



Colac Otway
SHIRE

COUNCIL MEETING

MINUTES

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

MINUTES of the **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** held at COPACC on
Wednesday 26 July 2023 at 4:00 PM.

MINUTES

1 DECLARATION OF OPENING OF MEETING

OPENING PRAYER

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

AMEN

2 PRESENT

Cr Chris Potter (Mayor)
Cr Max Arnott
Cr Graham Costin
Cr Tosh-Jake Finnigan
Cr Kate Hanson
Cr Stephen Hart
Cr Margaret White

Anne Howard, Chief Executive Officer
Andrew Tenni, General Manager Corporate Services
Heath Chasemore, General Manager Infrastructure and Operations
Ian Seuren, General Manager Community and Economy
Marlo Emmitt, Manager Governance
Lyndal McLean, Coordinator Council Business

3 APOLOGIES

Nil

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 are 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 was 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. 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. Question time is not a forum for public debate or statements.

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

James Judd

- 1. What is the matter with the Colac Otway Shire Council that it fails to provide on time details of Council operations so they could be included in the local telephone directory for 2023-2024? When the directory includes as a library in Colac the name of an operator that no longer exists, plus at an address not used as a library for many years. Also many other Council operations not listed as well a Council location listed as at an address not now used for general enquiries**

Response from General Manager Corporate Services

Council provided our current business name, address, phone and website details to the White Pages in December 2022 for inclusion in the 2023-24 edition. The main contact information was provided, as this is the most effective means of contact for people, rather than individual sites or services being listed.

Council did not provide information about the Colac Library because we are not directly responsible for its operation but we will liaise with the Geelong Regional Library Corporation to ensure that they are aware of the issue for future additions.

2. Will the Colac Otway Council please explain to the community how it can claim it is an equal opportunity Council while it persists in increasing rates and charges paid by concession and cardholders at a higher percentage to the general community? The concession rebate is set on a base amount far below Councils charges and adjusted upwards if any at a far lower percentage than Council charges are set at. Most cases any adjustment to the rebate is on an amount under 25 percent of Council charges and is never adjusted for revaluations.

Response from General Manager Corporate Services

The Pension Rebate is set by State Government and is not percentage based. It cannot be more than 50 percent of the general rates charge and is set at a maximum of \$303.20 for this financial year.

3. Will the trees planted in streets in Colac to increase the tree cover in Colac ever grow and the peace of the community be destroyed by the noise of the annual pruning of trees? Since this was a long headache in Colac as trees cut back each year plus lasted for long periods each year and reduced the useable road surface available when pruning is carried out, as well some streets that had a number of trees had many removed at ground level by Council. This often impacted on the power supply to areas sometimes for long periods of time every time pruning is done. This was still going on after 2010 during this Councils time of existence.

Response from General Manager Infrastructure and Operations

The annual tree-planting program is designed to increase the total number of trees in our townships. After planting, the trees are monitored and watered regularly to ensure they can establish as healthy trees that grow well.

Council has a legislative requirement to prune trees under power lines. In the delivery of this program, Council attempts to keep any inconvenience to residents to a minimum.

4. Is the allocation of funds by the Colac Otway Shire Council to undertake a review into OPASS just the net amount expected to cover the review of these services in the shire only, or is it the total to carry out the joint review that includes another municipality? Although the other municipality is much smaller in area, it also has a much larger population and number of people using these services.

Response from General Manager Corporate Services

Council has partnered with Warrnambool City Council in the procurement of consulting services to get efficiencies and avoid our Council paying for work that would otherwise be duplicated by each other.

This does not mean that there is a joint review being undertaken. Each Council is undertaking its own review, including consultation with its own clients, staff and community. And each Council will ultimately make its own decision about the future of their respective services.

The allocation of \$45,000 by Council is to cover the cost of our share of the consultants work for Colac Otway Shire.

5. **When is the Colac Otway Shire Council ever going to inform people about what actual garbage is to go in each bin? It is not valid for Council to order people to put only certain things in any bin, then turn around and say things you ban people from placing in domestic bins you can put in bins placed by Council in public places i.e. glass bottles in the recycle bin. You should make certain a separate bin for glass containers is provided in public places. Otherwise, you risk far more contaminated loads going to landfill at extra costs to Council. So why should garbage collection fees include this cost to Council to send contaminated loads to landfill when Council encourages this by allowing glass containers to be put in bins they are banned from being placed in.**

Response from General Manager Infrastructure and Operations

We are aware that there will be a series of significant reforms in relation to waste and recycling over the next few years. These will be rolled out progressively, and in the case of introducing glass collection, the kerbside bins were the first step.

Council will now start to progressively introduce glass-only bins in public areas and this will be supported by clear signage to help users to know what goes in which bin.

While the yellow-lidded bins at people's homes should no longer be used for glass, people can put glass into co-mingled recyclables bins in public places with confidence that this does not contaminate the recyclables and will be sorted by the contractors later. This does not go to landfill.

We also expect that the State Government's introduction of a Container Deposit Scheme later this year will further reduce glass being collected via the kerbside and public street bins, and that is another improvement we look forward to.

