



Colac Otway  
SHIRE

**COUNCIL MEETING**

# **MINUTES**

**Wednesday 27 September 2023**

**at 4:00 PM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**Next Council Meeting: 25 October 2023**



# COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 27 September 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 27 September 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.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings are permitted without specific approval by resolution of the relevant Council Meeting.

This meeting was livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at [www.youtube.com](http://www.youtube.com)).

## **5 QUESTION TIME**

A maximum of 30 minutes is allowed for question time. 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. Is the charge by the Colac Otway Shire Council to those charged in the garbage collection areas based on the actual cost of delivering this service to those charged or is it inflated to include all cost run up to provide this service to places it cannot charge a customer?**

### ***Response from General Manager Infrastructure and Operations***

Councils can establish a waste management charge to recover their full cost of delivering the overall waste service. This can include kerbside bins, public litter bins, transfer stations, education programs and more. For Colac Otway Shire Council, this full service is expected to cost \$5.5 million in 2023-24.

Colac Otway Shire Council has a position of limiting the waste charge to just cover the cost of the kerbside collection service, and plans to raise \$3.7 million in 2023-24. We can confirm the waste levy is only levied to those properties who receive the kerbside collection service.

The majority of the difference in the waste charge income and the cost of the overall service is borne through General Rate Revenue.

In the 2023-24 budget Council adopted a 10% increase of the waste charge to \$351 for weekly collection and \$268 for fortnightly collection.

2. **Due to the agreement entered into between the Colac Otway Shire Council and the Victorian State Government on the supply of electric power, as the owner of the company to supply power under this agreement has a fully owned company Snowy Hydro just announced a very big delay of at least seven years in a project to supply power and a very big high cost blow out of over fivefold of about ten billion dollars. Will power under this contract now be certain it will be provided on time and at an affordable cost plus will we continue to have street lights in this municipality that are able to operate?**

***Response from General Manager Corporate Services***

Council does not have any agreement or contract with the Victorian State Government relating to the supply of electric power.

3. **Will the Colac Otway Shire Council do itself a favour and hurry up and advise under what the Council Election in 2025 will be conducted? Is this as per *Local Government Act 2020* that Councillors must represent one member wards or will you ignore this requirement because if single member wards this Shire will have to be re-subdivided into a number of wards plus you will have to call for candidates to register very soon now as the election must be held within about 14 months.**

As well you will have to produce updated Electoral Rolls and notify all if we change from whole of municipality to a ward only basis. If wards all must be advised of what ward they are in as ward votes can only vote for those standing in that ward not for all standing in the municipal area, plus if to be conducted by mail you need to allow ample time to post of ballot material and have it returned prior to the cut off date for return of ballots.

It is well know that mail not redirected can take over seven days from when mail post marked and dated in Colac is delivered to Colac Post Office address but if sent to wrong places can then many weeks.

***Response from Manager Governance***

The electoral structure of Colac Otway Shire Council was last reviewed in 2019. However, the commencement of the *Local Government Act 2020* in April 2020 meant the electoral structure was determined in accordance with the new Act. The municipality remains unsubdivided.

While 39 local councils are being reviewed in the state at the moment – this does not include Colac Otway Shire.

4. **When will the Colac Otway Shire Council rates department send out rates notices so that people have a genuine amount of time to check them, plus if need be have arrangements to have funds available to pay them on time? Not delay sending out rate notices until only a month or less before the first payment is due you cannot keep using the excuse you only have to give two weeks' notice in an area it can take over a week in Colac to deliver mail even to a post office address in Colac that is not redirected. This allows no time for a person to mail back a payment and be certain they will not be hit with interest as payment late in being received Councils mailing is a disgrace at**

times many days from when mail is dated and the dispatch date recorded on an envelope in addition to non-work days for years when the first payment fell due in September rate notices were sent out in very early July. I am not the only person objecting to this year's rate notices being very late.

***Response from General Manager Corporate Services***

The Victorian Government introduced legislative changes that came into effect requiring additional information to be included on rates notices. This required Council to re-design its rates notices and as a result rates notices this year were issue slightly later than usual.

They were dated 1 September 2023 as this was the date they were mailed to ratepayers.

