be added or removed from this list at any time.

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.	No	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
	Medical expenses.	Yes	Yes

### Uncontrolled when printed

CM reference	D21/14933	Date of adoption	24 June 2021
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Category	Description	Exempt from Market Engagement	Exempt from Purchase Order
	Venue hire.	Yes	Yes
	Diesel Fuel – Fisherman’s Co-Op.	Yes	No
	Memberships and subscriptions.	Yes	Yes
	Software renewals.	Yes	No
	External audit fees – Victorian Auditor-General’s Office.	Yes	No
	HACC service agreement.	Yes	Yes
	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

**Uncontrolled when printed**

CM reference	D21/14933	Date of adoption	24 June 2021
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## Item: 9.11

# Adoption of Revised Complaints Policy

<b>OFFICER</b>	Gwynneth Cowley
<b>GENERAL MANAGER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Complaints Policy - presented for adoption July 2024 [9.11.1 - 17 pages]</li><li>2. Complaints Policy - with tracked changes July 2024 [9.11.2 - 17 pages]</li></ol>

## 1. PURPOSE

To present the revised Complaints Policy for adoption by Council.

## 2. EXECUTIVE SUMMARY

Council endorsed a draft Complaints Policy for public exhibition over a six week period at its May 2024 Council Meeting. No submissions were received from the public. The Audit and Risk Committee provided feedback to the exhibited document at its June 2024 committee meeting and officers have undertaken a further grammatical review.

A final revised Complaints Policy is presented for Council to consider (Attachment 1) and changes from the exhibited draft policy are presented with tracked changes (Attachment 2).

## 3. RECOMMENDATION

**That Council:**

- 1. Notes that the draft Complaints Policy was exhibited in accordance with its direction given on 22 May 2024.**
- 2. Notes that no submissions were received in response to the exhibition of the draft Procurement Policy.**
- 3. Notes that amendments have been made to the exhibited policy to incorporate recommendations of the Audit and Risk Committee and further improve grammar and readability.**

#### 4. Adopts the revised Complaints Policy (Attachment 1).

## 4. KEY INFORMATION

The current Complaints Policy was adopted in 2019 and is due for review. A Policy review commenced in 2023 to incorporate recommendations and definition improvements from the Victorian Ombudsman's "Councils and Complaints - A Good Practice Guide 2nd Edition 2021", as well as to make improvements that reflect best practice in local government.

Whilst there is no significant change in Policy direction, the revised Complaints Policy provides:

- Greater clarity of the definition of a complaint
- Increased description of complaints that may not be investigated
- Reference to complaints about the conduct of the Chief Executive Officer
- 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 its analysis in the process of continuous improvement.

Some minor amendments were made after exhibition that reflect feedback from Council's Audit and Risk Committee at its meeting on 6 June 2024. There have also been some minor administrative changes. These are shown in track changes in Attachment 2. These changes were to clarify the name of the Protected Disclosure Interests Act 2012, better explain the process for appealing a decision relating to a complaint, clarify that a complaint about a Council decision will not change that resolution, and clarify earlier in the document that the policy does not apply to Councillors.

## 5. CONSIDERATIONS

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

This report aligns with the Governance Principles of encouraging innovation, continuous improvement and achieving the best outcomes for the community by providing an updated, comprehensive Complaints Policy that outlines what customers should expect from Councils treatment and reporting of complaints.

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

This report 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)**

The draft Complaints Policy has been on public exhibition for a period of six weeks in line with Council's Community Engagement Policy. No submissions or feedback were received.

Notice of the draft complaints policy was advertised throughout the duration of the exhibition period in local media including: The Colac Herald, Birregurra Mail, Apollo Bay News, The Otway Light, The Forrest Post and on local radio (MixxFM/3CS).

The information was also published on Council's website and various social media posts on Council's Facebook and Instagram pages across the exhibition period.

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

The draft Complaints Policy has been on public exhibition for a period of six weeks in line with Council's Community Engagement Policy. No submissions or feedback were received.

#### **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

#### **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 adopted policy will result in the revocation of the 2019 policy which no longer meets community or organisation expectations with the new adopted policy being made available on Council's website. Adoption and availability of the new policy will be broadly communicated through the same channels as the exhibition of the draft Complaints Policy.

#### **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 – Adopt the Complaint Policy and rescind the previous Complaint Policy.

This option is recommended by officers as it provides guidelines for complaint management following industry best practice. The revised policy did not receive submissions and is the result of a comprehensive review. Councillors are asked to adopt the amended version that incorporates minor amendments suggested by the Shire's Audit and Risk Committee.

Option 2 – Adopt the Complaint Policy with amendments

This option is not recommended by officers as the policy has already been considered by the community following Councils release for public exhibition and no submissions or changes were put forward (aside from those recommended by the Audit and Risk Committee). Any substantial changes suggested should be subject to community engagement.

Option 3 – Do not adopt the policy

This option is not recommended by officers as Council would be reliant on a policy that does not incorporate industry best practice and does not include significant improvements made throughout the review process.



## 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 is 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 it receives on its individual merits, through clear and consistent processes. This Policy outlines how Council will fulfil that commitment.

#### SCOPE

Council's policy applies to all complaints from members of the public about Council employees, 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 or Councillors as the collective Council.

#### 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 Council will hold itself accountable.
- Establish timeframes for resolving complaints.
- Clarify the roles and responsibilities of Council employees.
- Ensure there are appropriate pathways for dealing with challenging or unreasonable behaviour.
- 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'** or **'Council employee'** 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 Interest 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 (Vic)*

*Protected Disclosure Act 2012*

## RELATED DOCUMENTS

Employee Code of Conduct

Complaint Management Process

Public Interest Disclosure Procedure

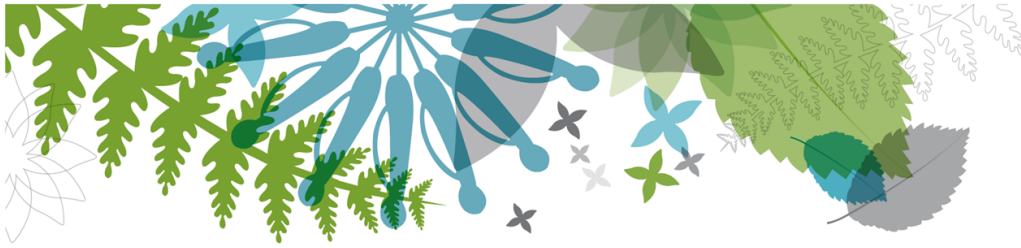
Public Transparency Policy

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





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## 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 employees or a Council contractor
- a delay by Council employees or a Council contractor in taking an action, making a decision or delivering a service
- a Policy or decision made by the Council, a Council employee 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 a Council employee, 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.

Whilst Complaints about a resolution of the Council will not result in a change to the Council resolution, the matter can still be considered as a complaint because it is a dissatisfaction with a decision of Council. In these instances, the complaints may inform a review of policy or process.

THE POLICY DOES NOT APPLY TO THE CONDUCT OF COUNCILLORS. WHERE CONCERNS ABOUT THE CONDUCT OF COUNCILLORS ARE RAISED AS COMPLAINTS, THE COMPLAINANT WILL BE PROVIDED WITH INFORMATION ABOUT THE MOST APPROPRIATE PROCESS OR AGENCY FOR REFERRAL. **What is not a Complaint?**

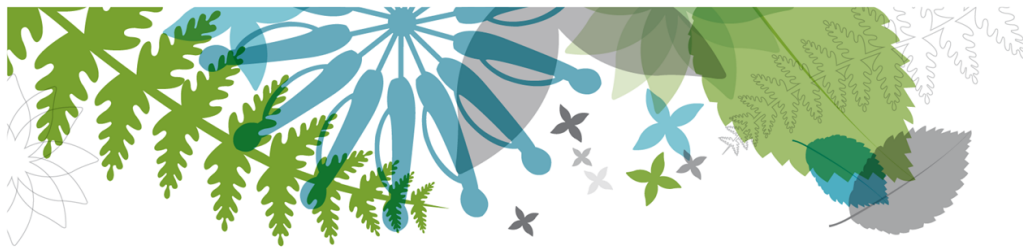
Complaints about matters such as a neighbour's use of property, barking dogs, livestock at large, or noise from a private or business premises are not complaints within the definition of this Policy. These are not a direct result of an action, lack of action, behaviour or service provided by Council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

Council's 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 is 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.



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#### 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 solicits 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.

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#### FAIRNESS

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

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#### 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.

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#### 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 analyses complaint data to identify trends and potential issues that deserve further attention. This information is used to help identify and prioritise service improvements.

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#### 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 keeps 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 handing 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, Council employees, contractors or volunteers.

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 employees, 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, employees, 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, employees, services, time and/or resources.
- **Unreasonable lack of cooperation:** unwillingness and/or inability by a complainant to cooperate with the organisation, employees, 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, employees, 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 employees, other service users or the complainant.



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## 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.

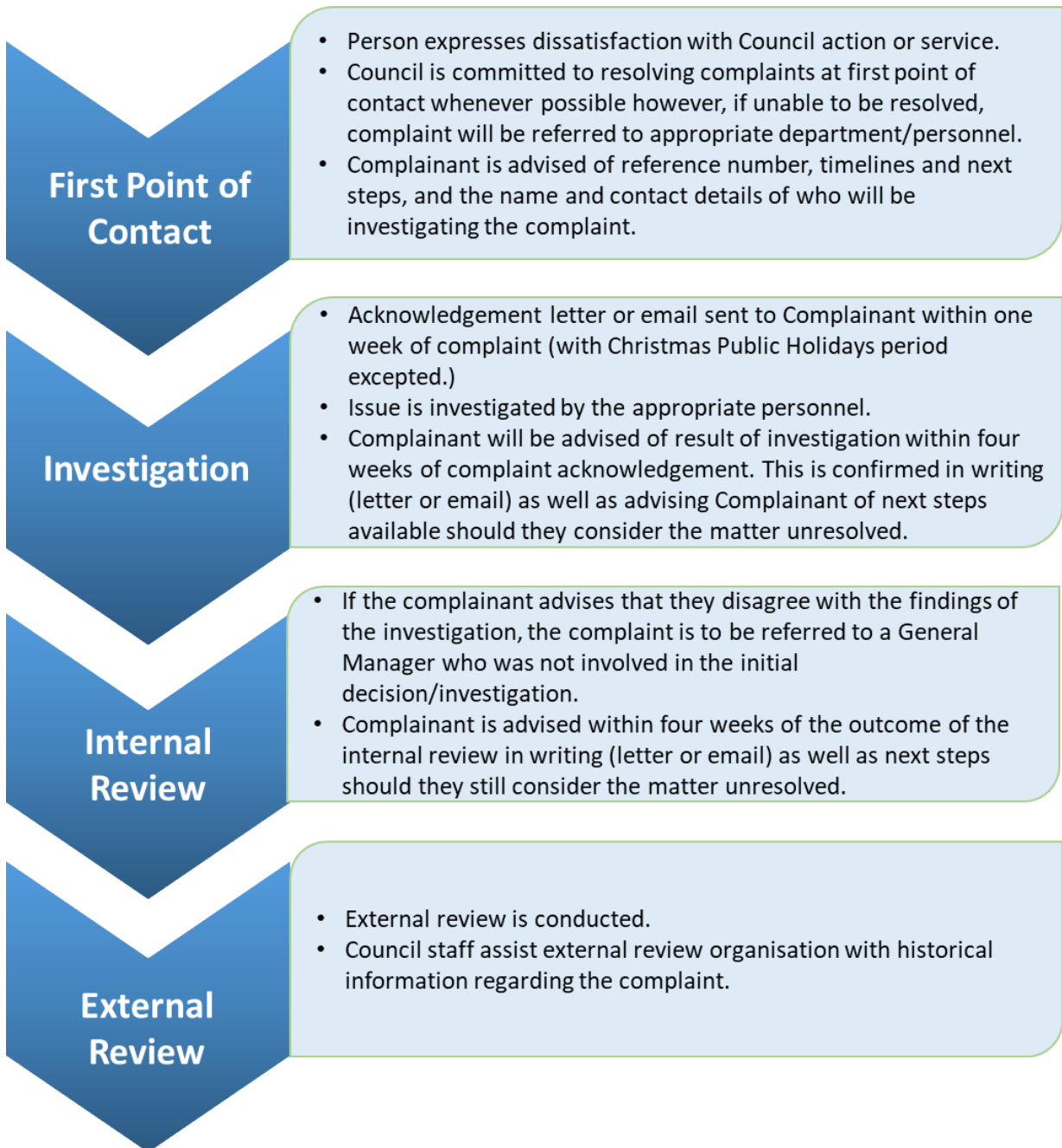
Examples of possible responses to unreasonable complaint conduct include but are not limited to:

- 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:





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## 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.

Council expects its employees 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 employees involved in the complaints process.

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## 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 an employee
- 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.



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#### 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 Council employee 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.

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#### 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.

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#### 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.

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#### 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.

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

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



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#### 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.

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#### 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 by writing to Council explaining their reasons for concern with the initial response.

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 of Council's response to a complaint can be requested from the following organisations:

Complaint	Organisation to contact for external review
<p>Actions or decisions of a Council, Council employees 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>
<p>Breaches of the Local Government Act</p>	<p>Local Government Inspectorate  <a href="http://www.lgi.vic.gov.au">www.lgi.vic.gov.au</a></p>
<p>Breach of privacy.            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>
<p>Corruption or public interest disclosure ('whistleblower') complaints</p>	<p>Independent Broad-based Anti-corruption Commission  <a href="http://www.ibac.vic.gov.au">www.ibac.vic.gov.au</a></p>
<p>Discrimination</p>	<p>Victorian Human Rights and Equal Opportunity Commission  <a href="http://www.humanrights.vic.gov.au">www.humanrights.vic.gov.au</a></p>
<p>Council elections</p>	<p>Victorian Electoral Commission  <a href="http://www.vec.vic.gov.au">www.vec.vic.gov.au</a></p>



## 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~~is 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 ~~it~~we receives on its individual merits, through clear and consistent processes. This Policy outlines how Council will~~we~~ fulfil that commitment.

#### SCOPE

~~Council's~~Our Policy applies to all complaints from members of the public about Council ~~staff~~employees, 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 or Councillors as the collective Council.

#### 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 Council ~~we~~ will hold ~~ourselves~~itself accountable.
- Establish ~~our~~ timeframes for resolving complaints.
- Clarify the roles and responsibilities of Council ~~staff~~employees.
- Ensure there are appropriate pathways for dealing with challenging or unreasonable behaviour.
- 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’ or ‘Council employee’** 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 [Interest](#) 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 (Vic)*

*Protected Disclosure Act 2012*

## RELATED DOCUMENTS

Employee Code of Conduct

Complaint Management Process

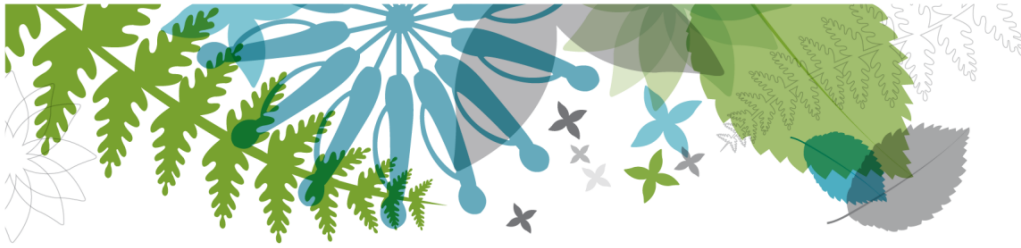
Public Interest Disclosure Procedure

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



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## 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~~employees or a Council contractor
- a delay by Council ~~employees~~staff or a Council contractor in taking an action, making a decision or delivering a service
- a Policy or decision made by the Council, a Council ~~employee~~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 a Council ~~staff~~employee, 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.

