



Colac Otway
SHIRE

COUNCIL MEETING

AGENDA

Wednesday 26 July 2023

at 4:00 PM

COPACC

95 - 97 Gellibrand Street, Colac

Next Council Meeting: 23 August 2023



COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 26 July 2023

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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 COPACC on Wednesday 26 July 2023 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

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.

As stated in the Governance Rules, 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.

This meeting will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at 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 24 July 2023. 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 24 July 2023.
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 Wednesday 28 June 2023.**
- **Unscheduled Council Meeting held on Wednesday 5 July 2023.**

RECOMMENDATION

That Council confirm the minutes of the Council Meeting held on Wednesday 28 June 2023 and the minutes of the Unscheduled Council Meeting held on Wednesday 5 July 2023.

Item: 9.1

Old Coach Road - Boom Gate Trial

OFFICER	Brendan Walsh
GENERAL MANAGER	Heath Chasemore
DIVISION	Infrastructure and Operations
ATTACHMENTS	Nil

1. PURPOSE

To seek a resolution to conclude the trial of self-closing gates on Old Coach Road Skenes Creek and remove the gates and supporting infrastructure.

2. EXECUTIVE SUMMARY

At the March 2021 Council Meeting, Council resolved to conduct a trial of self-closing gates on Old Coach Road Skenes Creek to address traffic and amenity concerns. Council made this decision based on indicative costs of around \$15,000 for supply and installation plus some ongoing maintenance costs.

The gates were installed and were operational from February 2022. Since that time, the gates have suffered from a range of issues, most recently ongoing vandalism, which has resulted in high ongoing management costs and consistent periods where the northern gate has been inoperable. To date Council has spent nearly \$44,000 on the gates, including \$13,000 on vandalism repair.

Recent traffic counts, conducted when the gates were not operational, indicate a significant decrease in the amount of traffic using Old Coach Road. Officers believe that the reduction in traffic on Old Coach Road is primarily because road works on other roads have concluded and drivers are no longer using this road as a convenient alternative. It is further noted that even when the gates were inoperable the traffic volumes remained relatively low.

Based on the reduced traffic volume and the challenges regarding operations and maintenance costs, Officers are recommending that the trial of the self-closing gates is concluded and the gates and supporting infrastructure are removed.

This trial and associated actions were the result of long running and extensive community engagement. It is important that the community is made aware of this decision including the factors considered as part of the decision-making process.

In addition, officers will prepare a proposal to be submitted to the Department of Transport for approval to provide additional signage near the corner of Skenes Creek Road and Old Coach Road to discourage use of Old Coach Road.

3. RECOMMENDATION

That Council:

- 1. Notes that the traffic volumes along Old Coach Road have significantly reduced, including extended periods where the gates were inoperable.**
- 2. Determines that the trial of the self-closing gates at Old Coach Road Skenes Creek is concluded and that the self-closing gates and supporting infrastructure removed.**
- 3. Retains the gates and salvageable infrastructure and explores potential alternative uses or disposal opportunities.**
- 4. Liaises with the Department of Transport and Planning regarding options to discourage use of the road by non-local traffic.**
- 5. Advises residents of this decision.**

4. KEY INFORMATION

At the March 2021 Council meeting, Council resolved to conduct a trial of self-closing gates on Old Coach Road Skenes Creek to address traffic and amenity concerns. The resolution included the following recommendations specifically in relation to the self-closing gates:

- Install two unlocked, self-closing gates with affixed signage (e.g: slow down – automatic gate) in the vicinity of the Council Depot area in the north and the Barwon Water tanks in the south for a period of one year as a trial;
- Monitor and assess the trial, including installation of traffic counters;
- Report the results of the trial to a Council Meeting, following the conclusion of the trial.

Initial cost estimates for supply & install of 2 gates and new signage were approximately \$10,000 - \$15,000, with any vandalism and maintenance to be funded from existing recurrent budgets.

The boom gates were installed and were operational from February 2022, total project cost for the supply, installation and associated civil works was \$30,759.

The northern boom gate has been subject to vandalism on multiple occasions, each time resulting in long periods of the gate not being operational and then subsequent repairs. A timeline of recent repairs is provided below:

- August 2022 – Boom gates repaired – damaged sensor

- December 2022 – Boom gate repaired – damaged gate arm and barrier control box
- March 2023 – Boom gate repaired – damaged sensor, bent boom arm (image provided below)
- March 2023 – Gate arm again vandalised (image provided below).

These maintenance and vandalism interventions have cost Council a further \$13,062, bringing the total cost of the trial close to \$44,000.





It should be noted that, prior to the most recent vandalism event, Officers installed fixed motion detection cameras at the site, including associated “AREA UNDER SURVEILLANCE” signage. Unfortunately this did not deter the vandals and the camera did not collect any evidence that could be used to identify the person/s that broke through the gate.

Traffic Volumes have declined significantly since April 2021, daily traffic counts were averaging 89.2 vehicles per day, and have reduced to 5.1 vehicles per day in March 2023 for north bound traffic. South Bound traffic has decreased from 30.1 to 2.8 vehicles per day over the same period.

The below table provides data on the traffic volumes and collection dates of vehicles using Old Coach Road:

Collection Period	Average Daily Traffic – North Location (South Bound)	Average Daily Traffic – South Location (North Bound)
1 April 2021 – 26 April 2021	89.2	30.1
31 March 2022 – 26 April 2022	50	3.6
1 December 2022 – 15 December 2022	7.0	5.1
14 March 2023 – 28 March 2023	5.1	2.8

It should be noted that the northern self-closing gate was not operational during either of these most recent data capture periods.

Officer recommendation – Option 1

Remove both gates and conclude the trial.

This option acknowledges that the costs associated with the ongoing management of the self-closing gates is likely to continue and is not sustainable.

As part of this option the southern gate would continue to remain operational in the short term. Officers will look for opportunities to either re-use or sell the gate infrastructure to help offset some of the costs incurred as part of this trial.

As part of the decommissioning of the gates Officers will develop a signage proposal for the approval of the Department of Transport to provide additional signage near the corner of Skenes Creek Road and Old Coach Road to discourage use of Old Coach Road.

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)

Local Government Act 2020

Local Government Act 1989

Road Management Act 2004

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

There are no known environmental or sustainability issues in relation to this recommended land status change.

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

Council has had a strong record of engagement with the community over a number of years as part of this project. This included response to a community led petition, multiple community surveys and individual correspondence with concerned residents. This engagement led to the Council resolution regarding the trial of the self-closing gates.