Late instalment payments are accepted up till the following February without interest being charged. In that time, rate payers can contact Council and discuss their situation so we can assist with setting them up to pay by instalments or putting them onto payment plans. After February, if no contact has been made with Council, yes, interest does start to be charged on amounts that remain outstanding. We will always try to assist people to manage the payment of their rates within their circumstances.

If a ratepayer is concerned with delays at Australia Post they can register through Council's website to receive the notice via email straight away via eNotices or again, contact the rates department and they can assist.

5. **When is the Colac Otway Shire Council going to justify to the entire community why it increased rate and charges on pensioner rate recipients at a higher percentage to the general community? Do not forget the pensioner rebate has been frozen for a period of years forward there was a no change in the 2023 – 2024 year.**

**i.e. total rates and council charges –  
Yr 1 - \$1053.30- General community  
Yr1 - \$800.00 Pensioner rebate in full off Council charges**

**Yr 2 - \$1153.30 – General Community  
Yr 2 - \$900.00 – Pensioner rebate in full off Council charges**

**Percentage increase Yr 1 to Yr 2  
General Community just over 9.47%  
Rebate Recipients 12.5%  
Even if we added \$1000 to the total rates and Council charges  
General Community up about 4.86%  
Pension Recipients up about 5.56%  
No matter how high the valuation the pension increase would still be higher percentage based on the same Valuation**

***Response from General Manager Corporate Services***

Rates are based on valuation regardless of status of the owner of the property and therefore pension rate recipients are subject to the same processes as all ratepayers.

The rebate amount is set by the State Government. The rebate rate remains the same for this financial year, as it did for last financial year. Council has been advised future rebates cap will increase by 2.5% per year.

**Jason Schram**

1. What is the total site value of:
  - a) Residential Colac/Elliminyt in 22/23.
  - b) Residential Colac/Elliminyt in 23/24
  - c) CIV value Residential Colac/Elliminyt in 22/23
  - d) CIV value Residential Colac/Elliminyt in 23/24
  
  - e) Total Site Values of rural residential/lifestyle properties 22/23
  - f) Total site Values of rural residential/lifestyle properties 23/24
  - g) CIV value rural residential/lifestyle properties 22/23
  - h) CIV value rural residential/lifestyle properties 23/24
  
  - i) Total site value residential balance of shire 22/23
  - j) Total site value residential balance of shire 23/24
  - k) CIV value residential property balance of shire 22/23
  - l) CIV value residential property balance of shire 23/24

***Response from General Manager Corporate Services***

We will need to take this question on notice and respond in writing, as this information needs time to collate.

2. **With regard to the community consultation about the master plan for the botanic gardens, what area is Council talking about? It is very confusing at best. The media says have a say on the gardens and Lake Foreshore but the survey does not mention the foreshore at all. There are no indicative maps or diagrams nor are there any reference to existing plans for these areas. Does it include the playground and BBQ area? And is the Council looking at changing the Lake Colac master plan that takes in the foreshore area?**

***Response from General Manager Infrastructure and Operations***

The Colac Botanic Gardens master plan is to review the 2012 master plan and will have the same area. The master planning process will explore interface issues and opportunities with the surrounding environment and consider Lake Colac Caravan Park and any future developments in the vicinity of the Botanic Gardens.

**Pauline Rostos**

1. **Eight million dollars of Federal and State Government Natural Disaster funding grants were on the table till 10th of August this year; such grants would support the development of Colac Otway Shire Council Bushfire Prevention, Projection and Recovery Plan or a Colac Otway Shire Climate Change Risk Assessment. Did Council avail itself of the opportunity to apply for these grants?**

***Response from General Manager Infrastructure and Operations***



Council has been involved in a number of successful projects through this funding program. The most recent application was to undertake a flood study for the Barham River, which we were unsuccessful.

However we are currently in discussions with the Corangamite Catchment Management Authority and the Department of Energy, Environment and Climate Action for this to be funded.

### **QUESTIONS RECEIVED VERBALLY AT THE MEETING**

#### **Tony Weber, Otway Forum**

- 1. My first question is on the rates collected in the Marengo / Apollo Bay and Skenes Creek area compared to the money spent in the same area.**

#### ***Response from the Mayor***

What is your question?

**What is the comparison between the amount spent and the amount collected?**

#### ***Response from General Manager Corporate Services***

We will have to take that on notice as we don't have that information to hand right now Mr Webbers but you will get a response.