Whilst Complaints about a resolution of the Council will not result in a change to the Council resolution, the matter can still be considered as a complaint because it is a dissatisfaction with a decision of Council. In these instances, the complaints may inform a review of policy or process.

The policy does not apply to the conduct of Councillors. Where concerns about the conduct of Councillors are raised as complaints, the complainant will be provided with information about the most appropriate process or agency for referral.

### What is not a Complaint?

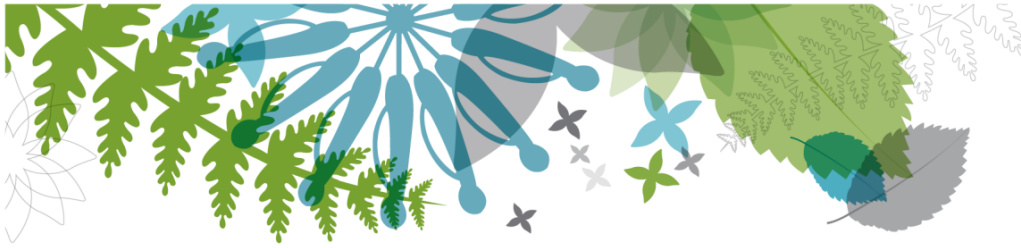
Complaints about matters such as a neighbour's use of property, barking dogs, livestock at large, or noise from a private or business premises are not complaints within the definition of this Policy. These are not a direct result of an action, lack of action, behaviour or service provided by Council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

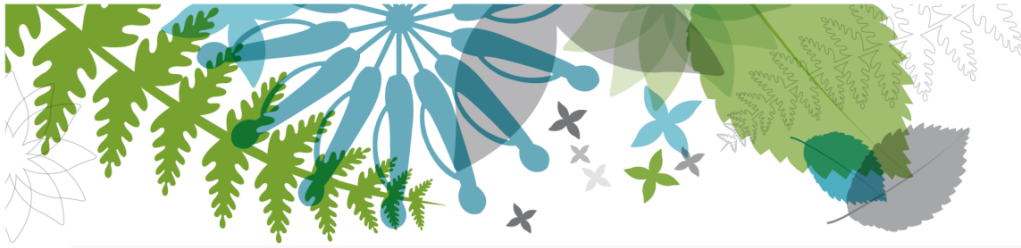
The following table is extracted from the Victorian Ombudsman ‘Council and Complaints – A good practice guide’:

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~~ Council's 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~~ is 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.



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#### 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.

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#### FAIRNESS

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

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#### 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.

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#### 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.

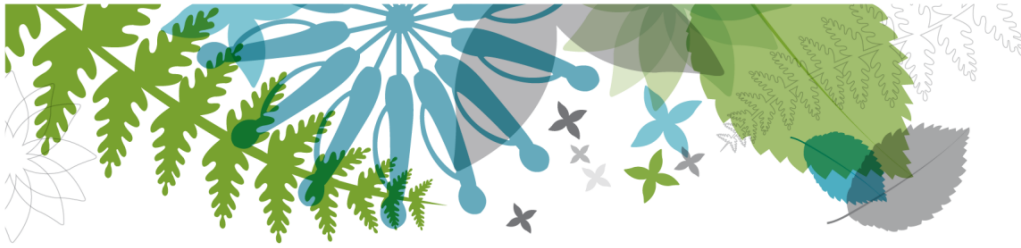
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#### PRIVACY

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



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COLAC OTWAY SHIRE ANNUAL REPORT

We will provide a summary of our complaint handing 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, employees, contractors or volunteers.

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/employees](#), 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, [employees/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, [employees/staff](#), services, time and/or resources.
- **Unreasonable lack of cooperation:** unwillingness and/or inability by a complainant to cooperate with the organisation, [employees/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, [employees/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 [employees/staff](#), other service users or the complainant.



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## 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.

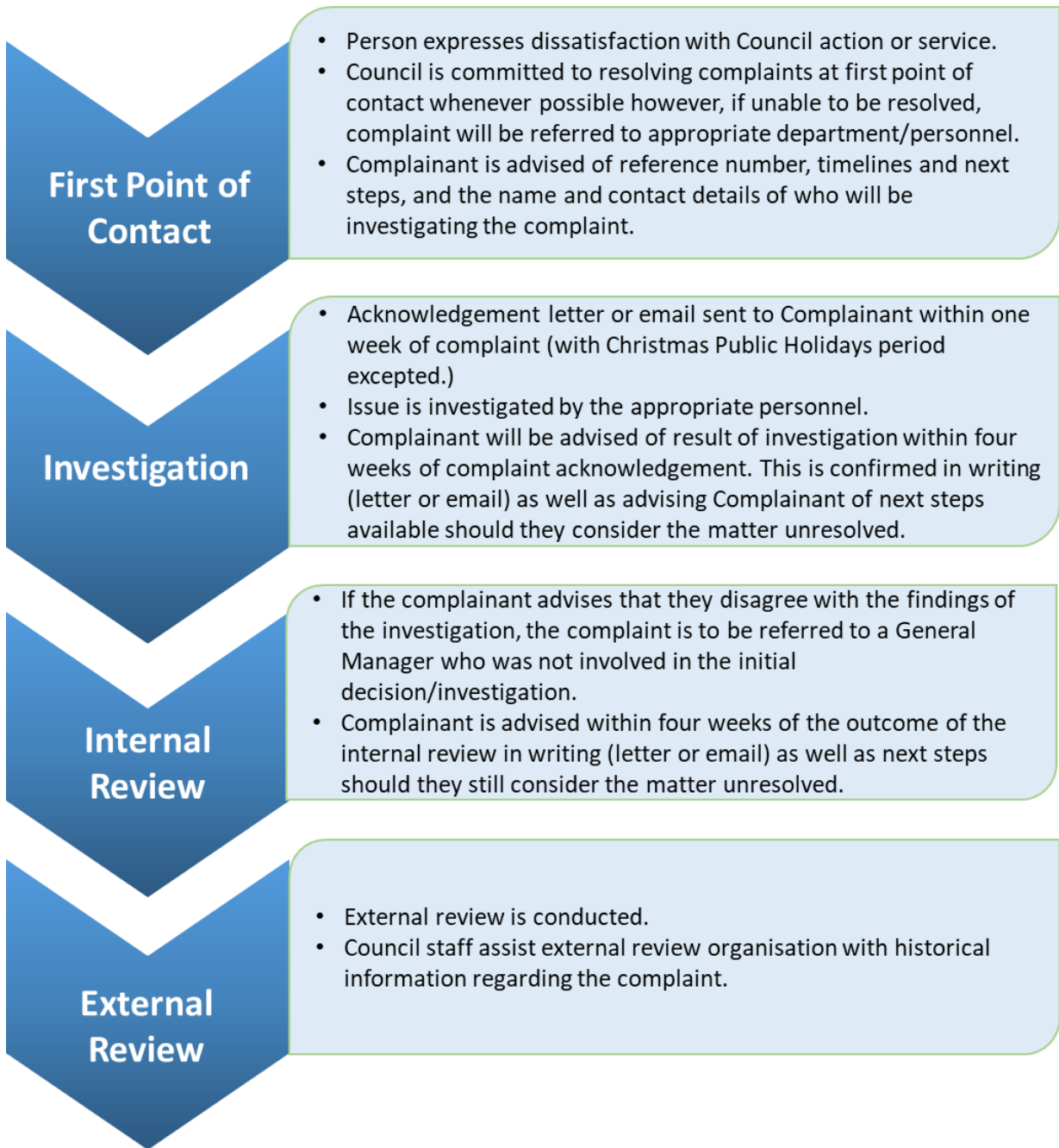
Examples of possible responses to unreasonable complaint conduct include but are not limited to:

- 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:





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## 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~~ Council expects its employees 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 ~~employees staff~~ involved in the complaints process.

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## 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~~ an employee
- 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.



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#### 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~~Council employee 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.

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#### 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.

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#### 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.

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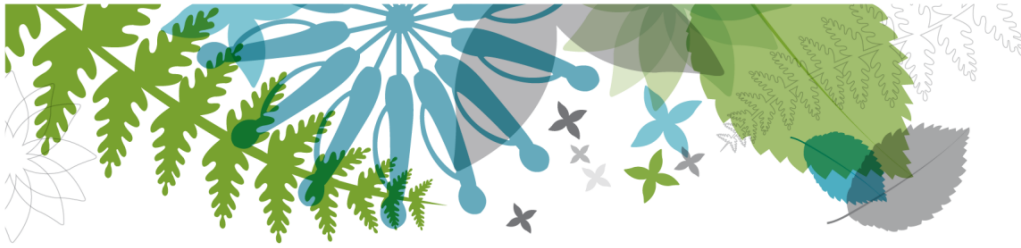
#### COMPLAINTS ABOUT COUNCILLORS

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.

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

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



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#### 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.

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#### 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 [by writing to Council explaining their reasons for concern with the initial response](#).

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 [of Council's response to a complaint](#) can be requested from the following organisations:

Complaint	Organisation to contact for external review
<p>Actions or decisions of a Council, Council <del>staff</del><u>employees</u> 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 www.ombudsman.vic.gov.au</p>
Breaches of the Local Government Act	<p>Local Government Inspectorate www.lgi.vic.gov.au</p>
<p>Breach of privacy.</p> <p>Complaint about a freedom of information application</p>	<p>Office of the Victorian Information Commission www.ovic.vic.gov.au</p>
Corruption or public interest disclosure ('whistleblower') complaints	<p>Independent Broad-based Anti-corruption Commission www.ibac.vic.gov.au</p>
Discrimination	<p>Victorian Human Rights and Equal Opportunity Commission www.humanrights.vic.gov.au</p>
Council elections	<p>Victorian Electoral Commission www.vec.vic.gov.au</p>



Item: 9.12

## Award of Contract 2304 - Cleaning Services

<b>OFFICER</b>	Cameron Duthie
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

The purpose of this report is to award Contract 2304 for the provision of cleaning services related to Council's buildings and facilities.

### 2. EXECUTIVE SUMMARY

Contract 2304 is for the cleaning of Council's buildings and facilities. The current contract with Bluegum Services Group P/L ends on 30 November 2024 and a new contract is required. A request for tender was advertised for suitable contractors to undertake this service and nine tenders were received. Reference to Tenderers by Number in this report (e.g. Tenderer 3) reflects the order of tender opening not ranking or other considerations.

The recommended tenderer provided a high-quality tender submission demonstrating a good understanding of the service requirements and proposing a comprehensive methodology to ensure that consistent high-quality cleaning is achieved. They demonstrated experience cleaning a range of facility types at other local governments with very positive feedback from referees on the quality of services provided.

### 3. RECOMMENDATION

**That Council:**

- 1. Awards Contract 2304 – Provision of Cleaning Services to Tenderer 3 (as per the Confidential Attachment to this report) for the tendered amount of \$857,427 (ex GST) for the first year, with annual CPI increases based on CPI, for an initial term of three years and with options for two further periods of one year each.**
- 2. Authorises the Chief Executive Officer to execute the contract documents on behalf of Council.**
- 3. Authorises the Chief Executive Officer to perform all roles of the Principal.**
- 4. Nominates the General Manager Infrastructure and Operations to the role of Superintendent for the contract, including managing variations in accordance with the contract conditions.**
- 5. Notes that unsuccessful tenderers will be advised of the outcome of the tender process and the successful tenderer and contract price will be listed on Council's website.**

### 4. KEY INFORMATION

Council engages contractors to clean a number of its facilities including the main Colac office, depots, Bluewater Leisure Centre, Colac Otway Performing Arts and Cultural Centre (COPACC), the Colac Saleyards and public toilets and amenities. Bluegum Services Group P/L currently undertakes this service for Council under a contract that commenced on 1 December 2019 and will end on 30 November 2024.

A request for tender for the cleaning services was advertised on Council's online portal – eProcure, as well as in the Colac Herald, The Age, The Geelong Advertiser and Apollo Bay News Sheet. The tender was released on 8 March 2024 with the submission period closing on 24 April 2024. Council received nine submissions by the closing date.

The tender sought the provision of cleaning services for a period of three years with an option for two further extension of one year each (total five years at Council's discretion) to commence on 1 December 2024. The contract was presented in two areas as follows:

- Separable Portion A – South which included the coastal communities; and
- Separable Portion B – North which included Colac and surrounds.

The recommended tenderer provided a high-quality tender submission demonstrating good value for money, good understanding of the service requirements, previous experience with similar contracts and availability of suitable equipment and resources to undertake and carry out the contract. They demonstrated that contracts with other local governments have been renewed multiple times and that consistently high standards of cleaning have been maintained across a range of facility types with a low number of complaints. They presented a comprehensive methodology to ensure that this would be achieved under this contract, including extensive use of a mobile phone app for recording of cleaning activities and in managing the contract.

The recommended tenderer provided a high level of confidence to the panel that there would be robust oversight of cleaners to ensure cleaning quality, staff induction and training and provision of appropriate equipment/materials.

The contract will begin on 1 December 2024 at the completion of the current contract.

The Tender Evaluation Panel (TEP) report is attached as a Confidential Attachment to this report. A copy of the Financial Assessment of the recommended tenderer is also attached.

## 5. CONSIDERATIONS

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

This report's recommendations focus on delivering best value outcomes for the community and aligns with the Governance Principles. The tender evaluation process has been comprehensive, and the contract aims to increase the consistency of cleaning services to the community through requirements for cleaners to use mobile phone technology to record cleaning activities and allow improved management of cleaning activities.

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

The tender process has been conducted in accordance with the Local Government Act 2020 and Council's procurement Policy and procedures, being an open tender to the public. A probity auditor has overseen the process and concluded that it has been undertaken fairly and transparently.

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

Tenderers have been required to submit information demonstrating that they have appropriate environmental and quality management plans and associated systems.

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

The procurement process does not include community engagement. The public will be informed of the outcome of the process upon award of the contract.

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

The contract is being considered in an open Council meeting and the relevant contract details will be published on Council's website upon award of the tender.

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

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 2: Attract, retain and grow business in our Shire

Objective 4: Colac Otway Shire is a destination to visit

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

Objective 3: We provide exceptional customer service

The tender process has been comprehensive, balancing the tender price with criteria relating to capacity and capability to ensure that Council can engage a tenderer that delivers consistent cleaning to an acceptable standard to both staff and the community.

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

The budget for cleaning services is allocated across a range of operational accounts, with costs attributed to specific facilities such as the Saleyards, Bluewater Leisure Centre and COPACC where possible. The budget in 2024/25 across all Council facilities impacted by the cleaning contract is \$739,020 reflecting seven months of costs that would be incurred in 2024/25 if the contract is awarded to the number one ranked tenderer.