Recent community engagement has been limited to individual correspondence with two concerned residents who have been vital in the reporting of damage and providing updates regarding the gates operation. These residents have been advised that a decision regarding the future of the gates would be considered through a formal Council Meeting.

Public Transparency (s58 LGA 2020)

The implementation and outcomes of this trial will be communicated to stakeholders, residents and the local community.

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

Financial Management (s101 Local Government Act 2020)

The proposed recommendation is put forward here to avoid further costs associated with the ongoing management of the self-closing gates. It is clear that there is an ongoing risk of vandalism with these

gates and this, combined with annual servicing costs, will result in an unreasonable level of expenditure in addressing a problem of this scale.

If the recommendation is endorsed then Officers will look at opportunities to either reuse or sell the existing gate infrastructure and control systems to recoup some of the costs incurred in administering this trial.

Service Performance (s106 Local Government Act 2020)

This is generally not applicable as there is no change to available service of the use of Old Coach Road, Skenes Creek.

However, a service performance principle states that quality and costs standards for services set by the Council should provide good value to the municipal community. Following the trial it is clear that the costs associated with the management of the gates is not providing good value to the broader community.

Risk Assessment

The self-closing gates were installed following a concern that local residents had with increased traffic volumes using Old Coach Road.

Recent traffic volumes, taken over two recent time periods, shows that this risk has substantially reduced with lower traffic volumes. It should be noted that the northern self-closing gate was not operational during either of these most recent data capture periods.

Communication/Implementation

Council should immediately notify impacted residents of the decision to conclude the trial and remove the gates. This information should be in writing.

Human Rights Charter

No persons human rights have been diminished or effected by the material facts contained in 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 - Remove both gates and conclude the trial.

This option acknowledges that the costs associated with the ongoing management of the self-closing gates is likely to continue and is not sustainable. As part of this option the southern gate would continue to remain operational in the short term. Officers will look for opportunities to either re-use or sell the gate infrastructure to help offset some of the costs incurred as part of this trial.

As part of the decommissioning of the gates Officers will develop a signage proposal for the approval of the Department of Transport to provide additional signage near the corner of Skenes Creek Road and Old Coach Road to discourage use of Old Coach Road.

This option is recommended by Council officers.

Option 2 - Repair northern gate and continue with the operation of two gates.

This option would cost approximately \$6,000 to repair the northern gate to an operational standard. In addition there would be ongoing costs for future maintenance and vandalism of both gates.

This option is not recommended by Council officers.

Option 3 - Replace northern gate with a more robust, vandalism resilient gate, potentially relocated, and include enhanced site surveillance / security. Continue to operate two gates.

This option acknowledges that ongoing vandalism is likely and that it would be sensible to provide a more robust northern gate rather than continuing to repair the existing standard gate. This option also identifies the need for on-site surveillance to help protect the infrastructure. This option has not been fully costed but it would be expected to cost in the order of \$30,000 – \$50,000.

This option is not recommended by Council officers.

Item: 9.2

Lake Colac Holiday Park - Contract Management Agreement

OFFICER	James Myatt
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	Nil

1. PURPOSE

To seek approval of a two-month contract management extension for Lake Colac Holiday Park.

2. EXECUTIVE SUMMARY

Council released an Expression of Interest (EOI) for the lease of the Lake Colac Holiday Park, which closed to submissions on 5 May 2023. The current contract management agreement with BelgraviaPRO for the site expires on 30 September 2023. It was the intention to have a new lease in place prior to 30 September 2023 to allow for uninterrupted tourism accommodation provision on the site.

The post-submission EOI process is still occurring, and whilst Council aims to resolve the process soon, a contract management extension would provide surety that the park would be operational through upcoming public holiday periods during October and November and allow forward bookings to be taken for that period.

Therefore, approval is sought for a two-month contract management extension with BelgraviaPRO for the Lake Colac Holiday Park, with either party able to end the agreement early by giving four weeks written notice, or by mutual agreement, to ensure the site remains open through October and November 2023.

3. RECOMMENDATION

That Council:

- 1. Authorises the Chief Executive Officer to execute a two-month extension to the agreement with BelgraviaPRO for the management of the Lake Colac Holiday Park, which will include an ability for either party to end the agreement early by providing four weeks written notice, or by mutual agreement.**
- 2. Notes a report will be presented to a future Council meeting to consider the outcome of the Lake Colac Holiday Park Lease Expression of Interest process.**

4. KEY INFORMATION

In 2022 Council undertook an Expression of Interest (EOI) process for the lease of the Lake Colac Caravan Park. The process didn't provide a suitable outcome for Council, so it was determined to enter into a short-term management arrangement with a suitable provider to ensure the park remained in operation.

Recently Council undertook a new EOI process for lease of the site, which is now known as Lake Colac Holiday Park, after resolving at its 22 February 2023 meeting to provide a financial contribution of up to \$500,000 to capital investment in long term infrastructure at the site.

Council entered into a short-term lease agreement with BelgraviaPRO for the Lake Colac Holiday Park from 27 January 2023 for 30 days. Council then entered into a contract management agreement for the site with BelgraviaPRO, currently from the 25 February 2023 until 30 September 2023.

BelgraviaPRO has been operating the park successfully since taking over the management in January 2023, and the park has received good visitation during this time.

The EOI process including the evaluation of submissions is still occurring and Council aims to finalise this process soon. However, should any lease negotiations take further time, a contract management extension would provide surety that the park would be operational through upcoming holiday periods during October and November, and in turn allow forward bookings to be taken for that period.

For the Lake Colac Holiday Park to continue to operate from 1 October 2023 until a new lease is established, an extension to the contract management agreement with BelgraviaPRO is required by resolution of Council (as per the resolution at the 22 February 2023 Council meeting). BelgraviaPRO have confirmed their interest in a two-month extension.

5. CONSIDERATIONS

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

The transparency of Council decisions, actions and information is to be ensured.

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)

Not applicable.

Public Transparency (s58 LGA 2020)

The decision to extend the management agreement with BelgraviaPRO would be made in an open forum by Council which demonstrates transparency in decision making to the community.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 4: Colac Otway Shire is a destination to visit

Financial Management (s101 Local Government Act 2020)

The management agreement enables Council to receive all revenue for the park which to date has covered the operational expenses associated with operating the facility.

Service Performance (s106 Local Government Act 2020)

Through the management the Lake Colac Holiday Park by BelgraviaPRO, the park is available to visitors to the region and offers an important accommodation option in the matrix of visitor accommodation.

Risk Assessment

Not applicable.