- 2. The second question is about people driving on the wrong side of the road along the Great Ocean Road. A person born in Apollo Bay and a tenant now in Apollo Bay was driving along the Ocean Road, a car proceeded towards him and it wouldn't go off onto its right lane. He had to run into the ditch. He turned around and followed the vehicle and caught up with it at a traffic light for road works. He got out and asked the person what they were doing and all that they could say was sorry. That's the only English they had. I think in New Zealand when you travel there if you don't speak English or you drive in a country on the other side of the road you have to do a short video so you understand the road rules. Maybe this Council could actually lobby the State Government to do something similar. Would the Council do that?**

#### ***Response from Chief Executive Officer***

Through the Chair, I'm happy to respond to that thanks Mr Webber. This is an issue that our communities have raised for many many years and along with the other Councils along the Great Ocean Road we've been advocating for a long time to both levels of government, State and Commonwealth to get some significant funding to help with improved signage and also some training for people as sometimes they might enter the country, pick up vehicles etc. So rather than individual councils we think it needs a broader approach. We were getting some really good traction with our partners many years ago and I think we were optimistic something would happen and then in 2020 we had a significant disruption that kind of stopped a lot of international travel and I think that project got put on hold. So I take the opportunity that you're giving us to re-energise our advocacy because I think that's an important thing for us to do that's helped.

- 3. The third question is about the debate on the sale of the old kindergarten. Now the community would like the Council to reconsider the decision to sell the old kindergarten site because of the change in circumstances. Will the council reconsider please?**

### ***Response from the mayor***

Thanks for the question Mr Webber. Councillors will be considering matters in the agenda as you know.

## **6 PETITIONS / JOINT LETTERS**

### **Statement from the Mayor**

Petitions with a total of 917 signatories were received from the Apollo Bay Community Voice on 13 September 2023, in response to the proposed sale of 69 McLachlan Street, Apollo Bay.

The purpose of the petitions is to request that Council not sell 69 McLachlan Street, Apollo Bay.

In accordance with clause 57.11 of Council's Governance Rules, if a petition relates to any item already on the agenda for the Council meeting at which the petition is submitted, the Chair may decide that the petition will be dealt with in conjunction with that agenda item.

### **Statement from Cr Costin**

Thank you mayor if I could jump in for a moment. It's a rapidly changing world in which we live at the moment. A number of things have happened since I lodged my rescission notice after our August meeting. If I could go on a bit and explain where I'm getting to. Only a week ago the Victorian Government released its housing statement with a series of reforms and investments including some specifically for regional Victoria. The Australian Government also announced its National Housing and Homelessness Plan in August and we're still understanding more about that program as it's to be rolled out. The scale and focus of these reforms and proposed investments by these other levels of government, are significant they amount to billions of dollars, tens of millions, tens of billions and they present the best opportunities for our community to see significant relief from our housing crisis. Last week the Victorian Government announced the commitment to a further 50 houses in Colac Otway Shire and this is a sign that our advocacy is making real traction. Council, its officers and our regional partners continue to be very active in discussions with Homes Victoria about achieving similar outcomes in Apollo Bay where we also need various types of housing and quite a few of them as well. With all these announcements and information made available to me and reading between the lines a bit, I guess I've got good reason to be confident that Apollo Bay will see some housing outcomes in the near future and I no longer think that Council needs to hold up the sale of 69 McLaughlin Street at this time. So noting that the sale proceeds from the sale of 69 McLaughlin Street will go to pay outstanding invoices for the Early Years Hub component, for the Maternal and Child Health component of the Early Years Hub and that the remaining proceeds are still allocated as a contribution towards child care at this Early Years Hub and if child care goes in it becomes a best practice integrated Early Years Hub, so international best practice. So therefore Mayor and Councillors, I advise that I withdraw my rescission notice item 10.1 and perhaps if you can let us know what now happens to that petition. Thank you.

### ***Response from the Mayor***

Thank you Cr Costin and very well explained to us all. In view of that, I'll revert to our practice and governance, in which case a petition received at one meeting will be carried over to be dealt with at the following Council meeting. So in this event we won't be dealing with a petition today, but we'll be dealing with it at the next Council meeting which will be in October.

## 7 DECLARATIONS OF INTEREST

Cr Chris Potter	Item 9.5 – Contract 2401 - Memorial Square Public Toilets Redevelopment
Nature of disclosure	General conflict of interest
Nature of interest	A family member is a principal in the business of BDH who submitted a tender for this contract.