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

Cleaning services have a significant impact on the standard of Council's staff and public facing facilities. There has been significant attention in the design of the tender specifications and evaluation of the tenders to ensure that Council can award the contract to a company that will deliver consistent high quality cleaning services. This includes a requirement that the successful tenderer use a mobile phone app for recording cleaning activities, and for use of an online system for both the cleaning company and Council to manage the contract.

#### **Risk Assessment**

The provision of cleaning services is an essential function to ensure that Council and public facilities are fit for purpose. Tenderers have been required to submit information on how they manage risks and this has formed a part of the tender evaluation process.

#### **Communication/Implementation**

The outcome of this contract will be published on the Council's website.

Staff will work with the successful contractor to ensure there is a smooth transition at the commencement of the contract to ensure the continuity of cleaning services if a different contractor is selected.

#### **Human Rights Charter**

It is considered that in the provision of the services outlined in this report there are no impacts to Human Rights.

#### **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 recommendation to award Contract 2304 to the highest ranked tenderer, Tenderer 3

This option is recommended as Tenderer 3 has submitted a tender that is within the available budget and has the capability and experience to undertake the service to a consistent high-quality standard following a comprehensive tender evaluation process that considered a range of criteria.

#### Option 2 – Award Contract 2304 to an alternative tenderer

This option is not recommended. Council has undertaken a comprehensive tender process and based on the assessment of all tenders Tenderer 3 has ranked highest. There are risks associated with awarding the contract to lower ranked tenderers relating to financial capacity, capability and capacity, quality of training and support to cleaning staff, and overall standards of cleaning. It is important that appropriate standards of cleaning are achieved under the new contract to minimise complaints on the level of the contractor's performance.

#### Option 3 – Not award the contract.

This option is not recommended as it will delay the engagement of a contractor to deliver the cleaning services beyond 30 November 2024. It is important that a decision is made to award a contract before the caretaker period for the October Council election, and that maximum time is available for a new contractor (if relevant) to establish resources and equipment to achieve a smooth transition to the new contract.

Item: 9.13

## Contract 2425 – Provision of Internal Audit Services

<b>OFFICER</b>	Mike Summerell
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To provide Council the outcome of the Internal Audit Services Tender Process and to approve the appointment of “Tenderer 3” as the provider of Internal Audit Services from 5 August 2024 to 4 August 2027 with the possibility of two one-year extensions at the discretion of Council.

### 2. EXECUTIVE SUMMARY

The tender for the provision of Internal Audit Services was released on 31 May 2024 in a process led by the Council Procurement team. The tender had a closing date of 26 June 2024. A total of 5 tenders were received. Reference to Tenderers by Number in this report (e.g. Tenderer 3) reflects the order of tender opening not ranking or other considerations.

Based on the evaluation conducted on 5 July 2024 by the Tender Evaluation Panel (TEP), two tenderers were shortlisted and contacted for further clarification relating to the likely structure of their Internal Audit teams given a significant variance in tender prices of the two shortlisted organisations.

The TEP met on 12 July 2024 to complete a final evaluation and recommended to the Audit & Risk Committee (ARC) that “Tenderer 3” should be appointed as the Council’s provider of Internal Audit Services for three years with the option of a further two annual extensions at the discretion of Council. On 18 July 2024 the ARC provided out of session approval of this recommendation.

### 3. RECOMMENDATION

That Council:

- 1. Awards Contract 2425 – Provision of Internal Audit Services to Tenderer 3 for an initial three years, with the option of two (2) by one (1) year extensions at the discretion of Council.**
- 2. Authorises the Chief Executive Officer to execute the contract documents of behalf of Council relating to the award of Contract 2425 – Provision of Internal Audit Services.**

3. **Authorises the Chief Executive Officer to perform all roles of the Principal, in regard to this Contract.**
4. **Notes that the Audit and Risk Committee is supportive of the recommendation to appoint Tenderer 3**

## 4. KEY INFORMATION

A total of 5 tenders were received. On receipt of tenders the Council's Procurement team's assessed the tenders for compliance with mandatory selection criteria. Members of the TEP then independently scored tenders against the pre-determined selection criteria. The panel met on Friday 5 July 2024 to moderate their independent scoring and to determine whether further information was required. The panel included two members of the ARC, the Council's Executive Officer Governance & Business Improvement and the Manager Procurement. The TEP assessed the tenders against the combined qualitative and quantitative criteria as follows:

1. Tenderer 3 - 76.41%
2. Tenderer 4 - 72.57%
3. Tenderer 2 - 64.96%
4. Tenderer 5 - 64.06%
5. Tenderer 1 - 51.38%

Tenderers 3 and 4 were asked for further clarification due a significant variance in the pricing proposed. Following the receipt of this clarification the decision to rank Tenderer 3 as the preferred provider was affirmed on 12 July 2024 by the TEP. The full Procurement Tender Evaluation Report has been provided to Council separately as a confidential item. ARC provided out of session approval of this recommendation on 18 July 2024.

## 5. CONSIDERATIONS

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

An effective Internal Audit Service plays an important role in enabling Council to achieve compliance with laws and regulation, make progress towards a more mature Risk Management Framework and provide assurance and/or advice regarding Council's management of significant inherent risks.

Internal Audit Services can provide information and advice to enable Council to be more effective in achieving overarching governance principles.

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

An Internal Audit Service is an important and valuable means of enabling Council's Audit and Risk Committee to meets its legislative responsibilities which include monitoring compliance, monitoring financial and performance reporting, and providing advice on risk management and fraud prevention systems and controls.

### **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)**

The tender process was undertaken in a manner consistent with Council's Procurement Policy, including the public advertising of the Internal Audit Service Tender. The TEP comprised independent members of the Council's Audit and Risk Committee, a member of the Council's Executive Management Team and a senior member of the Council's Procurement Team.

This Tender Evaluation Report was approved by the Audit and Risk Committee on 17 July 2024.

### **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)**

The publicly advertised tender was designed to attract a competitive range of proposals from suitably qualified and experienced Internal Audit Service providers. The range of proposals received achieved this objective.

Council has allocated recurrent funds in the current and future annual budgets for provision of Internal Audit Services. The recommended proposal is within these budget limitations.

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

Not applicable.

### **Risk Assessment**

The recommender provider was selected with a detailed assessment of capability, capacity, potential for the addition of value-add services to Council and financial considerations. The TEP considered the chosen provider minimised risks in all these areas.

### **Communication/Implementation**

The tender process for Internal Audit Services has been implemented in a manner consistent with Council's Procurement policy. Advertising included communication in the local newspaper and via electronic portals.

The key procurement timelines are summarised below:

Tender documents released - 31 May 2024



Advertising Locations	- Colac Herald, e-procure portal
Closing Date of Tender	- 26 June 2024
Final Evaluation of Tender	- 12 July 2024
ARC Approval of Recommend Tenderer	- 18 July 2024
Proposed Contract Start Date	- 5 August 2024
Proposed Contract Finish Date	- 4 August 2027
Proposed Ordinary Council Meeting for approval	- 24 July 2024
Potential Contract Extensions	- 2 x one-year extensions

#### **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: 9.14

# Local Government Liability Insurance Renewal

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

## 1. PURPOSE

To renew Council's insurance policy for Local Government Liability for 2024-25.

## 2. EXECUTIVE SUMMARY

Following the completion of a tender process by Procurement Australia for the Council's insurance portfolio and its endorsement at the Council meeting on June 29, 2022, Councillors resolved to:

- Receive the Request for Proposal Assessment Report from Procurement Australia.
- Award the two-year contract for insurance broking and risk management services to Jardine Lloyd Thompson (JLT).

JLT's renewal premiums excluded Council's Crime and Local Government Liability policies, which were recommended to be placed with the Municipal Association of Victoria (MAV).

Given the renewal amount exceeds the Chief Executive Officer's financial delegation the matter is being brought to Council for decision.

## 3. RECOMMENDATION

**That Council:**

- 1. Accepts the offer of renewal for the 2024-25 year for the MAV Insurance's Liability Mutual Insurance (LMI) Scheme for the amount of \$397,419.56 (inclusive of stamp duty and GST).**
- 2. Authorises the Chief Executive Officer to enact the renewal of Liability Mutual Insurance Scheme contribution.**

## 4. KEY INFORMATION

The repeal of section 76A of the *Local Government Act 1989* on 1 May 2020 removed the exemption for Councils to enter into a contract with MAV insurance without public tender, where the contract concerned the provision of Liability Mutual Insurance (LMI) services.

To test the insurance market and comply with council's Procurement Policy following this repeal, Council conducted a tender with Procurement Australia for all insurance policies, including both Local Government Liability and Commercial Crime insurance. Both submitting brokers recommended placement with Council's incumbent carrier, the Municipal Association of Victoria (MAV), for Liability Mutual Insurance (LMI) and Commercial Crime Insurance.

The Liability Mutual Insurance Scheme provides Public Liability, Products Liability and Professional Indemnity insurance cover, as well as the ability to access services including Risk Management Services, In-house Legal Advice and attendance at seminars, forums and workshops.

LMI member renewal contributions have increased on average by 15 percent during 2023-24 across the local government sector. Some of the reasons for these increases to the scheme include:

- A consistent rise in claims and cost frequency: In the last five years, total claim costs across the insurance types have increased from about \$23 million to \$57 million across the sector.
- Rising reinsurance costs: The LMI scheme has seen an 11% increase in reinsurance program costs. This reflects a growing view among reinsurers that large claims are increasing significantly – and are well above underlying inflation.

As a result of this, Council had budgeted for an increase of 15% on last year's premium for 2024-25.

The contribution to participate in the LMI scheme for 2024-25 for Colac Otway Shire is \$397,419.56 (inclusive of GST). This is an increase of 10.69% on the previous financial year's contribution. The deductible has increased from \$20,000 to \$30,000.

The Commercial Crime policy premium for 2024-25 is \$10,015.38 (inclusive of GST) - an increase of 6.99%. This policy renewal amount falls within the CEO's delegated authority and does not require further endorsement. This policy provides coverage for:

- Crime – when an employee acting alone or in collusion with others commits any fraudulent or dishonest single, continuous, or repeated acts causing financial loss; or when a third party obtains improper financial gain and intended to cause loss and is found guilty and convicted of such criminally sanctioned acts.
- Theft – the intentional permanent deprivation of money, securities, or property
- Social engineering and or/Fraud Impersonation
- Forgery – the signing of another persons' name or endorsing without authority of any cheque, draft, promissory note or bill of exchange with the intent to deceive
- Fraudulent alteration – a material alteration to any financial instrument for a fraudulent or dishonest purpose, other than by the authorised signatory
- Counterfeiting – intentional imitation of any currency such that a member is deceived
- Computer fraud – loss due to any fraudulent or dishonest misuse or manipulation of a member's computer systems programs or fund transfer systems, and;
- Crime - when a third party obtains improper financial gain and intended to cause loss and is found guilty and convicted of such criminally sanctioned acts.

## 5. CONSIDERATIONS

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

Priority has been given to achieving the best outcome for the municipal community through this tender by testing the current insurance market and ensuring good corporate governance, cost effectiveness and adequacy of cover and services.

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

*Local Government Act 2020 – Section 43*

A Council must indemnify and keep indemnified each Councillor, member of a delegated committee and member of a Community Asset Committee against all actions or claims whether arising during or after their term of office in respect of anything necessarily done or reasonably done or omitted to be done in good faith— (a) in the performance of a duty or a function or the exercise of a power under this Act, the regulations or a local law or any other Act; or (b) in the reasonable belief that the act or omission was in the performance of a duty or a function or the exercise of a power under this Act, the regulations or a local law or any other Act.

### **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)

The following reports have previously been presented to open Council meetings:

- The tender report on 29 June 2022.
- The renewal report for MAV LMI and Commercial Crime Insurance for 2022-23 on 27 July 2022.
- The renewal report for MAV LMI for 2023-24 on 26 July 2023.

### **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)

Council has budgeted for an increase of 15% on last year's premium for 2023-24.

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

Not applicable.

### **Risk Assessment**

Council needs to renew its Local Government Liability coverage prior to 30 July 2023 to mitigate any financial risks.

**Communication/Implementation**

Council will renew its insurances with the MAV for Local Government Liability (LMI) and Commercial Crime subject to Council approval.

**Human Rights Charter**

Not applicable.

**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 – Accepts the offer of renewal for insurances by MAV

This option is recommended by officers so that Council is appropriately insured for Local Government Liability and Commercial Crime.

Option 2 – Does not accept the offer of renewal for insurances by MAV

This option is not recommended by officers as this would leave Council without appropriate insurance for Local Government Liability and Commercial Crime. Council requires renewal of its insurance coverage prior to 30 July 2024.

Item: 9.15

## Proposed amendment to SES lease, Wilson Street Colac

<b>OFFICER</b>	David Butterfield
<b>ACTING GENERAL MANAGER</b>	Steve O’Dowd
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Council Resolution 12.12.18 [9.15.1 - 1 page]

### 1. PURPOSE

To propose an amendment to the existing lease to State Emergency Service (SES) on 87 Wilson Street Colac.

### 2. EXECUTIVE SUMMARY

Council resolved to lease 87 Wilson Street Colac to the State Emergency Service (SES) at a Council Meeting in 2018 and as part of its decision it set an annual rent at \$150 (including GST). In 2017 the Municipal Association of Victoria (MAV) entered a Memorandum of Understanding with State Emergency Service (SES) representing an agreement at a state-level on behalf of the Local Government sector. Council's resolution is inconsistent with the expectation set in the MoU which includes the Colac SES building as one of the properties to be recognised through the MoU (attached).

The local SES unit has requested that Council honour the MoU and amend the rent. This report seeks Council's agreement to adjust the rent accordingly.

### 3. RECOMMENDATION

***That Council:***

- 1. Varies the Lease with the State Emergency Service for 87 Wilson Street Colac, dated 1 February 2019 to change the annual rental amount from \$150 to \$1.10 (including GST).***
- 2. Authorises the Chief Executive Officer to do all things necessary to vary the Lease as per point 1.***

3. **Notes that all other conditions of the State Emergency Service Lease on 87 Wilson Street Colac will remain unaltered.**

## 4. KEY INFORMATION

A Memorandum of Understanding (MOU) was established on the 20 December 2017 with the State of Victoria, as represented by the Minister for Emergency Services, Municipal Association of Victoria and Victorian State Emergency Service Authority. Part of the MOU (attached) indicates that Councils will charge rental of \$1.10 including GST (paragraph 5.1(ii)).

On 12 December 2018 Council resolved to enter into a lease with the SES for the premises at 87 Wilson Street Colac. The rental amount in the Council Resolution was set at \$150, including GST, per year. It is assumed that the discrepancy with the MoU was not identified. It is recommended that this be corrected through a variation to the lease.

## 5. CONSIDERATIONS

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

- a) Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- b) The transparency of Council decisions, actions and information is to be ensured

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

*Local Government Act 1989 and Local Government Act 2020*  
*Colac Otway Shire Leasing Policy*

### **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)**

The Memorandum of Understanding is treated as a confidential attachment due to confidentiality clause within the memorandum (Clause 8.1).