Communication/Implementation

If Council supports the recommendation to extend the management agreement, Council will enter into a contract management agreement extension with BelgraviaPRO at the earliest opportunity.

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 – Extend the management agreement with BelgraviaRPO for a period of two months.

This option is recommended as it would allow for the continuous provision of tourist accommodation at the Lake Colac Holiday Park until a new lease for the site is established, and forward bookings for upcoming holiday periods to be taken.

Option 2 – Do not extend the management agreement with BelgraviaPRO.

This option is not recommended as it may cause Lake Colac Holiday Park to close for a period until a new lease for the site is established. This option is not advised as the region, and Colac, has a shortage of tourist accommodation available which would be exacerbated should the park cease to operate. In addition, several permanent residents reside at the site, and alternative accommodation would need to be sought should the park close.

Item: 9.3

Declaration of Road - Reserve in Ricstan Court Elliminyt

OFFICER	Brendan Walsh
GENERAL MANAGER	Heath Chasemore
DIVISION	Infrastructure and Operations
ATTACHMENTS	Nil

1. PURPOSE

To seek a resolution to publish in the Government Gazette a notice to declare a Road Reserve at the end of Ricstan Court in Elliminyt.

This is in accordance with powers provided to Council as a Road Authority at Section 11 of the *Road Management Act 2004*.

2. EXECUTIVE SUMMARY

The area in Colac bounded by Hart Street, Ballagh Street, Main Street and Irrewillipe Road is a nominated area for future residential development. Council adopted Development Plan Overlay 2 (DPO2), including Area 5 which is the area identified above, on 7 November 2014.

An image showing DPO2 - Area 5 is provided in the body of this report. The development is designed to be accessed from Ballagh Street, Ricstan Court and Irrewillipe Road.

Developers are preparing to submit a planning permit for residential development within DPO2 – Area 5. To access the land to be developed they will need to open up and extend the current Ricstan Court, as considered by the adopted Development Plan.

To achieve this a small (80m²) parcel of land at the end of Ricstan Court, currently shown on the plan of subdivision as a 'Reserve for Municipal Purposes', will need to be converted into Road Reserve.

It should be noted that, this report is advising that Council will enact a previous decision made in 2014 in declaring the Road Reserve from the Development plan.

3. RECOMMENDATION

That Council:

- 1. Publish in the Government Gazette a notice to declare a road the Reserve at the end of Ricstan Court in Elliminyt as identified on plan of subdivision PS546963Q, pursuant to sections 11 of the Road Management Act 2004.***
- 2. Provide written communication to the residents of Ricstan Court and adjacent residents on Hart St to inform them of the change, including the long standing strategic planning informing development in this area.***

4. KEY INFORMATION

Council will shortly be receiving a planning application for subdivision of land in DPO2 – Area 5. This planning application will rely up on opening up and extension of Ricstan Court in Elliminyt.

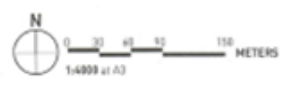
Council adopted DPO2, including Area 5, on 7 November 2014. This Development Plan shows future access occurring through Ricstan Crt. This Development Plan is shown on the following page:



- DETAILED KEY**
- DPO boundary
 - ▬ Existing land parcels retained for owner use
 - ▬ Existing house (& assoc. building) within the DPO boundary
 - ▬ Existing house (& assoc. building) outside of DPO boundary
 - ▬ Existing shed / outhouse
 - ▬ Existing lot boundaries
 - ▬ Existing local road network
 - ▬ Proposed local road network
 - ▬ Proposed access point
 - ▬ Potential access point
 - ▬ Proposed driveway
 - ▬ Pedestrian link
 - ▬ Proposed court bowl or similar
 - ▬ Existing vegetation not shown

**COLAC OTWAY
SHIRE**
 Approved Development Plan DPO2 Area 5
 Sheet 1 of 1
 Date 22/2/2023
 Council Officer 

7 November 2014 (Amended 22 February 2023)



A small parcel of land at the end of Ricstan Court, currently a 'Reserve for Municipal Purposes', will need have its status changed to Road Reserve for this development to occur. It should be noted that, according to approved Strategic Planning work, this section of land was always intended to be Road Reserve and this report enact the decision made in 2014.

Council officers sought, and received advice, on the appropriate process to be followed to change the status of this land. The advice was received from the Public Land Consultancy.

Council has powers under Section 11 of the *Road Management 2004* to declare a road under the Act over any land owned by it as a Road Authority (with some exceptions, none of which apply in this instance).

Council officers sought, and received advice, on the appropriate process to be followed to change the status of this land. The advice, received from The Public Land Consultancy, is as follows:

This can be achieved through gazettal of a notice pursuant to section 11 of the Road Management Act 2004. Council is a road authority and the owner of the land, therefore section 11(1)(a) of the Act applies, and no further consent is required.

Section 11 is available for any land owned by Council, regardless of whether that land is or is not a reserve. No Plan of Subdivision is required, no planning permit, and no exhibition. The use of section 11 is not appealable to VCAT.

Upon publication, the land will become a public highway and a municipal road within the meaning of the Road Management Act.

It is recommended that this process is followed to change the status of this land parcel.

This process will facilitate development and help meet an objective of the 2021-25 Council Plan relating to increasing residential land supply in Colac.

Additionally it is recommended that residents of Ricstan Court and adjacent houses on Hart Street receive communications to inform them of the intended change including the long standing strategic planning informing development in this area. Officers plan to provide this advice to residents as soon as the July Council Meeting Agenda, including this report, is made available to the public.

Council must publish a notice in the Government Gazette to declare a road under the Act.

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.
- d. 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 2020

Local Government Act 1989

Road Management Act 2004

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

There are no known environmental or sustainability issues in relation to this recommended land status change.

Environmental and Sustainability issues that may result from development will need to be considered as part of the process around making a decision on future planning permit applications.

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

Council has engaged with the community as part of its adoption of DPO2. The recommendation being made in this report is consistent with the Development Plan adopted as part of DPO2 – Area 5.

Council should immediately notify impacted residents of this change and provide advice to them about the long standing strategic planning informing development in this area. This information should be in writing. Advice can be provided to residents about the proposal to make this change prior to the Council Meeting that will consider this report.

Public Transparency (s58 LGA 2020)

- (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.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 1: Affordable and available housing will support our growing community and economy

Financial Management (s101 Local Government Act 2020)

The proposed recommendation is estimated to have no additional costs associated with it. Work necessary to implement the recommendation can be completed by existing officer resources.