## 8 CONFIRMATION OF MINUTES

- Council meeting held on Wednesday 23 August 2023.

### **RESOLUTION**

***MOVED Cr Max Arnott, SECONDED Cr Tosh-Jake Finnigan***

***That Council confirm the minutes of the Council meeting held on Wednesday 23 August 2023.***

***CARRIED 7:0***

Item: 9.1

## Approval and Certification of in-principle Financial Statements and Performance Statement 2022-23

<b>OFFICER</b>	Xavier Flanagan
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>2022 - 2023 Colac Otway Shire Financial Statements ( Final Draft - Attachment to Council Meeting 27 [9.1.1 - 48 pages]</li><li>Draft Performance Statement 2022 23 [9.1.2 - 15 pages]</li></ol>

**The Chief Executive Officer tabled at the meeting an updated Performance Statement (Attachment 3). This document is attached to the minutes.**

### Statement from the Chief Executive Officer

The presentation of our end of year Financial Statements and Performance Statements is always a significant milestone, lots of moving parts, almost right to this point where Council finally considers them. I thank the finance team and every other officer involved in the preparation of this year's statements and I also thank the Audit and Risk Committee who have worked closely with us throughout the process - asked insightful questions as well as giving good guidance to Council. Tonight a few things I need to draw to the attention of Councillors and the gallery. The report in the Agenda was drafted prior to the Audit and Risk Committee meeting on 13 September and it was drafted on the basis of the Committee's Agenda and we failed to pick up some minor changes as a result of the Committee's minutes and so there are some things on page six and seven that I need to correct now. Those corrections relate to the advice from the Audit and Risk Committee to Council. Item 2.2 - in that advice which is in the executive summary, as I said on page six, the last part of that point should say that if there are significant changes prior to certification of the 2022-23 Colac Otway Shire Council Financial Statements and Performance Statement that they be referred to the Audit and Risk Committee for endorsement, our report says "information". The Committee asks that they have an opportunity to endorse it, so it should say "endorsement". The third point in their advice to Council that ends in the words made on behalf of Council and the Committee asked that that advice actually say where changes have been made on behalf of Council and have been endorsed by the auditor and Audit and Risk Committee. So we will have those corrections noted in the minutes. They don't change the statements or the recommendation of officers, but we just wanted to make sure they correctly reflect the Committee's minutes.

We have as I said, been working with our auditors closely right to the very last point and through that process we have identified two corrections that have needed to be made to the Performance

Statement. They are both relatively minor and the auditors are very comfortable that there's nothing material or of concern, but we wanted to make sure that the statements are as absolutely accurate as possible. So we have as of today prepared another version of the Performance Statements that has been provided to the Councillors already and we table it tonight to be recorded as Attachment 3. The two changes for the gallery's benefit that I will just speak to that have been made to the Performance Statement are changes that relate to the Aquatic Utilisation indicator and in fact our visitation to our Bluewater Leisure Centre has actually been greater than what we initially reported in the Statement. So that's a good thing and we have corrected that indicator to now be 4.68 so that is an improved performance outcome. The second indicator that we've had to make a minor adjustment to is the diversion of waste from landfill which is measured in tonnages. That was reported in the Statements in the Agenda as 56.68 percent diversion and we've actually had a better outcome this year than that so we have been able to adjust that up to 57.15. They're the only two changes in Attachment 3 from what is in the Agenda and there are no changes to the Financial Statements.

## **RECOMMENDATION**

### ***That Council:***

- 1. Receives the 2022-23 Financial Statements (Attachment 1) and 2022-23 Performance Statement (Attachment 2) which have been prepared in accordance with sections 98(5) and (4) of the Local Government Act 2020.***
- 2. Notes that the Audit and Risk Committee considered 2022-23 Financial Statements and 2022-23 Performance Statement, as well as the Auditor's draft Closing Report at its meeting held on 13 September 2023.***
- 3. Approves in principle the 2022-23 Financial Statements (Attachment 1) and 2022-23 Performance Statement (Attachment 2) and submits the Statements to the auditor reporting on the audit in accordance with section 99(2) of the Local Government Act 2020.***
- 4. Authorises Councillors Kate Hanson and Margaret White to certify the 2022-23 Financial Statements and 2022-23 Performance Statement in their final form after any changes recommended or agreed by the auditor have been made in accordance with section 99(3)(a) of the Local Government Act 2020.***
- 5. Requires the 2022-23 Financial Statements and 2022-23 Performance Statement to be referred to the Audit and Risk Committee for information, if there is any significant further change prior to certification.***

The officer recommendation was revised as outlined below.