### **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)**

If the recommended Resolution is adopted by Council, the annual revenue for this lease will decrease by \$148.90 (including GST).

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

Not applicable.

**Risk Assessment**

Not applicable to this Report.

**Communication/Implementation**

If the recommended Resolution is made, Council officers will communicate that decision to SES.

**Human Rights Charter**

The Author and Coauthors of this report have considered the Human Rights Charter in preparing this Report. No persons Human Rights have been diminished in the subject matter of this report.

**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 as recommended

This option is recommended by officers as it will align the Lease rental with the Memorandum of Understanding with the State Emergency Service.

Option 2 – Do not adopt the recommendation

This option is not recommended by officers as it would leave a conflict between the Memorandum of Understanding with the SES and the Lease.



ORDINARY COUNCIL MEETING  
**LEASE: 87 WILSON STREET COLAC TO  
 STATE EMERGENCY SERVICE (COLAC)**  
 OM181212-6

<b>LOCATION / ADDRESS</b>	87 Wilson Street, Colac	<b>GENERAL MANAGER</b>	Tony McGann
<b>OFFICER</b>	Mark McLennan	<b>DIVISION</b>	Infrastructure & Leisure Services
<b>TRIM FILE</b>	F18/3565	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	Nil		
<b>PURPOSE</b>	Consider officer recommendation to enter into lease		

## RESOLUTION

*MOVED Cr Chris Potter seconded Cr Brian Crook*

*That Council request the Chief Executive complete all necessary administrative processes for Council to enter into a lease with Victorian State Emergency Service (Colac) with the following terms:*

**1. A lease in accordance with the Colac Otway Shire lease template:**

- 1.1 Term** (10) ten years to expire on a date no later than 1st February 2029
- 1.2 Further term** (10) ten years to expire on a date no later than 1st February 2039
- 1.3 Rental** \$150.00 Inc. GST per year
- 1.4 Rent Review** This amount is to be increased at the completion of the first 10 year term by calculating the compounded increase of the Consumer Price Index since the commencement of the lease
- 1.5 Maintenance** All maintenance is to be the responsibility of the State Emergency Service (Colac)
- 1.6 Outgoings** All outgoing shall be paid by the tenant
- 1.7 Insurance** All Insurance shall be taken out and maintained by the State Emergency Service (Colac)

**CARRIED 7 : 0**

Item: 9.16

## Lake Colac Advisory Committee - Terms of Reference

<b>OFFICER</b>	Ian Seuren
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	1. Lake Colac Advisory Committee - Terms of Reference - For Endorsement [9.16.1 - 4 pages]

### 1. PURPOSE

To consider the revised Terms of Reference for the Lake Colac Advisory Committee (formerly known as the Lake Colac Coordinating Committee).

### 2. EXECUTIVE SUMMARY

The Lake Colac Advisory Committee (formerly known as the Lake Colac Coordinating Committee) has been in existence for many years. The purpose of the committee is to provide advice to Council on matters relating to Lake Colac and the foreshore areas that Council is responsible for.

In accordance with the Council Committees Policy, a review of the committee has been undertaken, and it is considered that there is still strong benefit for having an advisory committee with community and agency representation that provides advice to Council and to other member agencies.

The Terms of Reference for the Lake Colac Advisory Committee have been reviewed and are presented to Council for consideration.

### 3. RECOMMENDATION

*That Council:*

- 1. Endorses the revised Lake Colac Advisory Committee Terms of Reference (Attachment 1).***
- 2. Seeks Expressions of Interest for the three community positions on the Lake Colac Advisory Committee from Friday 26 July 2024 to Sunday 18 August 2024.***
- 3. Writes to member organisations seeking their acceptance of a position on the Lake Colac Advisory Committee including their nominated representative.***

## 4. KEY INFORMATION

Lake Colac is highly valued by the Colac community. Council has management responsibility for parts of the lake and its foreshores.

The Lake Colac Coordinating Committee was established over 20 years ago following the completion of the Lake Colac Management Plan 2002. In 2008, following a review of the Committee, Council resolved to amend the structure of the Committee from a Committee appointed under Section 86 of the *Local Government Act 1989* as a 'Committee of Council' to a 'Community Advisory Committee'. The Terms of Reference have been reviewed from time to time.

As per the current Terms of Reference, there are currently 24 committee members including Council, community groups, general community, and agency representatives.

It is important to review committees from time to time to ensure that they are still relevant, achieving their intended purpose and providing benefit to Council. Council has undertaken a review of the Lake Colac Advisory Committee in accordance with the Council Committees Policy which has found that there is still strong benefit in having an Advisory Committee for Lake Colac, both for Council and for member agencies.

A review of the Terms of Reference has been undertaken and a revised Terms of Reference is attached for consideration by Council (Attachment 1). The key changes include:

### Committee name

- Changing the name of the committee from the Lake Colac Coordinating Committee to the Lake Colac Advisory Committee, which is in accordance with the previous decision of Council and aligns with the Council Committees Policy 2022.

### Purpose

- Amending the purpose of the Lake Colac Advisory Committee to be more representative of the role of the committee and incorporating any contextual information into a new 'Background' section.

### Membership

- The number of members on the Lake Colac Advisory Committee was extensive. It is proposed that the membership be reduced by:
  - Reducing the number of community representatives from six to three. This was based on feedback from the current committee, which advised that there is already a large number of 'community members' on the committee due to the number of community organisations represented.
  - Reducing the number of Council officers on the committee to one. Other Council officers will be invited on an 'as needs' basis.
- Changing Traditional Owner representation to Eastern Maar Aboriginal Corporation, who are the Registered Aboriginal Party for the Colac region.
- Including a note that it is up to individual agencies to accept their position on the Lake Colac Advisory Committee. Whilst an agency might have a position on the committee following

the adoption of the Terms of Reference by Council, it is up to the agency to determine if they wish to accept the position.

### **Chairperson**

- Recommended that members of the Lake Colac Advisory Committee select a Chairperson and Deputy Chairperson for the committee.

Should Council endorse the revised Terms of Reference, Council will need to appoint community members to the Lake Colac Advisory Committee. As per the revised Terms of Reference, community members would be appointed by Council following an Expression of Interest process. It is recommended that Council seek Expressions of Interest for a three-week period.

## **5. CONSIDERATIONS**

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

An Advisory Committee to Council can assist Council with making decisions that are in the best interests of the community and achieving the best outcomes for future generations.

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

An Advisory Committee to Council is in accordance with the Council Committees Policy.

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

Not applicable.

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

The review of the Terms of Reference included seeking feedback from the existing members of the committee.

The purpose of the Lake Colac Advisory Committee will be to engage with key community groups on issues regarding Lake Colac and provide a communication link between Council, agencies, user groups, stakeholders, and the broader community.

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

The Lake Colac Advisory Committee will provide advice to Council to assist in their decision making in matters relating to Lake Colac. Recommendations and/or advice to Council will be provided to Council through its normal meeting cycle at the next available opportunity.

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

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 4: Colac Otway Shire is a destination to visit

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*)

Not applicable.

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

The Lake Colac Advisory Committee will help support Council and other agencies to maintain and improve the lake and its environs through its stated objectives, which are:

- To advise Council on the revitalisation and development of Lake Colac as a recreational, tourism, social, environmental, and economic asset.
- To be a forum of coordinated efforts of community, Local Government and State Government agencies to support implementation of relevant strategies and plans associated with Lake Colac.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

Should Council endorse the proposed Lake Colac Advisory Committee Terms of Reference, officers will write to member agencies and organisations requesting that they confirm acceptance of their position on the committee, as well as their nominated representative.

An Expression of Interest process will be undertaken seeking interest from community members for the three community positions on the committee. Following the Expression of Interest process, a report will be presented to Council for appointment of community members to the Lake Colac Advisory Committee.

### **Human Rights Charter**

Advisory Committees to Council are in accordance with the Human Rights Charter, particularly in enabling community members the right to participate in public life.

### **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 Lake Colac Advisory Committee Terms of Reference as presented as an attachment to this report.

This option is recommended as it is important to have a Terms of Reference that reflects the purpose and objectives of a committee that is providing advice to Council. The Terms of Reference have been thoroughly reviewed and provide clarity on the role of the committee. It also provides clarity on membership of the community and enables strong community representation through key community organisations and appointed community membership.

Option 2 – Endorse the Lake Colac Advisory Committee Terms of Reference as presented as an attachment to this report with amendments.

Council may determine to make further changes to the revised Terms of Reference. This is not recommended as the Terms of Reference have been thoroughly reviewed and feedback sought from the current members of the committee.

Option 3 – Don't endorse the Lake Colac Advisory Committee Terms of Reference as presented as an attachment to this report.

This option is not recommended by officers as the Lake Colac Advisory Committee is seen to provide benefit to Council and other key agencies. A Terms of Reference is important to establish the purpose and objectives of the committee, as well provide a mechanism for community members to be appointed to the committee.

## **TERMS OF REFERENCE**

### **LAKE COLAC ADVISORY COMMITTEE**

#### **1. PURPOSE**

The Lake Colac Advisory Committee (Committee) is a committee established by Council in accordance with its Council Committees Policy.

The purpose of the Committee is to:

- Provide strategic input, advice and advocacy support for the implementation of key strategies and plans associated with Lake Colac.
- Provide advice on operational matters relating to Lake Colac.
- Support planning, advocacy and implementation of special projects relating to Lake Colac.
- Provide a communication link between Council, agencies, user groups, stakeholders and the broader community.

#### **2. BACKGROUND**

The Lake Colac Management Plan was adopted by Colac Otway Shire Council in November 2002. The purpose of the Plan is to provide an ongoing framework for the community, along with Local and State Government agencies, to manage and promote ecologically sustainable development and land use practices for Lake Colac and its catchments.

The Lake Colac Foreshore Master Plan was adopted by Council in 2016 and provides a framework to guide planning and development of the area of the foreshore that extends east-west between Rifle Butt Road and Clark Street; and north-south from the foreshore along the Barongarook Creek corridor to Murray Street. It also includes Meredith Park on the northern shores of the lake. The land is Crown land owned by the Victorian Government and managed by Colac Otway Shire.

#### **3. OBJECTIVES**

The objectives of the Lake Colac Advisory Committee are:

- To advise Council on the revitalisation and development of Lake Colac as a recreational, tourism, social, environmental and economic asset.
- To be a forum of coordinated efforts of community, Local Government and State Government agencies to support implementation of relevant strategies and plans associated with Lake Colac.

#### **4. MEMBERSHIP, PERIOD OF MEMBERSHIP AND METHOD OF APPOINTMENT**

Membership will reflect key stakeholder interest in Lake Colac and include the following representation:

- 2 Colac Otway Shire Councillors
- 1 Parks Victoria representative
- 1 Eastern Maar Aboriginal Corporation representative
- 1 Department of Energy, Environment and Climate Action representative
- 1 Corangamite Catchment Management Authority representative

- 1 Barwon Water representative
- 1 Friends of Botanic Gardens representative
- 1 Colac Yacht Club representative
- 1 Colac Anglers Club representative
- 1 Field and Game Australia, Colac Branch representative
- 1 Lake Colac Rowing Club representative
- 1 Barongarook Landcare Group representative
- 3 community representatives
- Colac Otway Shire General Manager Community and Economy

Appointment of Councillors must be by resolution of Council.

It is at the discretion of individual agencies whether to accept their position on the Committee. Agencies and community organisations will nominate their own representatives and be required to inform Council of their representative by 1 February of each year.

Community representatives will be appointed by Council resolution for a period of four years following an Expression of Interest process.

Proxies or substitute members of the nominated agencies will be permitted to attend meetings on an as needed basis.

Council's Community and Economy Division will provide administrative support to the Lake Colac Advisory Community.

## **5. DELEGATED AUTHORITY AND DECISION MAKING**

In accordance with the Council Committees Policy, the Lake Colac Advisory Committee will act in an advisory capacity only and have no delegated authority to make decisions. The Lake Colac Advisory Committee will provide advice to Council to assist in their decision making in matters relating to Lake Colac.

Whilst the Lake Colac Advisory Committee has no formal authority in relation to other agencies, the nature of the arrangement will enable an opportunity to provide advice to other agencies on matters that relate to Lake Colac.

## **6. MEETING PROCEDURES**

The Lake Colac Advisory Committee is expected to meet four times per year or as required if an important issue arises that requires a coordinated response.

Meetings are to be held at a time and place determined by the Lake Colac Advisory Committee. Advisory Committees are not required to give public notice of their meetings and meetings are not required to be open to the public.

## **7. CHAIRPERSON**

The position of Chairperson and Deputy Chairperson shall be elected by members of the Advisory Committee annually for a 12 month period. Should the Chairperson and the Deputy Chairperson not be present at a meeting, a Councillor shall be appointed as Chairperson for the purpose of conducting that meeting.



## **8. AGENDAS AND MINUTES**

Agendas and Minutes will be prepared for each meeting of the Lake Colac Advisory Committee. The agenda will be provided to members of the committee not less than 48 hours before the time fixed for the holding of the meeting.

The minutes of each meeting will be prepared by Council officers. Copies of the minutes will be provided to all members no later than 20 business days following each meeting. Minutes including attendance, apologies, issues discussed, recommendations made and action items will all be recorded for each meeting.

Recommendations and/or advice to Council will be provided to Council through its normal meeting cycle at the next available opportunity.

## **9. VOTING**

All members have voting rights. Staff provide support and advice to the Committee and have no voting rights.

In the event of an equality of votes the Chairperson has the casting vote.

## **10. CONDUCT AND INTEREST PROVISIONS**

All Lake Colac Advisory Committee members must:

- act honestly;
- exercise reasonable care and diligence;
- not make improper use of their position; and
- not make improper use of information acquired because of their position.

Where a member of the committee has an interest or conflict of interest in relation to a matter in which the committee is concerned, or is likely to be considered or discussed, the member must disclose the interest to the committee before the matter is considered or discussed at the meeting. Disclosure must include the nature of the relevant interest and be recorded in the minutes of the meeting.

## **11. GUESTS**

The group may invite guests to appear at the meeting via the approval of the Chair. Guests may include any persons whom provide technical or other insight as appropriate from time to time. The group is encouraged to make use of guests where particular skills/experience can be provided.

## **12. QUORUM REQUIREMENTS**

A minimum of six members is required for the meeting to be recognised as an authorised meeting for the recommendations to be valid.

## **13. COMMUNICATIONS PROTOCOL**

All communications to the media regarding the Lake Colac Advisory Committee will be through Council. Lake Colac Advisory Committee members may not express views on behalf of Committee. Lake Colac Advisory Committee members may communicate with the media with regards to issues specific to Lake Colac as individuals and/or representing their respective organisations.

**14. REPORTING**

The Lake Colac Advisory Committee is required to prepare an annual report to a Councillor Briefing session reflecting the objectives of the committee.

**15. TERMS OF REFERENCE**

The Terms of Reference and objectives of the Lake Colac Advisory Committee are to be reviewed by the committee from time to time and by Council within twelve (12) months after a general election. Any proposed changes to the Terms of Reference resulting from a review must be presented to Council for formal approval.