We know that information is very important to help our community through these changes and we know that thousands of people have found the GoodSort app to be very helpful, along with advice in newspapers, social media and signage, as well as the information on our website.

Kelvin Granger and Dean Hurlston – Council Watch Inc.

1. **Can Council please advise the dollar (\$) amount of "cost shifting from State Government" they estimate they incurred in 2022-23 Financial Year?**

Response from General Manager Corporate Services

We cannot provide this information as an analysis of this nature is complex and has not been undertaken by Council.

David Walsh

With the Deans Creek seeming to overflow its banks at the railway bridge crossing on Deans Creek Road Colac West whenever there is any sort of rainfall:-

My questions are:

1. **Is the flooding caused by the overgrown reeds and rubbish build up at the crossing which**

impedes the river flow to the lake?

2. When did Council officers last inspect this area?
3. What was their recommendation and is their report available?

Response from General Manager Infrastructure and Operations

Deans Creeks overflowing can have a number of causes, including restrictions or blockages, or just the intensity of volume of the rain event. This is currently being considered as part of the Deans Creek Precinct Structure Plan which will include a Stormwater Management Plan. This work is expected to be complete in late 2026 and will identify technical solutions to flooding issues in the area.

Inspections of the railway bridge across Deans Creek are undertaken in response to customer requests. The last inspection was in November 2022 following significant rainfall in preceding months and clean-up work was undertaken at that time. In addition minor works were recently completed in the immediate catchment (Cants Road) and further works are identified are planned for delivery later in the year during more seasonal conditions.

Statement from the Mayor

We have a number of questions regarding the Old Coach Road item in the agenda today. These questions are from Richard Jones, Libby Smith and John Middleton, all of whom have also emailed all Councillors with concerns and questions.

Responses won't be provided at this time because they shouldn't pre-empt the debate or pre-determine the decision that will occur tonight. I will however read the questions for the record and then encourage you to listen to the debate that follows later.

Richard Jones

Old Coach Road Boom Gate Trial

1. Why is the Council considering making this controversial change to traffic arrangements without any consultation when it is clearly detrimental to Skenes Creek residents and contrary to what they sought?
2. Why is the Council considering abandoning this trial when it has not been implemented as decided by Council and therefore no evidence based decisions can be made?
3. Given the failure to properly implement its decision on the Boom Gate trial what actions will the Council take to ensure in the future its decisions on any matter are both carried out and regular updates on progress are supplied?

Libby Smith

Questions re Item 9.1 Old Coach Road - Boom Gate Trial

1. The volume and speed of traffic in old Coach Road increased significantly in recent years partly because of increased numbers of large 4WD vehicles. The gates, even when partly inoperative have, according to the officer report, significantly reduced traffic volumes. Does Council understand that removal of the infrastructure will likely return the road to its previous dangerous condition which will likely become even worse in the future if the number and size of large 4WD vehicles continues to increase?
2. The first Report Recommendation clearly says that: "traffic volumes along Old Coach Road have significantly reduced, including extended periods where the gates were inoperable". This statement implies both gates were inoperable when only the northern gate was inoperable. It does however draw the correct conclusion that the existing arrangement is in fact successfully achieving its objectives because the infrastructure is in place. To retain the infrastructure, in its present condition, would involve minimal ongoing cost (with the northern gate inoperable and the southern gate operating effectively). Will Council resolve to retain the existing arrangement?

John Middleton

Question re Item 9.1 Old Coach Road - Boom Gate Trial

1. What plans does the Council have to implement the other proposals in respect of traffic management on Old Coach Road - the removal of Old Coach Road from SatNav Apps, appropriate signage on both of the Old Coach Road-Forrest Road intersections - and reinstatement of the previously-existing 20 km/h signs at two locations?

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Nil

6 PETITIONS / JOINT LETTERS

Nil

7 DECLARATIONS OF INTEREST

Nil

8 CONFIRMATION OF MINUTES

- Council Meeting held on Wednesday 28 June 2023.
- Unscheduled Council Meeting held on Wednesday 5 July 2023.

RESOLUTION

MOVED Cr Stephen Hart, SECONDED Cr Max Arnott

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.

CARRIED 7 : 0

Item: 9.1

Old Coach Road - Boom Gate Trial

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

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.*

RESOLUTION

MOVED Cr Graham Costin, SECONDED Cr Stephen Hart

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 boom on the northern self-closing gates be removed and retain the Southern gate in its current arrangement.*
- 3. Liaises with the Department of Transport and Planning regarding options to discourage use of the road by non-local traffic.*
- 4. Advises residents of this decision.*

CARRIED 4 : 3

DIVISION

For the motion: Cr Margaret White, Cr Max Arnott, Cr Stephen Hart, Cr Graham Costin

Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Chris Potter

Item: 9.2

Lake Colac Holiday Park - Contract Management Agreement

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

RESOLUTION

MOVED Cr Max Arnott, SECONDED Cr Tosh-Jake Finnigan

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.*

CARRIED 7 : 0

Item: 9.3

Declaration of Road - Reserve in Ricstan Court Elliminyt

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

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.*

MOTION

MOVED Cr Graham Costin

That Council defer this item to the 23 August 2023 Council meeting to enable nearby owners and/or residents further time to consider recent correspondence from Council regarding this issue.