It could be suggested that a financial contribution could be sought from the developers as part of Council facilitating this change of land status to enable development. This is not supported by Officers due to the following factors:

This development helps meet an objective of the 2021-25 Council Plan relating to increasing residential land supply in Colac.

- According to approved Strategic Planning work, this section of land was always intended to be Road Reserve to facilitate development in this area.

Council will retain ownership of the road reserve with the road infrastructure to be funded by the developer.

Service Performance (s106 Local Government Act 2020)

Services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community.

Risk Assessment

Council Officers have considered the various options, the recommended option (1) is considered to be low risk as a result of the previously adopted Development Plan for this area.

Existing residents of Ricstan Court, who may be unaware of the strategic development intent for this Court to be extended to facilitate development, may be dissatisfied with the recommendation if adopted. It is important to communicate with this group to ensure they are aware of the long standing strategic planning decisions that have been adopted previously.

Communication/Implementation

Council should immediately notify impacted residents of this change and provide advice to them about the long standing strategic planning informing development in this area. This information should be in writing.

Human Rights Charter

No persons human rights have been diminished or effected by the material facts contained in 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 the recommendation

For development to occur in this area, in accordance with the Council adopted Development Plan for DPO2 – Area 5, Council must change the status of the land at the end of Ricstan Court to a Road Reserve.

Council should follow the professional advice it sought and received.

This process will facilitate development and help meet an objective of the 2021-25 Council Plan relating to increasing residential land supply in Colac.

Council should notify immediately impacted residents of this change and provide advice to them about the long standing strategic planning informing development in this area.

This option is recommended by Council officers.

Option 2 – Adopt the recommendation with amendments

Prior to making a decision on this matter, Council could chose to put the proposal for the change of status to this piece of land out to a formal community consultation process. This would allow the community to consider the proposal over a period of up to six weeks and then choose to have their views heard through a formal hearing of submissions process.

Council could then make a decision on the matter taking into account the views of the community.

This option is not recommended by Council Officers. It is considered that this would be disingenuous community engagement exercise. This is due to Council having an adopted recommendation to support the extension of Ricstan Court through the adoption of DPO2 – Area 5 and a strategic objective, listed in the 2021-25 Council Plan, to increase residential land supply in Colac.

Option 3 – Do not adopt the recommendation

Council could chose to not support the change of the status of the land in question to Road Reserve.

This option is not recommended by Council officers as it would prevent orderly development in an area that has been strategically identified and approved for future residential development.

Item: 9.4

Community Asset Committees - Appointment of New Member - Irrewillipe Hall and Reserve Community Asset Committee

OFFICER	Janine Johnstone
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

1. PURPOSE

For Council to appoint a member to the Irrewillipe Hall and Reserve Community Asset Committee.

2. EXECUTIVE SUMMARY

This report proposes appointing a member to the Irrewillipe Hall and Reserve Community Asset Committee. The Irrewillipe Hall and Reserve Community Asset Committee has advised they have one new member for appointment by Council.

3. RECOMMENDATION

That Council appoint Stephen Theodore to the Irrewillipe Hall and Reserve Community Asset Committee.

4. KEY INFORMATION

In December 2022, Colac Otway Shire Council appointed members to 21 Community Asset Committees that manage public halls, recreation reserves and sporting facilities across the Colac Otway Shire.

Council has developed and is continuing to implement a training program framed around its Community Asset Committee Induction Guide. The Guide is designed to explain the roles and responsibilities of Community Asset Committees and provide information about how Community

Asset Committees can undertake their responsibilities with confidence, including the provision of an annual report of their performance and activities related to the Instrument of Delegation.

Council officers continue to be in regular communication with Community Asset Committees to clarify how Council can complement and better assist Committees in implementing their responsibilities.

For the purposes of managing the Irrewillipe Hall and Reserve assets in the Colac Otway Shire and to ensure compliance with section 65 of the *Local Government Act 2020*, formal appointment of the member by Council, is required.

Council officers completed induction training with the Irrewillipe Hall and Reserve Community Asset Committee members on 5 June 2023. At that meeting, the Committee confirmed that Stephen Theodore was a current member. Unfortunately, membership confirmation, sought in late 2022 was not received when Council officers requested verification of membership.

The Irrewillipe Hall and Reserve Community Asset Committee has requested Council appoint Stephen Theodore to the Committee.

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)

Council officers have made contact with all Colac Otway Shire's Community Asset Committees. It is anticipated that Council, as part of its review, will continue to actively engage with Community Asset Committees.

Council officers have encouraged Community Asset Committees to continue to provide feedback about how Council can complement and better assist Committees to confidently undertake their delegated responsibilities.

Public Transparency (s58 LGA 2020)

Council's previous 2020 and 2022 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 Council meetings open to the public.

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

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 the Council meeting, Council officers will advise the Community Asset Committee 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 – Adopt the recommendation as presented

This option is recommended by officers to formally appoint the member to the Community Asset Committee, as advised by the existing committee members.

Option 2 – Adopt the recommendation as presented with amendments

This option is not recommended by officers, as the request has originated from the Community Asset Committee. Officers will need to advise Community Asset Committee of their new member to comply with the *Local Government Act 2020*.

Option 3 – Do not adopt the recommendation as presented

This option is not recommended by officers as it will not enable the member to be formally appointed to the Irwillippe Hall and Reserve Community Asset Committee.

Item: 9.5

Local Government Liability Insurance Renewal

OFFICER	Natasha Skurka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

1. PURPOSE

To renew Council's insurance policy for Local Government Liability for 2023-24.

2. EXECUTIVE SUMMARY

At its 29 June 2022 meeting, Council 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).

Although JLT's renewal premiums excluded Council's Crime and Local Government Liability policies, they recommended they be placed with Council's incumbent provider MAV.

Given the renewal amount exceeds the Chief Executive Officer's financial delegation (\$300,000 including GST), the matter is being brought to Council for decision.

3. RECOMMENDATION

That Council accepts the offer of renewal for the 2023-24 year for the MAV Insurance's Liability Mutual Insurance (LMI) Scheme for the amount of \$359,052.37 (inclusive of stamp duty and GST).

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.

The contribution to participate in the LMI scheme for 2023-24 for Colac Otway Shire is \$359,052.37 (inclusive of stamp duty and GST). LMI member renewal contributions have increased on average this year by 13 percent from 2022-23. Some of the reasons for increases to the scheme in general include:

- An increase in claim numbers and costs.
- Ongoing market hardness.
- Adverse changes to the inflation rate.

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 for 2022-23 on 27 July 2022.

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 2022-23.

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) 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

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. Council requires renewal of its insurance coverage prior to 30 July 2023.