For Endorsement

Item: 9.17

## Geelong Regional Library Corporation Alternate Business Enterprise Model

<b>OFFICER</b>	Ian Seuren
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To consider the process for the transition of the Geelong Regional Library Corporation to a new Alternative Enterprise Business Enterprise.

### 2. EXECUTIVE SUMMARY

The Geelong Regional Library Corporation is an organisation consisting of five member Councils, being Colac Otway Shire, the City of Greater Geelong, Borough of Queenscliff, Surf Coast Shire and Golden Plains Shire.

The library corporation was formed under the provisions of Section 196 of the *Local Government Act 1989* on 4 March 1997. There are numerous regional library corporations across Victoria formed under the previous 1989 Act. The introduction of the *Local Government Act 2020* includes a requirement for library corporations to be wound up within 10 years of the new Act commencing.

The Geelong Regional Library Corporation has commenced work to transition to an alternate enterprise business model and seeks member Councils consideration of undertaking further work in order for Councils to make a future decision on an appropriate business enterprise model and the delivery of library services.

### 3. RECOMMENDATION

**That Council:**

- 1. Notes that the *Local Government Act 2020* requires Regional Library Corporations to transition to a new enterprise model by 30 June 2031.**
- 2. Notes that the Geelong Regional Library Corporation at its 15 February 2024 Board meeting endorsed a Company Limited by Guarantee as its preferred future enterprise model in order to enable project scoping, transition planning, and costing in preparation for member Council decisions.**
- 3. Requests that the Geelong Regional Library Corporation prepares a report for formal consideration by Council at a future Council Meeting, that:**
  - a. Sets out future governance arrangements and indicative cost impacts for member Councils for the delivery of Library Services under the new enterprise model.**
  - b. Seeks the formal approval to transition to the new enterprise model.**

### 4. KEY INFORMATION

Colac Otway Shire's library services are provided by the Geelong Regional Library Corporation (GRLC). The library corporation was formed under the provisions of Section 196 of the *Local Government Act 1989* on 4 March 1997 to provide library services within the local government areas of the Borough of Queenscliffe, City of Greater Geelong, Golden Plains Shire, and Surf Coast Shire. Colac Otway Shire joined the GRLC on 2 April 2021.

The *Local Government Act 2020* requires all Regional Library Corporations to transition to a new corporate structure by 30 June 2031 under legislation that governs corporate entities.

GRLC has taken a proactive approach and commenced work on investigating alternative business models with a view to transitioning to a new business model well prior to the 30 June 2031 deadline.

A GRLC Board workshop was held in November 2022 which provided background and introduced the steps required to transition to a new entity. In February 2023, the GRLC Board endorsed for its CEO to write to each Council CEO to form an Alternative Enterprise Business Model (AEBM) Executive Steering Committee (ESC), which would assist in enabling a recommended AEBM to be considered by each Council at a future time.

An external consultant was appointed to undertake a review of the GRLC and recommend a preferred AEBM. The work included:

1. Background and context to the *Local Government Act 2020*, lessons from the sector and discussion on authority, delivery of services via an arm's length entity and the beneficial enterprise provision of the Act.
2. A summary of GRLC's performance against financial benchmarking and analysis.
3. Key stakeholder interview findings that informed the review and situational analysis.

The GRLC Board at its meeting in February 2024 recommended a preferred AEBM, being a a Company Limited by Guarantee. A Company Limited by Guarantee is a public company where a member's liability to the company is limited to the amount they contribute to the company (or that to which is

described in its constitution) in the event the company is wound up. The Board recommendation also included that the Executive Steering Committee (ESC) progress reports to their respective Councils for consideration of the process to transition to an AEBM.

This is a key strategic item that the GRLC Board has recommended, noting that Member Councils will need to formally consider future operating arrangements for the delivery of their library services prior to any transition of GRLC to a new entity.

For context, two regional library corporations have already made a transition to a new corporate form:

- Myli Ltd – the former West Gippsland Regional Library Corporation was the first to make a transition.
- Your Library Ltd – formerly known as Eastern Region Libraries made the transition in July 2023.

Five other Library Corporations are planning, or in the process of, transitioning to an alternate operating model. All organisations have indicated their preferred model is a Company Limited by Guarantee, under the *Corporations Act*. The remaining five Library Corporations across Victoria (including GRLC) are in a planning phase to make their transition.

## 5. CONSIDERATIONS

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

Council collaborates with other municipalities for the provision of library services which provides mutual benefits for all member Councils and their communities. Consideration of this matter will ensure an appropriate corporate structure for the provision of library services well into the future.

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

Section 330 of the *Local Government Act 2020* requires all Regional Library Corporations to be wound up in accordance with section 197G of the *Local Government Act 1989* before the expiry of the period of 10 years after the commencement of section 110 (Beneficial Enterprises), therefore by 2031.

### **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)

Presenting this report to Council ensures that there is transparent consideration by Council regarding the transition of the Geelong Regional Library Corporation. This is the first step in the process of investigating what a future model looks like, and Council will be required to further consider its options at a later date.

### **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

## 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 will be costs associated with the transition of the GRLC to an alternate model, however the amount is unknown. The GRLC Board has allocated funds from its reserves to commence the process of investigating a preferred model and providing sufficient detail in order for member Councils to make an informed decision on the future of their library services.

At its February 2023 meeting, Council resolved to submit a motion to the Municipal Association of Victoria seeking support for library corporations and their member Councils to advocate to the Victorian Government for resources, both financial and other support, to transition to an alternative model. To date, the Victorian Government has not provided any support to library corporations or Councils to assist with the transition process and therefore costs will need to be borne by the GRLC.

One of the benefits of transitioning to an alternative enterprise business model is providing a corporate structure that enables the organisation to implement alternate income streams. This may assist with the organisation's reliance on Council funding into the future.

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

Council's library services are currently provided by the Geelong Regional Library Corporation. This matter will not impact on current service provision. As per the recommendation, Council would be required to consider the future provision of library services at a future time.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The decision of Council will be immediately communicated to the Geelong Regional Library Corporation Board.

### **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 – Request that the Geelong Regional Library Corporation undertake investigations on the most appropriate future corporate structure and present a report for Council's formal consideration at a future time.

This option is recommended as it provides support for the Geelong Regional Library Corporation to undertake project scoping, governance arrangements, transition planning and costing of an alternative business enterprise model before providing a report to Council for formal consideration at a future time.

Option 2 – Don't support the Geelong Regional Library Corporation to undertake further investigations into a future corporate structure.

This option is not recommended. The *Local Government Act 2020* requires the Geelong Regional Library Corporation to transition to an alternative enterprise model by 2031. The Corporation is proactively preparing for a transition prior to this time, and it is important as a member Council to support their investigations into the most appropriate model. This will help inform a future decision by Council on the provision of library services.

Item: 9.18

## Mayoral Election Meeting 2024

<b>OFFICER</b>	Louise Harvey
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### 1. PURPOSE

To reschedule the Council meeting to elect the Mayor to Wednesday 20 November 2024 to accommodate the confirmed timeline changes to the *Local Government (Electoral) Amendment Regulations 2024* and the *Local Government (Electoral) Amendment Regulations 2024*. Notes that this meeting also enables Councils to consider the officer of the Deputy Mayor at the same meeting.

### 2. EXECUTIVE SUMMARY

On Wednesday 25 June 2024, the *Local Government Amendment (Governance and Integrity) Act 2024* (the Amendment Act) was given Royal Assent. It is unlikely that the election outcome will be declared in time for the election of the Mayor to occur at a meeting on 6 November 2024 and the meeting needs to be rescheduled. Consideration of the Deputy Mayor position will occur at the same meeting, albeit it is not specified in the meeting title.



### 3. RECOMMENDATION

*That Council:*

- 1. Notes the changes to the Local Government Amendment (Governance and Integrity) Act 2024 and the Local Government (Electoral) amendment Regulations 2024.*
- 2. Reschedules the Council meeting to elect the Mayor from Wednesday 6 November 2024 to Wednesday 20 November 2024 and notes that the commencement time of 4pm remains unchanged.*

### 4. KEY INFORMATION

The Amendment Act makes a range of changes to the *Local Government Act 2020*. Included in the changes that came into operation on 25 June 2024 is bringing the date of the close of the roll for the October 2024 council elections forward to provide more time for councils and the VEC to compile voters' rolls, and to accommodate other timeline changes through the *Local Government (Electoral) Amendment Regulations 2024*.

These Regulations bring into effect changes to key dates relating to the conduct of elections, including the nomination day and the lodgement date for candidate statements and questionnaires. With these regulations confirmed, the election period for the 2024 general elections will begin at 12 noon on Tuesday, 17 September 2024 and end at 6.00pm on Saturday, 26 October 2024.

### 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
- the transparency of Council decisions, actions and information is to be ensured

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

Governance Rules

**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)

In accordance with the governance Rules, Council is required to provide to the public reasonable notice of each Council Meeting.

**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**

Not applicable.

**Officer General or Material Interest**

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

## Item: 9.19

# Revocation of Waterway Manager Instrument of Delegation

<b>OFFICER</b>	Belinda Rocka
<b>GENERAL MANAGER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. To Be Revoked - Instrument of Delegation from Waterway Manager - Colac Otway Shire Council - as Wate [9.19.1 - 10 pages]

## 1. PURPOSE

To revoke the instrument of delegation 'Instrument of Delegation from the Waterway Manager' as the Port of Apollo Bay is no longer managed by Colac Otway Shire Council.

## 2. EXECUTIVE SUMMARY

Instruments of Delegation to Council officers under the *Marine Safety Act 2010* (Vic) (the Act) are required to be signed under resolution of Council. When the instrument is no longer required, Council is required to revoke the instrument.

## 3. RECOMMENDATION

***That Council revokes the Instrument of Delegation from the Waterway Manager under the Marine Safety Act 2010 dated 17 June 2024 (refer Attachment 1).***

## 4. KEY INFORMATION

In summary the *Marine Safety Act 2010* (Vic) (the Act) provides for the safe marine operations in Victoria by imposing a range of safety duties, regulations and management of the use, and navigation of vessels on State waters and the engagement of harbour masters.

Section 217 of the Act set outs powers Council has to appoint Council staff to be the waterway manager.

On 30 June 2024 management of the Port of Apollo Bay was transferred to Great Ocean Road Coastal Coast and Parks Authority from Colac Otway Shire Council, therefore this instrument is no longer required.

## 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. Under section 224(1) of the *Local Government Act 1989*, a Council may appoint any person, other than a Councillor for the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council. Instruments of delegations under the Act are required to be signed and or/revoked by resolution of Council.

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

Instruments of Delegation are only provided to roles within Council for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council. Those authorised under the Act must be made or revoked by resolution of Council.

### **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**

If so resolved, the Instrument of Delegation, noting revocation of the Instrument will be sent to the Chief Executive Officer for signing.

## **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 – Adopt/endorse/note the .....

This option is recommended by officers as the Port of Apollo Bay is no longer managed by Colac Otway Shire Council.

### Option 2 – Adopt/endorse/note the... with amendments

This option is not recommended by officers as the Instrument needs to be revoked to cease its currency.



**INSTRUMENT OF DELEGATION FROM THE WATERWAY MANAGER –  
COLAC OTWAY SHIRE COUNCIL  
AS WATERWAY MANAGER FOR THE PORT OF APOLLO BAY**

For revocation

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 )



*[Handwritten Signature]*  
Chief Executive

17 / 6 / 24  
Date:

Colac Otway Shire

**Delegation Sources**

- Marine Safety Act 2010

For revocation



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 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
s 216(1)(e)	Function of designating areas in which anchorage of vessels is permitted and not permitted	PDCD, PRTO, TLP, MPAB	manner that ensures the safe operation of vessels and minimises the risk of environmental damage from the operation of vessels 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	PDCC, PRTO, TLP, MPAB	
s 215(2)	Power to direct a person not to enter or remain in waters	PDCC, PRTO, TLP, MPAB	
s 215(1)	Function of determining that, due to an emergency, persons must not enter or remain in a part of waters	PDCC, TLP, MPAB	
s 212(4)	Duty to comply with a direction of Safe Transport Victoria	PDCC, PRTO, TLP, MPAB	
s 212(1)	Duty to give draft of the notice to Safe Transport Victoria	PDCC, 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	PDCC, 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	PDCC, PRTO, TLP, MPAB	Where Council is an applicable regulatory entity
s 209(4)	Duty to comply with a direction by Safe Transport Victoria	PDCC, PRTO, TLP, MPAB	
s 209(1)	Duty to give a copy of the draft notice to Safe Transport Victoria	PDCC,	

Colac Otway Shire

Marine Safety Act 2010			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	MPAB PDCD, TLP, MPAB	Subject to ss 208 and 209
s 204(4)	Duty to comply with a direction by Safe Transport Victoria	PDCD, PRTO, TLP, MPAB	
s 204(1)	Duty to give certain documents to Safe Transport Victoria	PDCD, PRTO, 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, PRTO, 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	

15 May 2024

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## Item: 9.20

# Revocation of Port Manager Instrument of Delegation

<b>OFFICER</b>	Belinda Rocka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. To be Revoked - Instrument of Delegation from the Port Manager to Members of Council Staff - Port of [9.20.1 - 14 pages]

## 1. PURPOSE

To revoke the instrument of delegation 'Instrument of Delegation from the Port Manager to Members of Council Staff' as the Port of Apollo Bay is no longer managed by Colac Otway Shire Council.

## 2. EXECUTIVE SUMMARY

Instruments of Delegation to Council officers under the *Port Management Act 1995* (Vic) (the Act) are required to be signed under resolution of Council. When the instrument is no longer required, Council is required to revoke the instrument.

## 3. RECOMMENDATION

***That Council revokes the Instrument of Delegation from the Port Manager to Members of Council Staff under the Port Management Act 1995 dated 17 June 2024 (refer Attachment 1).***

## 4. KEY INFORMATION

In summary the *Port Management Act 1995* (Vic) (the Act) provides for the establishment, management, and operation of local ports. The Act also provides for the imposition of certain port charges or fees and requires the engagement of harbour masters.

Section 44C of the Act set outs powers Council has to appoint Council staff to manage local ports via instrument of delegation and to revoke the instrument when it is no longer required.



On 30 June 2024 management of the Port of Apollo Bay was transferred to Great Ocean Road Coastal Coast and Parks Authority from Colac Otway Shire Council, therefore this instrument is no longer required.

## 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. Under section 224(1) of the *Local Government Act 1989*, a Council may appoint any person, other than a Councillor for the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council. Instruments of delegations under the Act are required to be signed and or/revoked by resolution of Council.

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

Instruments of Delegation are only provided to roles within Council for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council. Those authorised under the Act must be made or revoked by resolution of Council.

### **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**

If so resolved, the Instrument of Delegation, noting revocation of the Instrument will be sent to the Chief Executive Officer for signing.

## **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 – Revocation of the Instrument of Delegation

This option is recommended by officers as the Port of Apollo Bay is no longer managed by Colac Otway Shire Council.

### Option 2 – Council does not revoke the Instrument of Delegation

This option is not recommended by officers as the Instrument needs to be revoked to cease its currency.