LAPSED for want of a seconder

RESOLUTION

MOVED Cr Kate Hanson, SECONDED Cr Tosh-Jake Finnigan

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.*

CARRIED 6 : 1

DIVISION

For the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Max Arnott, Cr Stephen Hart, Cr Margaret White, Cr Chris Potter

Against the motion: Cr Graham Costin

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

RESOLUTION

MOVED Cr Max Arnott, SECONDED Cr Graham Costin

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

CARRIED 7 : 0

Item: 9.5

Local Government Liability Insurance Renewal

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

RESOLUTION

MOVED Cr Max Arnott, SECONDED Cr Stephen Hart

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).

CARRIED 7 : 0

Item: 9.6

Contract 2403 - Microsoft Software License Agreement

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

RESOLUTION

MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Graham Costin

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.*

CARRIED 7 : 0

Item: 9.7

Contract 2122 Breakwater Remediation Project - Sheet Pile Wall

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

RESOLUTION

MOVED Cr Graham Costin, SECONDED Cr Max Arnott

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.*

CARRIED 7 : 0

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]

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

The Colac Otway Shire Governance Rules does not require a Council decision.

The meeting was declared closed at 5.15pm.

CONFIRMED AND SIGNED at the meeting held on 23 August 2023.



.....MAYOR

Responses to questions taken on notice – 28 June 2023 Council Meeting

Susan Langridge

1. Does the Colac Otway Shire recover refrigerants from fridges and air-conditioning units when they are brought to the transfer station?

Response provided at the meeting from Manager Planning and Strategic Focus

Thank you for the question. We'll take this on notice and provide you with a detailed reply.

At a broader level, Council encourages all members of the community to be raising issues through the community engagement process for the draft Environment and Sustainability Strategy and Climate Change Action Plan by making written submissions and completing the online survey. Officers will carefully assess all feedback received before identifying potential improvements to these documents for Council consideration.

Further response from Manager Planning and Strategic Focus

No, Council Transfer Stations do not recover the refrigerants from fridges or air-conditioning units.

Barb Alford

1. Thanks for taking my question. At last Council meeting you revoked permission for a Committee of Management at the Barongarook Hall and Tennis Reserve Committee of Management. I would just like to know what public consultation took place on that and who made the decision to revoke that Committee and now that there is no Committee of Management, how do we go about hiring the hall as a Council asset? I assume it still is.

Response from Manager Governance

The Barongarook Hall and Tennis Council asset:

- Is not currently available for hire.
- It was previously managed by a Community Asset Committee (CAC).

At its 26 August 2020 meeting, Colac Otway Shire Council established and appointed members to 22 Community Asset Committees that manage public halls, recreation reserves and sporting facilities across the Colac Otway Shire. Barongarook was established as part of this process.

Consultation

Late in 2022 council officers contacted all CAC's to determine current membership. At that time five community representatives indicated that they were interested in continuing to be a Barongarook Hall and Tennis CAC member.

On 14 March 2023, Council was advised by a member of the CAC that the CAC was in recess/flux and the tennis club was not operational. At that point the hiring of the hall was removed from Council's website, as the contact details were incorrect and the hall was not in a useable condition. Prior to future use, the hall needs to have a condition assessment undertaken by Council.

On 21 March 2023 a Council officer met with a current member of the CAC, who advised:

- Tennis is not played on the court
- Electricity is not connected
- No potable water
- Very little community interest in managing the asset.

On 14 April 2023 a Council officer met with a former CAC member, past President, who advised:

- No interest in the community to continue as a CAC/manage facility (demographics, use Colac facilities)
- Tennis not played on courts (grass is growing throughout the surface)
- Electricity not connected
- Water – no potable, water to toilets is brown (town water but not well “treated”)
- Toilets – not in good condition.

Revocation

The CAC was revoked by Council on 24 May 2023.

As the Committee was no longer in operation it was necessary for the Committee to be revoked by Council so that Council could resume responsibility and operational management of the asset.

Future

In the future, there may be renewed community interest for participation on a community asset committee to manage the Barongarook Hall and Tennis asset.

Alternatively, Council may consider examining the potential for a new community asset committee to manage a ‘cluster’ or group of similar facilities in the Shire, including Barongarook Hall and Tennis asset. Should circumstances and community interest change, officers will present a report for Council’s consideration.

Contact with CAC members

After the CAC was revoked:

- Individual letters were sent to the CAC members to thank them for their dedication and their support to council and the community when undertaking the management of the hall and tennis reserve.
- confirm that, if circumstances change and there is renewed community interest and capacity, Council can consider:
- reinstating the Barongarook Hall and Tennis Reserve Community Asset Committee; or
- examining the potential for a new community asset committee to manage a ‘cluster’ or group of similar facilities in the Shire, including the Barongarook Hall and Tennis asset.