Item: 9.6

Contract 2403 - Microsoft Software License Agreement

OFFICER	Rikk Price
GENERAL MANAGER	Andrew Tenni
DIVISION	Corporate Services
ATTACHMENTS	Nil

1. PURPOSE

To recommend to Council that Contract 2403 – Microsoft Software Licence Agreement be awarded to Insight Australia Pty Ltd, through the Municipal Association of Victoria Microsoft panel contract.

2. EXECUTIVE SUMMARY

This contract is for Microsoft software licenses that are used across Council. This contract covers the use, maintenance and support of Microsoft products for all Microsoft Windows servers and workstations, both for staff and meeting rooms. The current contract number 2007 with Insight Australia Pty Ltd through the Municipal Association of Victoria (MAV) expired on 1 July 2023.

A procurement process has been undertaken utilising a Whole of Government contract through the MAV and analysis indicates that a new contract number 2403 with Insight Australia Pty Ltd through the MAV is best positioned to provide value for money to Council.

The total cost over the three years of the proposed contract is anticipated to be \$476,592 (exclusive of GST), which translates to an annual cost of \$158,864.

3. RECOMMENDATION

That Council:

- 1. Award Contract 2403 – Microsoft Software License Agreement to Insight Enterprises Australia Pty Ltd through the Municipal Association of Victoria for the tendered price of \$524,251 (inclusive of GST).***
- 2. Authorises the Chief Executive Officer to sign the contract following award of Contract 2403 – Microsoft Software License Agreement.***
- 3. Authorises the Chief Executive Officer or their delegate to perform all the roles of the Superintendent.***

4. KEY INFORMATION

This contract is for Microsoft software licenses which are used extensively across Council. This contract covers the use, maintenance and support of Microsoft products for all Microsoft Windows servers and workstations, both for staff and meeting rooms.

In addition, this covers software including, but not limited to, SQL Databases that run core applications on Microsoft Windows infrastructure and covers Microsoft Server Applications, Office applications and email mailboxes that are used daily by Council staff and Councillors.

The current contract with Insight Enterprises Australia Pty Ltd through the MAV ended on the 1 July 2023. Microsoft provide a 30 day grace period after expiry to allow time for organisations to select a reseller. This grace period comes at no penalty to the participating organisation. After the grace period, if a contract is not renewed, Council will have to purchase the licencing from a retail provider outside the Whole of Government MAV contract.

A new contract is required to be entered into to ensure Council is able to continue with the use of the Microsoft suite at the government pricing rates.

A procurement process has been undertaken utilising the Whole of Government contract through the MAV. That process involved inviting the three providers on the panel to submit a proposal outlining pricing based on current licensing level. All three providers submitted a proposal. An analysis of the proposals indicates that engaging with Insight Australia Pty Ltd through the MAV will provide the best value for money for Council.

The contract is for individual licences for access to the Microsoft suite of products. These licences vary based on type and can range from \$50 per year for an outdoor worker who only accesses email, through to \$420 per year for a worker who needs access to the entire Microsoft suite. The numbers vary on any week given the number of people working at Council, as the IT team manage this on a lean or demand basis.

The total cost over the three years of the proposed contract is anticipated to be \$476,592 (exclusive of GST). This represents an annual cost of \$158,864.

The current annual budget for Microsoft Licensing is \$166,782.

5. CONSIDERATIONS

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

Collaboration with other Councils and Governments and statutory bodies is to be sought - through utilising a whole of government panel for the procurement.

The ongoing financial viability of the Council is to be ensured - by ensuring that pricing contracts provide certainty as to future increases.

The transparency of Council decisions, actions and information is to be ensured – with the procurement and contract conducted by MAV, without Council directly involved in negotiations. This provides further integrity to the process.

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

Colac Otway Shire Procurement Policy
Local Government Act 2020, S108

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)

This report will be tabled at a public Council meeting, noting that the vendor pricing submissions are commercial in confidence and provided for Councillors as a confidential attachment.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:
Theme 4 – Strong Leadership and Management
Objective 2: We are a financially robust organisation

Financial Management (s101 Local Government Act 2020)

The total cost over the three years of the proposed contract is anticipated to be \$476,592. This represents an annual cost of \$158,864.

The current 2023-24 budget for Microsoft Licensing is \$166,782. This represents a five percent surplus based on the current licencing levels.

Service Performance (s106 Local Government Act 2020)

Not applicable.

Risk Assessment

Failure to renew the contract would render all of Council's IT systems inoperable.

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 – Endorse the procurement recommendation

This option is recommended by officers. The assessment of the vendors has been carefully undertaken. Adoption of this recommendation will also fulfil Council's obligations in relation to licencing payments and allow continued use of the Microsoft software.

Option 2 – Modify the procurement recommendation

This option is not recommended by officers. This would involve Council directing the council officers to select a different Microsoft vendor. This would potentially undermine the independent assessment process and may not present the best value to Council.

Option 3 – Do not endorse the procurement recommendation

This option is not recommended by officers. Council is in a 30 day grace period to enter another Microsoft licencing agreement and on 31 July would either have to turn off all computer systems including revenue collection and property rating systems or enter retail licencing at a substantial premium to the government pricing presented.

Item: 9.7

Contract 2122 Breakwater Remediation Project - Sheet Pile Wall

OFFICER	David Butterfield
GENERAL MANAGER	Heath Chasemore
DIVISION	Infrastructure and Operations
ATTACHMENTS	Nil

1. PURPOSE

To obtain Council approval to award Contract 2122 for the Breakwall Remediation Project - Sheet Pile Wall, for a revised contract sum to that approved in October 2022.

2. EXECUTIVE SUMMARY

The project is to undertake a series of essential remediation works to maintain key Port Infrastructure, namely to the Lee Breakwater wall structure at the Port. In May 2021 Colac Otway Shire Council was successful in obtaining a \$3.512 million grant from the Department of Transport (DoT) to complete these works.

Council commenced procurement of the works relating to Structure D (a key component of the port infrastructure subject to the funding) in July 2021. Council resolved on October 2022 to award the contract to SMC Marine for \$2,428,000.

Council needed to have a variation to the funding agreement approved by DoT prior to awarding the contract and this negotiation took more time than anticipated. As a result, SMC Marine has requested a revised contract sum to recognise the escalation in costs since their submitted their tender. SMC Marine provided a revised Contract Price of \$2,694,255.03 (exc. GST), which equates to a contract price escalation of \$266,255.03 (exc. GST).

The revised contract sum has been compared to other tenders received and SMC Marine remains the preferred tenderer. The October 2022 resolution does not authorise the Chief Executive Officer to contract sum and so a decision of Council is sought through this report.