*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

For revocation

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

17 / 6 / 24  
Date:

Colac Otway Shire

**Delegation Sources**

- Port Management Act 1995
- Port Management (Local Ports) Regulations 2015 (Vic)

For revocation

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 of 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
s 91H	audit report and power to comply with the direction issued	MPAB	
s 91FA	Function of receiving Ministerial directions and power to comply with directions issued	PDCD, MPAB	
s 91F	Function of receiving a report from the person who has audited a management plan under s 91E	PDCD, MPAB	
s 91C(5)	Duty to ensure that an audit under s 91E is conducted	PDCD, TLP, MPAB	
s 91C(4)	Duty to ensure that copies of the documents are made available for inspection by an authorised person	PDCD, PRTO, TLP, MPAB	
s 91C(3)	Duty to ensure that copies of certain documents are kept at the office of the Port Manager	PDCD, TLP, MPAB	
s 91C(2)	Duty to comply with written direction of the Minister under s 91H	PDCD, PRTO, TLP, MPAB	
s 91C(1A)(b)	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)(a)	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(1)(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

15 May 2024

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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
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
r 61	Power to provide marine safety equipment or other safety equipment in a local port	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, 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, 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

15 May 2024

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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 purposes 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,	

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Colac Otway Shire

Port Management (Local Ports) Regulations 2015 (Vic)		
Provision	Power and Functions Delegated	Delegate Conditions and Limitations
r 17(4)	Power to refuse to issue a permit to an applicant	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, PRTO, TLP, MPAB
r 17(2)(b)	Power to issue a permit that authorises a person to manage cargo	PDCD, 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	

For revocation

For revocation



Item: 9.21

## Audit and Risk Committee Meeting - Unconfirmed Minutes - 6 June 2024

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Unconfirmed Minutes - Audit and Risk Committee Meeting Minutes - 6 June 2024 [9.21.1 - 24 pages]</li><li>2. Unconfirmed Minutes Audit and Risk Committee Meeting - 6 June 2024 - Closed Agenda [9.21.2 - 5 pages]</li></ol>

### 1. PURPOSE

To provide for information the Colac Otway Shire Audit and Risk Committee unconfirmed minutes, dated 6 June 2024.

### 2. EXECUTIVE SUMMARY

The Audit and Risk Committee Charter (adopted by Council on 28 September 2022), requires that the draft minutes of each meeting be presented to the next practicable Council meeting as 'unconfirmed minutes'.

If the Audit and Risk Committee (which meets quarterly) determines that changes are required to the unconfirmed minutes (i.e. changes other than minor administrative changes), then the final minutes will be re-presented to Council.

The unconfirmed minutes of the ARC meeting held on 6 June 2024 are presented at **Attachment 1 and 2**.

### 3. RECOMMENDATION

*That Council receives for information the Colac Otway Shire Audit and Risk Committee unconfirmed minutes, dated 6 June 2024.*

## 4. KEY INFORMATION

The Audit and Risk Committee (ARC) plays an important role in providing oversight of Colac Otway Shire Council's governance, risk management, internal control practices, internal and external audit functions. This oversight mechanism also serves to provide confidence in the integrity of these practices.

Section 53(1) of the *Local Government Act 2020* stipulates that a Council must establish an ARC. The Colac Otway Shire ARC consists of two Councillors and three independent members. The ARC meets at least four times per year.

The ARC Charter states that the draft minutes of Committee meetings will be prepared and circulated to Committee members within ten working days of each meeting. These draft minutes will then be presented as 'unconfirmed minutes' to the next practicable Council meeting to ensure that Council receives the Committee's advice in a timely manner.

The ARC will confirm its minutes at its next meeting (scheduled for 22 August 2024) and will become the 'final minutes'. Final minutes will only be presented to a Council meeting if there are significant changes to the unconfirmed minutes (i.e. changes other than minor administrative changes).

## 5. CONSIDERATIONS

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

The Overarching Governance Principles that are most applicable to the work of the Audit and Risk Committee are:

- 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
- e) innovation and continuous improvement is to be pursued
- g) the ongoing financial viability of the Council is to be ensured.

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

Audit and Risk Committee Charter  
*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)**

Whilst the meetings and agendas of the Audit and Risk Committee are confidential, the outcomes/recommendations from the meeting are reported to the next practicable open Council meeting.

### **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 – Receive for information the Colac Otway Shire Audit and Risk Committee unconfirmed minutes dated 6 June 2024

This option is recommended by officers as the Audit and Risk Committee Charter requires that the minutes be presented to the next practicable Council meeting.

Option 2 – Do not receive for information the Colac Otway Shire Audit and Risk Committee Unconfirmed Minutes dated 6 June 2024

This option is not recommended by officers as the Audit and Risk Committee Charter requires that the minutes be presented to the next practicable Council meeting.



**AUDIT AND RISK COMMITTEE MEETING**

**MINUTES**

**Thursday 6 June 2024**

**at 9:00 AM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

## COLAC OTWAY SHIRE AUDIT AND RISK COMMITTEE MEETING

Thursday 6 June 2024

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Unconfirmed

## COLAC OTWAY SHIRE AUDIT AND RISK COMMITTEE MEETING

MINUTES of the **AUDIT AND RISK COMMITTEE MEETING OF THE COLAC OTWAY SHIRE** held at COPACC on Thursday 6 June 2024 at 9:00 AM.

### MINUTES

#### 1 DECLARATION OF OPENING OF MEETING

#### 2 PRESENT

Melissa Field (Chair)  
Richard Trigg  
John Gavens  
John Sutherland  
Cr Max Arnott  
Anne Howard, Chief Executive Officer  
Andrew Tenni, General Manager Corporate Services  
Doug McNeill, Acting General Manager Infrastructure and Operations  
Ian Seuren, General Manager Community and Economy  
Lenny Jenner, Manager Governance  
Kendrea Pope (Online) Manager Governance  
Xavier Flanagan, Manager Financial Services  
Natasha Skurka, Risk and Insurance Officer  
Nick Bell, RSD Audit  
Wilson Tang (Online), Moore Australia

#### 3 APOLOGIES

Councillor Margaret White (Mayor)

#### 4 DECLARATIONS OF INTEREST

Ian Seuren, General Manager Community and Economy declared a General Conflict of Interest for item 4.1 Aged Care Service Review (Closed Agenda) as he has family members receiving care through Council's aged care services.

#### 5 CONFIRMATION OF MINUTES

- **Audit and Risk Committee Meeting held on 14 March 2024.**

#### Recommendation

***That the Audit and Risk Committee confirm the minutes from the Audit and Risk Committee Meeting held on 14 March 2024.***

**RESOLVED UNANIMOUSLY**

**6 BUSINESS ARISING FROM THE PREVIOUS MEETING**

Nil

Unconfirmed





**Item: 7.1**

**Reporting Responsibilities: Chair Report on Audit and Risk Committee Activities to Council**

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Biannual Report to Council of Colac Otway May 2024 - Melissa Field [7.1.1 - 6 pages]

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Receives for information the Colac Otway Shire Audit and Risk Committee biannual report dated 23 May 2024.*
- 2. Requests the Chief Executive Officer table the Colac Otway Shire Audit and Risk Committee biannual report dated 23 May 2024, at the 26 June 2024 Council meeting, in accordance with the requirements of the Local Government Act 2020.*

**RESOLVED UNANIMOUSLY**



Item: 7.2

**Chief Executive Officer Update**

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

**OUTCOME/ACTION**

*That the Audit and Risk Committee receives and notes the Chief Executive Officer's report.*

**RESOLVED UNANIMOUSLY**



Item: 7.3

**Review significant accounting and reporting issues - March 2024**

<b>OFFICER</b>	Xavier Flanagan
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil

**OUTCOME/ACTION**

*That the Audit and Risk Committee notes that there are no significant accounting or reporting issues to report.*

**RESOLVED UNANIMOUSLY**



Item: 7.4

**Quarter 3 Budget and Performance Report against 2023-24 Annual Plan**

<b>OFFICER</b>	Lenny Jenner
<b>CHIEF EXECUTIVE OFFICE</b>	Anne Howard
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>2023-24 Quarterly Performance Report - January to March 2024 PDF [7.4.1 - 49 pages]</li><li>Quarterly Management Report 31 March 2024 [7.4.2 - 3 pages]</li></ol>

**OUTCOME/ACTION**

*That the Audit and Risk Committee notes the Quarterly Budget and Performance Report for the third quarter 2023-24, for the period 1 January – 31 March 2024.*

**RESOLVED UNANIMOUSLY**



**Item: 7.5**

**Review key policies - Investment Policy**

<b>OFFICER</b>	Xavier Flanagan
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. 16.3 Investment Policy Review 22 April 2020 [7.5.1 - 5 pages]</li><li>2. Investment Policy - Review 22 April 2024 - Policy Changes [7.5.2 - 3 pages]</li><li>3. Investment Policy - Review 22 April 2024 - Draft [7.5.3 - 7 pages]</li></ol>

**OUTCOME/ACTION**

*That the Audit and Risk Committee recommends that Council adopt the draft Council Policy 16.3 - Investment.*

**RESOLVED UNANIMOUSLY**



**Item: 7.6**

**Review of Governance Rules on public exhibition**

<b>OFFICER</b>	Kendrea Pope
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Governance Rules for public consultation - 22 May 2024 Council Meeting [7.6.1 - 47 pages]

*That the Audit and Risk Committee notes:*

**1. Council received a report at its meeting on 22 May 2024 and endorsed the draft Governance Rules, as per Attachment 1, for release on Council's website enabling public consultation for the period 23 May 2024 and 5 July 2024.**

**2. The Governance Rules will be put forward for adoption at the July 2024 meeting of Council and**

**3. Feedback from the Audit and Risk Committee on the draft rules is welcomed within this timeframe.**

**RESOLVED UNANIMOUSLY**



**Item: 7.7**

**Review key policies - Internal Audit Control Policy**

<b>OFFICER</b>	Kendrea Pope
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>Attachments</b>	1. 16.10- Internal- Audit- Control- Adopted-26-August-2020 (6) [7.7.1 - 5 pages]

**1 OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Considers the assessment of the value of the Internal Audit Control Policy noting the conclusion that there is little need for its maintenance given the breath and maturity of the internal audit function and the Committee's ongoing oversight role embedded in the Audit and Risk Committee Charter.*
- 2. Supports the officer's conclusion and recommends to Council to revoke the Internal Audit Control Policy.*
- 3. Notes that management will consider whether it is necessary to capture and communicate information around the roles and responsibilities within the organisation relating to internal audit in some form such as through a guideline or management directive.*

**RESOLVED UNANIMOUSLY**



**Item: 7.8**

**Review of Complaints Policy for exhibition**

<b>OFFICER</b>	Gwyneth Cowley
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Current Complaints Policy - June 2019 [7.8.1 - 12 pages] 2. Complaints Policy 2024 - DRAFT [7.8.2 - 17 pages]

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Note the draft Complaints Policy which has been prepared following a comprehensive review of the policy in place since 2019 and was endorsed by Council at its meeting on 22 May 2024.*
- 2. Provide feedback on the content of the draft policy, for consideration by Council when it considers public submissions and finalises the policy for adoption.*

**RESOLVED UNANIMOUSLY**





**Item: 7.9**

**Risk Management: Review Council's Insurance program**

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

**OUTCOME/ACTION**

*That the Audit and Risk Committee*

- 1. Notes the Risk Management Report which provides a review of Council's insurance program.*
- 2. Recommends to Council that the one-year extension of the Insurance Broking and Risk Management Services Contract 0618/0626 with Jardine Lloyd Thompson be enacted.*

**RESOLVED UNANIMOUSLY**



**Item: 7.10**

**Risk Management: Review Council's Strategic Risks and the timeliness of mitigating actions and progress against plans**

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Risk Management Framework [adopted by Council on 25 October 2023] [7.10.1 - 25 pages]</li><li>2. Strategic Risk Register Template - Audit and Risk Committee - June 2024 [7.10.2 - 39 pages]</li></ol>

**OUTCOME/ACTION**

*That the Audit and Risk Committee notes Council's 19 updated strategic risks and the timeliness of mitigating actions and progress against plans.*

**RESOLVED UNANIMOUSLY**



**Item: 7.11**

**Internal Audit: Review and approve the three year strategic internal audit plan, the annual internal audit plan and any significant changes to them - Internal Audit Services Tender**

<b>OFFICER</b>	Lenny Jenner
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Contract 2425 Internal Audit Services Specifications Draft 230524 [7.11.1 - 6 pages]

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Notes that feedback received from independent members of the Audit and Risk Committee has been incorporated into the final tender specification.*
- 2. Notes this report and the attached final tender specification for Provision of Internal Audit Services includes:*
  - A contract period of three years with two one-year extensions, at the sole discretion of Council.*
  - A requirement for four audits and a time allocation of 550 hours per annum for Internal Audit Services.*
- 3. Recommends to Council an increase in funding in the draft 2024-25 budget to accommodate an increased number of annual audits (from three to four per annum) and allocated hours (from 450 to 550 per annum).*

4. *Nominates the involvement of Audit and Risk Committee members to join representatives of the Executive Management Team on the Tender Evaluation Panel.*
  
5. *Notes that a Tender Evaluation Report will be provided to the ARC seeking its recommendation prior to consideration by Colac Otway Shire Council at its 26 July 2024 Ordinary meeting.*

**RESOLVED UNANIMOUSLY**

Unconfirmed



**Item: 7.12**

**Internal Audit Plan Delivery - Progress Update -  
Procurement, Workplace Health and Safety, Delegations  
and Authorisations, Property Management and Cyber  
Security**

<b>OFFICER</b>	Andrew Tenni
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. COS Internal Audit Implementation Roadmap Tracking Register - ARC 6 June 2024 [7.12.1 - 6 pages]</li><li>2. Internal Audit Plan Update MAY 2024 [7.12.2 - 3 pages]</li></ol>

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

1. *Notes the progress on the recommendations from completed internal audits to date.*
2. *Notes the status of the Internal Audit Plan.*

**RESOLVED UNANIMOUSLY**



**Item: 7.13**

**Review Council's Fraud and Corruption Control Policy,  
Control plan and Staff guide**

<b>OFFICER</b>	Lenny Jenner
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Fraud and Corruption Control Framework [adopted by Council on 25 October 2023] [7.13.1 - 32 pages]

**OUTCOME/ACTION**

***That the Audit and Risk Committee:***

- 1. Notes the progress of Fraud and Corruption Prevention Awareness training delivery.***
- 2. Recommends that the Fraud and Corruption Control Framework be reviewed in August 2025 to meet Audit and Risk Committee Charter requirements.***

**RESOLVED UNANIMOUSLY**



**Item: 7.14**

**Aged Care Quality and Safety Commission - Performance Report**

<b>OFFICER</b>	Ian Seuren
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Performance Report – 4 April 2024 Plan for Continuous Improvement – 1 May 2024

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Notes the findings of the Aged Care Quality and Safety Commission Performance Report of Council's Older Persons and Ability Support Services.*
- 2. Notes the Continuous Improvement Plan prepared to address the findings of the Aged Care Quality and Safety Commission Performance Report.*

**RESOLVED UNANIMOUSLY**



**Item: 7.15**

**Review of Compliance with Responsibilities under the General Environmental Duty of the Environment Protection Act 2017**

<b>OFFICER</b>	Doug McNeill
<b>GENERAL MANAGER</b>	Doug McNeill
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	1. General Environmental Duty - EPA Publication [7.15.1 - 41 pages] 2. Accounts Payable Scope DRAFT [7.15.2 - 3 pages]