3. RECOMMENDATION

That Council:

- 1. Notes that the need to vary the funding agreement with Department of Transport of Planning to support the orderly deliver of various project elements resulted in a delay in implementing Council's resolution of 26 October 2022 to award Contract 2122 – Port of Apollo Bay Breakwall Remediation for the tendered price of \$2,428,000 (excluding GST) to SMC Marine Pty Ltd, and that no contract has been entered into at this time.***
- 2. Note that cost escalations have occurred since the time of Contract 2122 being tendered and that SMC Marine Pty Ltd has requested review of the proposed contract sum, which having been considered by the tender assessment panel retains SMC Marine Pty Ltd as the preferred tenderer.***
- 3. Awards Contract 2122 – Port of Apollo Bay Breakwall Remediation to SMC Marine Pty Ltd for the revised tenderer price inclusive of GST of \$2,963,680.53 (\$2,694,255.03 excluding GST) and notes that this contract sum supersedes the contract sum from Council resolution of 26 October 2022.***
- 4. Authorises the Chief Executive Officer to execute the contracts following award of Contract 2122 – Port of Apollo Bay Breakwall Remediation.***
- 5. That Council authorises the Chief Executive Officer to perform all roles of the Principal.***

4. KEY INFORMATION

Constructed in the 1950's, much of the Port's key infrastructure is aged and nearing 'end of life' and in need of reconstruction. This has resulted in a project being established and funded to undertake a series of essential remediation works to maintain key Port Infrastructure, namely to the Lee Breakwall Structure at the Port.

In March 2021 WGA completed the detailed design documentation for all remedial works required to address the structural defects identified. In May 2021 Colac Otway Shire received a grant of \$3.512 million (exc. GST) with the objective of completing the recommended remediation works as described in the WGA Design Report and associated drawings for the following Structures of the Lee Breakwater wall:

- Structure D (Priority 1)
- Structure C (Priority 2)
- Structure A (Priority 3)

The scope of works relevant to the contract to be addressed through this report are remedial and resilience works to the Lee Breakwater wall described in the drawings, namely the Renewal and augmentation of the existing Section D structure.

Council commenced procurement of the works relating to Structure D in July 2021 and resolved on 29 June 2022 to award the contract to Elstone Diving Services Pty Ltd (EDS) subject to conditions. A contract with Elstone Diving Services Pty Ltd was not established and Council reconsidered the

available tenders. Council resolved on October 2022 to award the contract to SMC Marine for \$2,428,000. Resolution below.

That Council:

- 1. Notes its decision of 29 June 2022 to award Contract 2122 – Port of Apollo Bay Breakwall Remediation has not resulted in a contract with Elstone Diving Services Pty Ltd. and the Chief Executive Officer has not exercised any authorisation given at this time.*
- 2. Notes that the Great Ocean Road Coast and Parks Authority has provided the Chief executive Officer with written confirmation that it intends to accept novation of the contract at an appropriate time and if this is not achieved the land and water on which works under contract will occur will not transfer until practical completion is achieved.*
- 3. Notes the addendum to the Tender Panel Assessment report has resulted in a revised recommendation with respect to a preferred tenderer.*
- 4. Awards Contract 2122 – Port of Apollo Bay Breakwall Remediation to SMC Marine Pty Ltd for the tendered price of \$2,428,000 (ex GST) and notes that this decision will supersede the Council resolution of 29 June 2022, referred to in point 1 above.*
- 5. Authorises the Chief Executive Officer to execute the contracts following award of Contract 2122 – Port of Apollo Bay Breakwall Remediation.*
- 6. That Council authorises the Chief Executive Officer to perform all roles of the Principal.*

As a part of contract preparation to implement the resolution above, it was identified that some key requirements of the funding agreement with DoT were no longer relevant or desirable. Officers worked through the funding agreement with DoT over a number of months and a new funding agreement was finalised in early 2023.

Due to the protracted period during which the funding agreement was re-negotiated, SMC Marine advised, given the extensive time delay from when the project was originally priced via the tender submission process undertaken in April 2022 there was a significant escalation in costs to complete the works and sought for that to be recognised in the awarded contract value. SMC Marine provided a revised Contract Price of \$2,694,255.03 (exc. GST), which equates to a contract price escalation of \$266,255.03 (exc. GST).

Council's Procurement Department undertook an internal review of the tender submissions received at the time of the original tender submission, and concluded the price escalation once applied to all pricing submissions would result in the SMC Marine Pty Ltd still being the preferred tenderer.

The resolution of October 2022 did not anticipate a change to the contract price prior to it being awarded and the authorisation to the Chief Executive Officer does not provide any discretion or authority to award the contract for a different sum, therefore Council needs to provide direction through resolution.

5. CONSIDERATIONS

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

This project is consistent with the overarching governance principles of the Act.

The project is to undertake a series of essential remediation works to maintain key Port Infrastructure, namely to the Lee Breakwater wall Structure at the Port. Failure to address these issues will threaten the viability of the Port- a key economic and social asset for Apollo Bay.

The design for these works is in accordance with AS4997, "Guidelines for the design of maritime structures". Section 4.6 of this standard deals with design for climate change and projected sea level rise. Also incorporated to the design, was the sea level rise predicted in the CSIRO's 2008 report on "The effects of climate change on extreme sea levels along the Victorian Coastline" (section 3 and 4).

The project is fully compliant with all relevant legislation and standards.

The project is consistent with the following relevant policies, plans and strategies (as demonstrated comprehensively through coastal consent application process):

- Marine and Coastal Policy 2020
- Victorian Coastal Strategy 2014
- Western Victoria Boating Coastal Action Plan 2010
- Victorian Recreational Boating Strategy (draft) 2021.

The project is fully funded by an external agency grant and is a partnership project with the Department of Transport, demonstrating sound state collaboration.

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

The lawful authority to complete this project is under section 44F of the *Port Management Act 1995*.

Furthermore, consent for the use of coastal crown land under the *Marine and Coastal Act 2018* is required. Consent for this project was granted by DELWP on the 10 January 2022.

Planning Permit PP2552021-1 was granted by COS for the works on the 11 October 2021.

The project is consistent with the following relevant policies, plans and strategies (as demonstrated comprehensively through coastal consent application process, see **Attachment 3**):

- Marine and Coastal Policy 2020
- Victorian Coastal Strategy 2014
- Western Victoria Boating Coastal Action Plan 2010
- Victorian Recreational Boating Strategy (draft) 2021.

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

Environmental and sustainability considerations have been fully explored through the relevant approval processes, notably those required under the *Planning and Environment Act 1987* and the *Marine and Coastal Act 2020* and relevant policies. Conditions on these approvals will be incorporated into the project and contract delivery to ensure environmental management is undertaken as required.

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

The Port of Apollo Bay Consultative Committee (POABCC) has been consulted on the project since the funding announcement in May 2021. Project updates have been provided and the project discussed at each meeting since May 2021.

Public Transparency (s58 LGA 2020)

This matter is transparent to the community through the decision being made in a meeting open to the public.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 – Strong and Resilient Economy.

Objective- Key infrastructure investment supports our economy and liveability.

Theme 2 - Valuing the Natural and Built Environment.

Objective- Provide and maintain an attractive and safe built environment

Other Plans and Strategies

The project is consistent with the following relevant policies, plans and strategies (as demonstrated comprehensively through coastal consent application process):

- Marine and Coastal Policy 2020
- Victorian Coastal Strategy 2014
- Western Victoria Boating Coastal Action Plan 2010
- Victorian Recreational Boating Strategy (draft) 2021.

Financial Management (s101 Local Government Act 2020)

This project is entirely funded by state funds (DoT), with a budget of \$3.512 million. The lump sum contract price to complete these works is \$2,694,255.03. The remaining budget is sufficient to complete the remaining elements required under the funding agreement.

There is no cost to Colac Otway Shire delivering this project.

Service Performance (s106 Local Government Act 2020)

It is projected that the project will generate \$6.6 million in economic activity to the area and create 16 jobs for the duration of the project.

The Port contributes \$43 million annually to the region's economy. The economic cost of not fixing these known structural issues would be significant, with the viability of the Port threatened if the project is not completed. Consultation with the commercial fishing industry at the Port will occur early to ensure there are no negative economic impacts on the industry. Port management team will work closely with the industry to put measures and alternative arrangements in place so they can continue their businesses.

The performance of these works is essential to maintain critical infrastructure at the Port. Failure to address these issues may result in loss of existing services to the community.

Risk Assessment

A robust tender process and contract, overseen by a probity adviser, minimises legal and contractual risk associated with the project.

All approvals and permits have been obtained for this project including consent for the use of coastal crown land under the *Marine and Coastal Act 2018* and the *Planning and Environment Act*.

Communication/Implementation

All stakeholders will be kept informed of the project progress in line with the Communications Plan.

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 – Adopt the recommendation to award Contract 2122 to SMC Marine

This option is recommended by officers as SMC Marine Pty Ltd remain the preferred tenderer to carry out the necessary works associated with the remediation of Structure D of the Lee Breakwater Wall at the Port of Apollo Bay.

Option 2 – Do not adopt the recommendation to award Contract 2122 to SMC Marine

This option is not recommended by officers as this will delay important infrastructure upgrades and Council will be unable to comply with the DOT funding agreement.

Item: 9.8

Report of Informal Meetings of Councillors

OFFICER	Lyndal McLean
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"> 1. Informal Meeting of Councillors - Councillor Briefing - 21 June 2023 [9.8.1 - 2 pages] 2. Informal Meeting of Councillors - Council Meeting Preparation - 28 June 2023 [9.8.2 - 3 pages] 3. Informal Meeting of Councillors - Council Briefing - 5 July 2023 [9.8.3 - 2 pages] 4. Informal Meeting of Councillors - Unscheduled Council Meeting Preparation - 05 July 2023 [9.8.4 - 2 pages] 5. Informal Meeting of Councillors - Councillor Briefing - 12 July 2023 [9.8.5 - 2 pages]

1. PURPOSE

To report the Informal Meetings of Councillors.

2. EXECUTIVE SUMMARY

INFORMAL MEETINGS OF COUNCILLORS

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; and*

- *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 are reported herewith;

1. Councillor Briefing	21 June 2023
2. Council Meeting Preparation	28 June 2023
3. Councillor Briefing	5 July 2023
4. Unscheduled Council Meeting preparation	5 July 2023
5. Councillor Briefing	12 July 2023

4. KEY INFORMATION

The following Informal Meetings of Councillors have been held and are attached to this report:

1. Councillor Briefing	21 June 2023
2. Council Meeting Preparation	28 June 2023
3. Councillor Briefing	5 July 2023
4. Unscheduled Council Meeting preparation	5 July 2023
5. Councillor Briefing	12 July 2023

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 Briefing

Date: 21 June 2023

Time: 12.30pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart (videoconference), Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Doug McNeill, Tamzin McLennan, Nicole Frampton, Blaithin Butler
External attendees:
Director Infrastructure and Planning Great Ocean Road Coast and Parks Authority (GORCAPA), Acting Manager Planning GORCAPA, Community Engagement Coordinator GORCAPA
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 12.37pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Councillor Briefing – 21 June 2023 (continued)		
Time	Item	Attendees
12.37pm – 1.01pm	Update on Planning and Building Compliance	Doug McNeill Blaithin Butler
1.01pm – 1.03pm	Break	
1.03pm – 1.41pm	Draft Apollo Bay Recreation Reserve Masterplan	Tamzin McLennan Nicole Frampton Director Infrastructure and Planning GORCAPA Acting Manager Planning GORCAPA Community Engagement Coordinator GORCAPA
1.41pm – 1.49pm	Break Cr Hanson left the meeting during the break and did not return to the meeting.	
1.49pm – 2.04pm	2023-24 Annual Plan Actions	Marlo Emmitt
2.04pm – 2.24pm	<u>General Business</u> <ul style="list-style-type: none"> Tuxion Road, Apollo Bay 	
2.24pm	Meeting Closed	



Informal Meeting of Councillors Record

Council Meeting Preparation

Date: 28 June 2023

Time: 2.00pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
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, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Doug McNeill, Helen Evans, Ian Williams, Brendan Walsh, Martin Cutter, Toni Uphill, Fiona Maw, Mark McLennan, David Butterfield
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 2:15pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Max Arnott	Material conflict of Interest	Item 9.4 – Adoption of 2023-2024 Budget – Endorsement of Fees and Charges for Community Services, OPASS	Family member receives OPASS services.
Cr Max Arnott	General conflict of Interest	Item 9.10 – Colac Otway Sire Grants Program 2023 – 2024 – Allocation of Funds for Events Grants	Board member of Colac Area Health Board.