**OUTCOME/ACTION**

*That the Audit and Risk Committee:*

- 1. Notes that Council will suspend its audit of 'Compliance with Environment and Waste Management Legislative Requirements' and instead engage Moore Australia to complete an internal audit of 'Accounts Payable' controls.*
- 2. Notes that Council will engage a suitable consultant, in 2024, to assist in undertaking an assessment of Council's environmental based risks, with an emphasis on the responsibilities of the General Environmental Duty under the Environment Protection Act 2017, and to developing action plans that respond to these risks.*
- 3.*
- 4. Notes that the assessment of Council's environmental based risks will be reported to the Audit and Risk Committee meeting in March 2025.*
- 5.*
- 6. Notes that Moore Australia has indicated it can complete the internal audit of 'Accounts Payable' by 30 June 2024 under their current contract.*
- 7.*



8. *Endorses the scope of the proposed 'Accounts Payable' Internal Audit that incorporates feedback from ARC members.*

**RESOLVED UNANIMOUSLY**

Unconfirmed



**Item: 7.16**

**Meeting Schedule: Review Audit and Risk Committee 2024 Work Plan**

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. 2024 ARC Work Plan [7.16.1 - 2 pages]</li><li>2. 2024 ARC Work Plan - For 6 June 2024 [7.16.2 - 2 pages]</li><li>3. ARC Meeting Resolutions and Actions - 7 December 2022 - 5 June 2024 [7.16.3 - 5 pages]</li></ol>

**OUTCOME/ACTION**

***That the Audit and Risk Committee:***

- 1. Notes the updated 2024 Audit and Risk Committee Work Plan at Attachment 1.***
- 2. Notes the items listed in the 2024 Audit and Risk Committee Work Plan for the 22 August 2024 meeting.***
- 3. Notes the Audit and Risk Committee resolutions and actions since 7 December 2022 at Attachment 3.***

**RESOLVED UNANIMOUSLY**

*The meeting was declared closed at 11.06am*

**CONFIRMED AND SIGNED** at the meeting held on 22 August 2024.

.....CHAIR

Unconfirmed



**CLOSED SESSION COUNCIL MEETING**

**MINUTES**

**CONFIDENTIAL**

**Thursday 6 June 2024**

**at 11.10 AM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**COLAC OTWAY SHIRE  
CLOSED SESSION AUDIT AND RISK COMMITTEE MEETING**

**Thursday 6 June 2024**

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Unconfirmed

**COLAC OTWAY SHIRE COUNCIL  
CLOSED SESSION COUNCIL MEETING**

MINUTES of the **CLOSED SESSION AUDIT AND RISK COMMITTEE MEETING OF THE COLAC OTWAY SHIRE**  
held at COPACC on Thursday 6 June 2024 at 11.10 AM.

**MINUTES**

**1 PRESENT**

Melissa Field (Chair)  
Richard Trigg  
John Gavens  
John Sutherland  
Cr Max Arnott

Anne Howard , Chief Executive Officer  
Andrew Tenni, General Manager, Corporate Services  
Doug McNeill, General Manager, Infrastructure & Operations  
Ian Seuren, General Manager, Community & Economy  
Lenny Jenner, Manager, Governance  
Natasha Skurka, Risk and Insurance Officer

**2 APOLOGIES**

Cr Margaret White (Mayor)

**3 DECLARATIONS OF INTEREST**

Ian Seuren - General Manager Community and Economy - declared a general conflict of interest for item no 4.1 - Aged Care Service Review as he has family members receiving care through Council's aged care services.



**Item: 4.1**

**Aged Care Service Review**

<b>OFFICER</b>	Andrew Tenni
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Best Value Review of Aged and Disability Services - Agenda Council Meeting - Closed Session 22 May 2 [4.1.1 - 14 pages]

This report has been prepared as a confidential report, having considered section 3 of the *Local Government Act 2020* because it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

**OUTCOME / ACTION**

***That the Audit and Risk Committee:***

- 1. Notes the update on Council's review of Aged and Disability Services.***
- 2. Notes the risks identified and to be managed by Council in meeting the Commonwealth reforms.***

**RESOLVED UNANIMOUSLY**

*The meeting was declared closed at 11.27am*

**CONFIRMED AND SIGNED** at the meeting held on 22 August 2024.

.....CHAIR

Unconfirmed



## Item: 9.22

# 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 Record - Council Meeting Preparation 26 June 2024 [9.22.1 - 4 pages]</li> <li>2. Colac saleyards advisory committee - Informal Meeting of Councillors Record - 27 June 2024 [9.22.2 - 1 page]</li> <li>3. Informal Meeting of Councillors Record - Councillor Briefing 3 July 2024 [9.22.3 - 2 pages]</li> <li>4. Lake Colac Advisory Committee Meeting - Informal Meeting of Councillors Record - 5 July 2024 [9.22.4 - 1 page]</li> <li>5. Informal Meeting of Councillors - Councillor Briefing 10 July [9.22.5 - 2 pages]</li> <li>6. Informal Meeting of Councillors - Pre Planning 10 July [9.22.6 - 2 pages]</li> <li>7. Informal Meeting of Councilors - Councillor Briefing Meeting 17 July 2024 [9.22.7 - 3 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. Council Meeting Preparation</b>	<b>26 June 2024</b>
<b>2. Colac Saleyards Advisory Committee Meeting</b>	<b>27 June 2024</b>
<b>3. Councillor Briefing</b>	<b>3 July 2024</b>
<b>4. Lake Colac Advisory Committee Meeting</b>	<b>5 July 2024</b>
<b>5. Councillor Briefing</b>	<b>10 July 2024</b>
<b>6. Pre Planning Committee Meeting</b>	<b>10 July 2024</b>
<b>7. Councillor Briefing</b>	<b>17 July 2024</b>

### 4. KEY INFORMATION

The following Informal Meetings of Councillors have been held and are attached to this report:

<b>1. Council Meeting Preparation</b>	<b>26 June 2024</b>
<b>2. Colac Saleyards Advisory Committee Meeting</b>	<b>27 June 2024</b>
<b>3. Councillor Briefing</b>	<b>3 July 2024</b>
<b>4. Lake Colac Advisory Committee Meeting</b>	<b>5 July 2024</b>
<b>5. Councillor Briefing</b>	<b>10 July 2024</b>
<b>6. Pre Planning Committee Meeting</b>	<b>10 July 2024</b>
<b>7. Councillor Briefing</b>	<b>17 July 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

### Councillor Prep Meeting

**Date:** 26 June 2024

**Time:** 2.00pm

**Meeting Location:** Meeting Rooms 1 and 2, 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, Cr Max Arnott, Anne Howard, Andrew Tenni, Doug McNeill, Ian Seuren, Kendrea Pope, Xaiver Flanagan, Toni Uphill, Darcy Lambert, Fiona Maw
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>

**Meeting Commenced at:** 2.04pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Graham Costin	Item 9.7 – Colac Otway Shire Grants Program 2024-2025 – Allocation of Funds for Events Grants	Material	Gift towards election
Cr Chris Potter	Item 9.2 – Adoption of 2024-25 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre	General	Member of Bluewater Centre
Cr Kate Hanson	Item 9.2 – Adoption of 2024-25 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre	General	Member of Bluewater Centre



Name	Type of Disclosure	Item	Reason
Cr Tosh-Jake Finnigan	Item 9.3 – Adoption of 2024-25 Budget – Endorsement of Fees and Charges for Local Laws and Community Services	General	Family member benefitting from OPASS services
Andrew Tenni	Item 9.2 – Adoption of 2024-25 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre	General	Member of Bluewater Centre
Ian Seuren	Item 9.6 – Colac Otway Shire Grants Program 2024-2025 – Allocation of Funds for Community Grants	General	Member of community group.
Cr Max Arnott	Item 9.7 – Colac Otway Shire Grants Program 2024-2025 – Allocation of Funds for Events Grants	General	Member of Board for Foundation



Council Prep Meeting – 26 June 2024 (continued)		
Time	Item	Lead Report Author
2.06pm -	Item No 9.1 - Project Budget Adjustments and Cash Reserve Transfers - June 2024  2.08pm – Cr Arnott attended the meeting	Paula Gardiner
2.26pm	Item No 9.2 - Adoption of 2024-25 Budget - Endorsement of Fees and Charges for Bluewater Leisure Centre No questions	Xavier Flanagan
2.32pm	Item No 9.3 - Adoption of 2024-25 Budget - Endorsement of Fees and Charges for Local Laws and Community Services  Cr Finnigan left the meeting due to a conflict of interest and returned to the meeting at 2.31pm after discussion had taken place	Xavier Flanagan
2.41pm	Item No 9.5 - Adoption of Annual Action Plan 2024-25 No questions	Lenny Jenner
2.42pm	Item No 9.6 - Colac Otway Shire Grants Program 2024-2025 - Allocation of Funds for Community Grants No questions	Katrina Kehoe
2.43pm	Item No 9.7 - Colac Otway Shire Grants Program 2024-2025 - Allocation of Funds for Events Grants General questions on the way the grants are allocated at the procedure	Katrina Kehoe
2.44pm	Item No 9.8 - Colac Otway Shire Grants Program 2024-2025 - Allocation of Funds for Business Grants General questions	Katrina Kehoe
2.45pm	Item No 9.9 - Colac Otway Flood Overlays Amendment No questions	Simon Clarke
2.46pm	Item No 9.10 - C130cola - Geelong Cemeteries Trust Planning Scheme Amendment - 122 Forest Street, Colac No questions	Simon Clarke
	Item No 9.11 - Purchase of part of the surplus land to the Lake Colac School for road reserve to implement the Colac West Development Plan <b>WITHDRAWN</b>	Simon Clarke
2.47pm	Item No 9.12 - Draft Colac Botanic Gardens Master Plan  Cr Hart asked questions	Cameron Duthie
2.54pm	Item No 9.13 - Barwon Tennis Strategy 2024 - 2034 - Final Report No questions	Nicole Frampton



2.55pm	Item No 9.14 - Proposed Colac CBD Speed Limit Changes General questions	Kanishka Gunasekara
3.00pm	Item No 9.15 - Contract 0618/0626 - Insurance Broking and Risk Management Services - Activation of 1 year extension  Cr Hart, Cr Costin asked questions	Natasha Skurka
3.03pm	Item No 9.16 - Audit and Risk Committee Biannual Report  Cr Arnott provided information	Melissa Field
3.05pm	Item No 9.17 - Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - Danielle Brown No questions	Janine Johnstone
3.06pm	Item No 9.18 - Revocation of Authorised Officer under the Planning and Environment Act 1987 - Doug McNeill  Cr Hart asked for heading of item to clarified	Lenny Jenner
3.07pm	Item No 9.19 - Revocation of Authorised Officer under the Planning and Environment Act 1987 - Ravi Teja Ayyagari No questions	Belinda Rocka
3.08pm	Item No 9.20 - Report of Informal Meeting of Councillors No questions	Council Business
3.10pm	Break	
3.11pm	Item No 10.1 - Recission Motion relating to the Future Commitment to G21 General questions	Cr Hanson Louise Harvey
3.10pm	Item No 10.2 - .G21 Spring Street Delegation Report No questions	Cr Potter Louise Harvey
3.44pm	Item No 9.4 - Adoption of Colac Otway Shire Budget 2024-25 Questions from Cr Costin, Cr Arnott & Cr Hart  Cr Kate Hanson attended the meeting Cr Finnigan left the meeting due to a conflict of interest – returned to the meeting at 3.50pm after discussions had taken place	Xavier Flanagan
3.53pm	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 Soleyards Advisory Committee

Date: Click or tap to enter a date. 27.6.24 Time: 11 am / pm

Meeting Location: Colac Regional Soleyards

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

Matter/s Discussed: Closure of Camperdown Soleyards, ~~at~~ day of Fat Sale,

Advertising in Colac Herald, Invitation of outside agents, future proofing & budget

(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:**

<b>Councillors:</b>
<p style="font-size: 1.2em; color: blue;">CV Tosh Finnigan</p>
<b>Officers:</b>
<p style="font-size: 1.2em; color: blue;">Glenn Fraser, Laurie Sharp, Tamara Bateman &amp; Fiona Maw</p>

**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:   Selinda Becker



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 3 July 2024

**Time:** 1.00pm

**Meeting Location:** Meeting Rooms 1 and 2, 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, Steven O'Dowd, Doug McNeill, Ian Seuren,
<b>Attendees:</b>
Cr Graham Costin (videoconference), Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Steven O'Dowd, Doug McNeill, Ian Seuren, Helen Evans, Blaithin Butler, Vikram Kumar, Rhassel Mhasho, Mike Summerell
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Cr Kate Hanson, Cr Max Arnott
<b>Absent:</b>

**Meeting Commenced at:** 12.58pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Stephen Hart	General	1.4 Priority Projects – Lavers Hill & Melba Gully Trail Plan	May affect residential amenity





<b>Council Briefing Meeting – 3 July 2024 (continued)</b>		
<b>Time</b>	<b>Item</b>	<b>Attendees</b>
1.00pm – 1.22pm	1.1 - Use and Development of a Special Class Broiler Farm, Use and Development of 4 Dwellings and associated works at 320 Mooleric Road Birregurra PP159/2023-1	Helen Evans Blaithin Butler
1.22pm – 1.38pm	1.2 - PP139/2023-1 - 173 Hart Street Colac - Use and Development of a Childcare Centre	Vikram Kumar Blaithin Butler
1.38pm – 2.00pm	1.3 - PP71/2024-1- 245 Deans Creek Road Elliminyt - Use and Development of a Dwelling	Vikram Kumar Blaithin Butler
2.00pm – 2.24pm	Councillor Only Time	
2.24pm – 3.30pm	Priority Projects Advocacy - CEO discussed projects and all Councillors agreed to endorse the ones shown on the PowerPoint Presentation  Cr Hart left the meeting at 3.11pm due to a conflict of interest re: Lavers Hill & Melba Gully Trail Plan and returned to the meeting at 3.15pm	
3.30pm – 3.43pm	General Business – Discussion held on: <ul style="list-style-type: none"> <li>• Cinema Lease</li> <li>• Council Art Collection – Cr Costin – Ian in a register somewhere</li> <li>• Walker City Clock should be displayed – Cr Hart</li> </ul>	
FIO	Regional Recycling Tender	
3.43pm	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: Lake Colac Advisory Committee Meeting

Date: Click or tap to enter a date. 05-07-24 Time: 11 am / pm

Meeting Location: Copacc meeting Room 1

(eg. COPACC; Colac Otway Shire Offices – 2-6 Rae Street, Colac; Shire Offices – Nelson Street, Apollo Bay)

Matter/s Discussed: Safe Transport vic Presentation, Colac Botanic Gardens Master Plan, LCAC TOR

(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:**

<b>Councillors:</b>
(V) Tosh Finnigan
<b>Officers:</b>
Ian Seuren, Jarrod Woff, Cameron Duthie & Belinda Becker