Name	Type of Disclosure	Item	Reason
Cr Graham Costin	Material conflict of Interest	Item 9.10 Colac Otway Shire Grants Program 2023 – 2024 – Allocation of Funds for Events Grants	I declare a conflict of interest in relation to items number 21 and 22 as these items have been auspiced by the Apollo Bay Chamber of Commerce who made a disclosable gift towards my election campaign.
Cr Chris Potter	Material conflict of Interest	Item 9.3 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre	General conflict in that I am a member of the Bluewater facility.
Cr Kate Hanson	Material conflict of Interest	Item 9.3: Adoption of 2023- 24 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre	I am a member of Bluewater Leisure Centre.
Cr Tosh-Jake Finnigan	General conflict of Interest	Item 9.5: Adoption of 2023 -24 Budget – Endorsement of Fees and Charges for Health Protection Administration	Until last week I was co-owner of Ti-Tree Hotel, Warrion, which would be impacted by any decision in this matter.
Cr Tosh-Jake Finnigan	General conflict of Interest	Item 9.10: Colac Otway Shire Grants Program 2023 – 2024 – Allocation of Funds for Events Grants	I was an owner of the Ti-Tree Hotel, Warrion, until last week, which was the site of the Ska Nation Festival subject to a grant application.
Cr Kate Hanson	General conflict of Interest	Item 9.9: Colac Otway Shire Grants Program 2023 – 2024 – Community Grants	I am a member of the Colac Football/Netball Club. My children are members of the Colac Basketball Association. My husband is a committee member.
Andrew Tenni	Material conflict of Interest	Item 9.3 – Adoption of 2023-2024 Budget - Endorsement of Fees and Charges for Bluewater Leisure Centre	Member of Bluewater Leisure Centre.
Ian Seuren	General conflict of Interest	Item 9.9 - Colac Otway Shire Grants Programs 2023 – 2024- Allocation of Funds for Community Grants	Member of the Colac Football Netball Club and Colac Basketball Association who have applied for grants through the 2023 – 24 Council Grants Program.



Council Meeting preparation – 28 June 2023 (continued)		
Time	Item	Attendees
2.15pm-3.45pm	<p>Council Meeting preparation</p> <ul style="list-style-type: none"> Item 9.3 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre <p>Having declared a Material Conflict of Interest for Item No 9.3 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Bluewater Leisure Centre, Cr Potter and Cr Hanson left the meeting at 2.58pm, prior to discussion taking place on this item. Cr Potter returned to the meeting at 3.04pm, after discussion was completed on this item and Cr Hanson returned to the meeting at 3.25pm.</p> <ul style="list-style-type: none"> Item 9.4 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Community Services, OPASS <p>Although Cr Arnott declared a conflict of interest, for item 9.4 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Community Services, OPASS they were not required to leave the meeting as this item was not discussed.</p> <ul style="list-style-type: none"> Item 9.5 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Health Protection Administration <p>Although Cr Finnigan declared a conflict of interest for Item 9.5 Adoption of 2023-24 Budget – Endorsement of Fees and Charges for Health Protection Administration they were not required to leave the meeting as this item was not discussed.</p> <ul style="list-style-type: none"> Item 9.9 Colac Otway Shire Grants Program 2023 – 2024 – allocation of Funds for Events Grants <p>Although Cr Hanson declared a conflict of interest for Item 9.9 Colac Otway Shire Grants Program 2023 – 2024 – allocation of Funds for Events Grants they were not required to leave the meeting as this item was not discussed.</p> <ul style="list-style-type: none"> Item 9.10 Colac Otway Shire Grants Program 2023 – 2024 – Allocation of Funds for Events Grants <p>Although Cr Finnigan, Cr Arnott and Cr Costin declared a conflict of interest for Item 9.10 Colac Otway Shire Grants Program 2023 – 2024 – Allocation of Funds for Events Grants they were not required to leave the meeting as this item was not discussed.</p>	<p>Doug McNeil Helen Evans Ian Williams Brendan Walsh Martin Cutter Toni Uphill Fiona Maw David Butterfield Mark McLennan</p>
3.45pm	Meeting Closed	



Informal Meeting of Councillors Record

Council Briefing

Date: 5 July 2023

Time: 12.45pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt, Brendan Walsh (videoconference), James Myatt, Nicole Frampton, Tamzin McLennan
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 12.53pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Council Briefing – 05 July 2023 2023 (continued)		
Time	Item	Attendees
12.53pm – 1.06pm	Ricstan Court	Brendan Walsh (via videoconference)
1.06pm – 1.17pm	Old Coach Road Gate trial Cr Hanson attended the meeting at 1.07pm	Brendan Walsh (via videoconference)
1.17pm – 1.21pm	Draft G21 Regional Football (Soccer) Strategy	Nicole Frampton Tamsin McLennan
1.21pm – 1.24pm	Break	
1.24pm – 1.51pm	Forrest Holiday Park Update	James Myatt
1.51pm	Meeting Closed	



Informal Meeting of Councillors Record

Unscheduled Council Meeting Preparation

Date: 05 July 2023

Time: 2.15pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt, Rhassel Mhasho
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 2.42pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Unscheduled Council Meeting Preparation – 05 July 2023 (continued)		
Time	Item	Attendees
2.42pm – 3.18pm	Unscheduled Meeting Preparation	Rhassel Mhasho
3.18pm	Meeting Closed	



Informal Meeting of Councillors Record

Councillor Briefing

Date: 12 July 2023

Time: 12.30pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
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, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin (videoconference), Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Fiona Maw, James Myatt, David Butterfield, Rikk Price, Tamzin McLennan (videoconference), Nicole Frampton, Maddison Harty
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 12.38pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Councillor Briefing – 12 July 2023 (continued)		
Time	Item	Attendees
12.38pm - 1.02pm	Community Awards Review Cr Hart left the meeting at 12.58pm: returned to the meeting 1.01pm.	Fiona Maw Maddison Harty
1.02pm – 1.44pm	Lake Colac Holiday Park EOI Submissions Cr Costin left the meeting at 1.41pm: returned to the meeting at 1.43pm.	James Myatt David Butterfield
1.44pm – 1.47pm	Contract 2403 - Microsoft Software License Agreement	Rikk Price
1.47pm– 1.55pm	Break	
1.55pm – 2.16pm	Draft Apollo Bay Recreation Reserve Master Plan	Nicole Frampton Tamzin McLennan (videoconference)
2.16pm – 2.53pm	<u>General Business</u> <ul style="list-style-type: none"> • Action for Apollo Bay and Coast Committee • Age Care Service Review • Building Services • Apollo Bay Port • Lavers Hill Pool • Tuxion Road Cr Hanson left the meeting at 2.42pm; returned to meeting at 2.43pm.	
2.53pm	Meeting Closed	