**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 Becker



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 10 July 2024

**Time:** 1.00pm

**Meeting Location:** Meeting Rooms 1 and 2, 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, Steve O'Dowd, Paula Gardiner, Ian Seuren, Mike Summerell
<b>Attendees:</b>
Cr Graham Costin, Cr Kate Hanson(videoconference), Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Steve O'Dowd, Paula Gardiner, Ian Seuren, Mike Summerell
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>
Cr Tosh-Jake Finnigan

**Meeting Commenced at:** 1.06pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
NIL			



<b>Council Briefing Meeting – 10 July 2024 (continued)</b>		
<b>Time</b>	<b>Item</b>	<b>Attendees</b>
1.07pm – 1.34pm	1.1 – Safe Local Roads and Streets Program – Potential Projects	Kanishka Gunasekara Paula Gardiner
1.34pm – 1.42pm	1.2 – Consideration of Submissions – Propose Change to Speed Limit in Kennett River	Kanishka Gunasekara Paula Gardiner
1.42pm – 1.45pm	1.3 – Lake Colac Advisory Committee – Draft Terms of Reference	
1.45pm – 1.55pm	General Business	
1.55pm – 2.01pm	Break	
2.01pm – 2.43pm	Planning Committee Meeting Preparation	
2.43pm – 3.00pm	Councillor Only Time	
3.01pm – 4.16pm	Submissions Committee Meeting  Adjournment at 4.16pm to commence Planning Committee Meeting.	
4.35pm – 5.40pm	Meeting recommenced at 4.35pm	
4.18pm – 4.20pm	Planning Committee Meeting  Adjournment at 4.20pm to return to the Submissions Committee Meeting.	
5.49pm – 6.40pm	Meeting recommenced at 5.49pm.	
FIO	1.4 – Geelong Regional Library Corporation – CEO Report	
FIO	1.5 – Amy's Gran Fondo Cycling Event 2024	
6.40pm	Meeting Closed	



## Informal Meeting of Councillors Record

### Pre-Planning Meeting Preparation

**Date:** 10 July 2024

**Time:** 2.30pm

**Meeting Location:** Meeting Rooms 1 and 2, 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, Steven O'Dowd, Paula Gardiner, Ian Seuren, Mike Summerell
<b>Attendees:</b>
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Steven O'Dowd, Ian Seuren, Mike Summerell, Paula Gardiner, Blaithin Butler, Darren Rudd, Vikram Kumar
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>
Cr Tosh-Jake Finnigan

**Meeting Commenced at:** 2.01pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
NIL			



<b>Pre Planning Committee Meeting – 10 July 2024 (continued)</b>		
<b>Time</b>	<b>Item</b>	<b>Attendees</b>
2.01pm – 2.43pm	<p>Planning Committee Meeting Preparation</p> <p>Item 7.1 – PP71/2024-1 - 245 Deans Creak Road, Elliminyt – Use and Development of a Dwelling</p> <p>Cr Kate Hanson attended the meeting at 2.28pm</p>	<p>Vikram Kumar</p> <p>Darren Rudd</p> <p>Blaithin Butler</p>
2.43pm	Meeting Closed	



## Informal Meeting of Councillors Record

**Councillor Briefing**

**Date:** 17 July 2024

**Time:** 12.30pm

**Meeting Location:** Meeting Rooms 1 and 2, 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, Steve O’Dowd, Doug McNeill, Ian Seuren, Mike Summerell
<b>Attendees:</b>
Cr Graham Costin (videoconference), Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter (videoconference), Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Steve O’Dowd Doug McNeill, Ian Seuren, Cameron Duthie, Rowan Mackenzie, Rhassel Mhasho, Simon Hunnam, Jarrod Woff, Fiona Maw, Maddison Harty, James McDonald (videoconference), James Myatt, Nicole Frampton, Lyndal McLean, Kendrea Pope, Janine Johnstone
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>

**Meeting Commenced at:** 12.39pm

**Declarations of Interest:**

Name	Type of Disclosure	Item	Reason
NIL			



<b>Council Briefing Meeting – 17 July 2024 (continued)</b>		
<b>Time</b>	<b>Item</b>	<b>Attendees</b>
12.41pm – 12.49pm	Item No 1.1 - Award of Contract 2304 - Cleaning Services	Cameron Duthie
12.49pm – 12.51pm	Item No 1.2 - Internal Audit Tender Assessment Report	Mike Summerell
12.51pm – 1.04pm	Item No 1.3 - Designation of Apollo Bay Bushfire Place of Last Resort	Rowan Mackenzie Rhassel Mhasho Simon Hunnam
1.04pm – 1.12pm	<b>General Business</b> Change of Mayoral Election to 20 November 2024 – re declaration of Council Election – Anne Howard Lease matter – SES resolution set in 2018 of \$150 per year for lease, MAV have set \$1 per year – SES wish change to this lease – new resolution will be needed – Anne Howard	
1.12pm – 1.23pm	Item No 1.4 - Lake Colac Perimeter Path Feasibility Study	Jarrod Woff
1.23pm – 1.54pm	Item No 1.5 - Events in Lake Colac  <i>1.24pm – Cr Kate Hanson attended the meeting</i>	Fiona Maw Maddison Harty James McDonald (videoconference)
1.54pm – 2.34pm	Councillor Only Time	
2.34pm – 2.58pm	Item No 1.6 – Public Submissions- Discussion Paper – Visitor Serving Review	James Myatt
2.58pm – 3.13pm	Item No 1.7 - Elliminyt Pavilion Designs	Nicole Frampton Jarrod Woff Lyndal McLean
3.13pm – 3.42pm	Election Period Policy (from Exhibition) (distributed outside the agenda)	Kendrea Pope Janine Johnstone
3.42pm – 3.54pm	Item No 1.8 - Priority Projects and Advocacy	Anne Howard
3.55pm – 4.13pm	<b>General Business</b>  Local Halls – Can they op into the scheme called small sites for electricity that Council have but still pay for their own electricity? Cr Stephen Hart	





**Council Briefing Meeting – 17 July 2024 (continued)**

	<p>Anne Howard – yes, they can</p> <p>Ian Seuren- Lake Colac Holiday Park able to complete the works from their Master Plan without having to close the park for a period as first thought – meeting to be held on Monday and will report back with further information.</p> <p>Cr Stephen Hart – Is the rent for the long-term tenants still the same? Ian Seuren – Yes, still the same as per lease agreement</p> <p>Cr Costin - Presentation – Grounded Housing Development – Date? – TBA – Hoping Childcare will be considered in this plan.</p> <p>Cr Costin - Colac Central Precinct Plant – Timeframe of when coming to Council. Ian Seuren – 28 August 2024 Council Meeting</p> <p>Cr Costin - Letters from Bendigo Bank have sent to Council twice regarding flooding of building – drains etc – no response received yet. Taken on notice – Doug O’Neill.</p> <p>Anne Howard - Regional Partnerships – report to Council Meeting closed session 24 July 2024.</p> <p>Anne Howard - Lease Cinema – will be discussed at a closed session at Council Meeting 24 July 2024.</p>	
FIO	Item No 1.9 - Local Government Liability and Commercial Crime Insurance Renewal	
4.13pm	Meeting Closed	

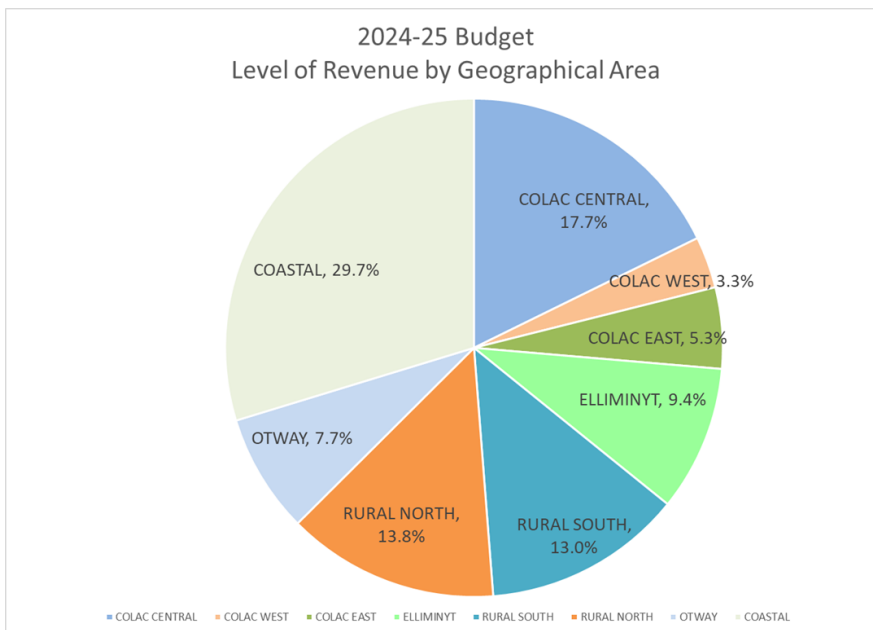
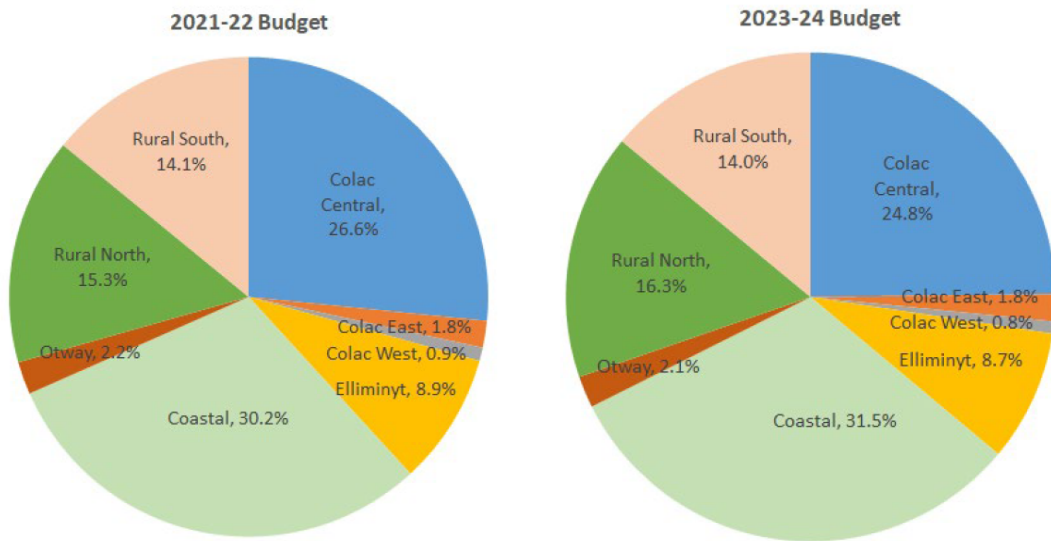
Item: 9.23

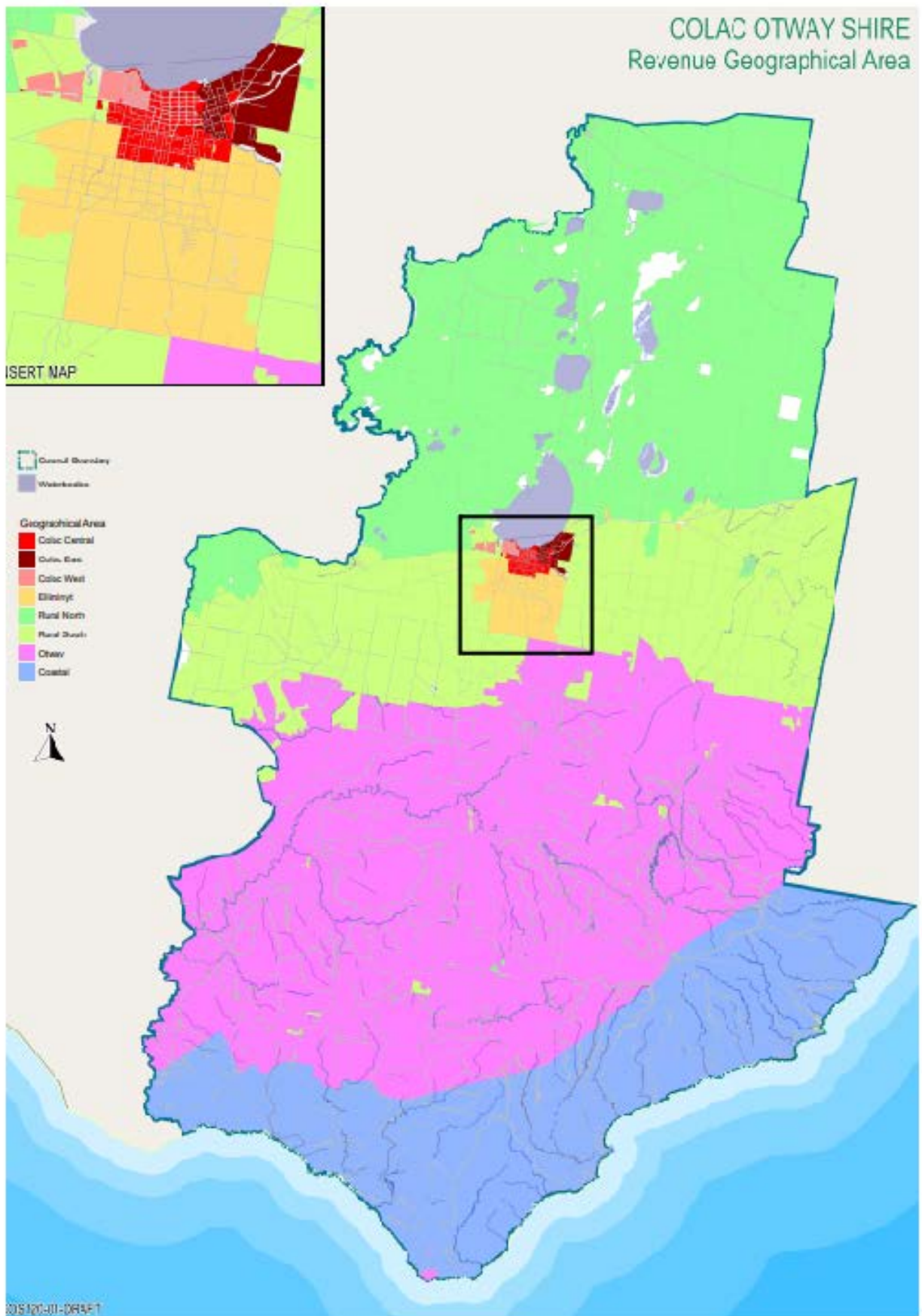
## Rate Revenue by Geographic Area 2023-24 and 2024-25

<b>OFFICER</b>	Xavier Flanagan
<b>ACTING GENERAL MANAGER</b>	Steve O'Dowd
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	1. Level of Rate Revenue by Geographic Area [9.23.1 - 2 pages]

The attached information is tabled in accordance with Council resolution of 26 April 2023.

**Level of Rate Revenue by Geographic Area**





## 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 22 May 2024</i></b>	This matter deals with confidential meeting information, being records of meetings closed to the public under section 66(2)(a).	Section 3(1)(h)
<b><i>Cinema Lease</i></b>	This matter deals with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released	Section 3(1)(a)
<b><i>rPPP Project update</i></b>	This matter deals with land use planning information, being information that if prematurely released is likely to encourage speculation in land values	Section 3(1)(c)