## **RESOLUTION**

**MOVED Cr Max Arnott, SECONDED Cr Margaret White**

**That Council:**

- 1. Notes that an updated Performance Statement has been tabled and becomes Attachment 3 to this item.**
- 2. Receives the 2022-23 Financial Statements (Attachment 1) and 2022-23 Performance Statement (Attachment 3) which have been prepared in accordance with sections 98(5) and (4) of the Local Government Act 2020.**
- 3. Notes that the Audit and Risk Committee considered 2022-23 Financial Statements and 2022-23 Performance Statement, as well as the Auditor's draft Closing Report at its meeting held on 13 September 2023.**
- 4. Approves in principle the 2022-23 Financial Statements (Attachment 1) and 2022-23 Performance Statement (Attachment 3) and submits the Statements to the auditor reporting on the audit in accordance with section 99(2) of the Local Government Act 2020.**
- 5. Authorises Councillors Kate Hanson and Margaret White to certify the 2022-23 Financial Statements and 2022-23 Performance Statement in their final form after any changes recommended or agreed by the auditor have been made in accordance with section 99(3)(a) of the Local Government Act 2020.**
- 6. Requires the 2022-23 Financial Statements and 2022-23 Performance Statement to be referred to the Audit and Risk Committee for information, if there is any significant further change prior to certification.**

**CARRIED 7 : 0**

Item: 9.2

**710 Blue Johanna Road, Johanna (PP87/2022-1)**

<b>OFFICER</b>	Ian Williams
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Planning and Strategic Focus
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Plans Considered at February Planning Committee Meeting [9.2.1 - 46 pages]</li><li>2. Officer report to 8 February 2023 Planning Committee Meeting [9.2.2 - 45 pages]</li><li>3. Amended VCAT Application Plans [9.2.3 - 4 pages]</li><li>4. Amended VCAT Application - Statement of Changes [9.2.4 - 1 page]</li><li>5. Practice Note PNPE 9 - Required Information [9.2.5 - 1 page]</li><li>6. Notice of Decision to Grant a Permit [9.2.6 - 8 pages]</li></ol>

## RECOMMENDATION

**That Council:**

1. ***Notes the amendments that have been made to the plans since the Notice of Decision to Grant a Permit was issued.***
2. ***Notes that the amended plans and statement of changes do not adequately address the requirements of the Victorian Civil and Administrative Tribunal's (VCAT's) Practice Note PNPE9 'Amendment of Planning Permit Applications and Plans'.***
3. ***Deems that the amended plans cannot be properly considered without, as a minimum, a full set of plans of the amended proposal and the submission of an amended Bushfire Management Plan, Geotechnical Assessment, Land Capability Assessment, Land Management Plan and Visual Impact Assessment.***
4. ***Agrees to review the amended plans if and when the information required by Practice Note PNPE9 is provided.***
5. ***Conveys this position to VCAT and all parties to the hearing.***

## RESOLUTION

**MOVED Cr Stephen Hart, SECONDED Cr Max Arnott**

**That Council:**

- 1. Notes the amendments that have been made to the plans since the Notice of Decision to Grant a Permit was issued.**
- 2. Notes that the amended plans and statement of changes do not adequately address the requirements of the Victorian Civil and Administrative Tribunal's (VCAT's) Practice Note PNPE9 'Amendment of Planning Permit Applications and Plans'.**
- 3. Deems that the amended plans cannot be properly considered without, as a minimum, a full set of plans of the amended proposal and the submission of an amended Bushfire Management Plan, Geotechnical Assessment, Land Capability Assessment, Land Management Plan and Visual Impact Assessment.**
- 4. Agrees to review the amended plans if and when the information required by Practice Note PNPE9 is provided.**
- 5. Will take all reasonable steps to bring the item to the Planning Committee meeting on 11 October 2023, if the information referred to in point 4 is provided through the VCAT process with sufficient time.**
- 6. Conveys this position to VCAT and all parties to the hearing.**

**CARRIED 7 : 0**



Item: 9.3

## Project Budget Adjustments and Cash Reserve Transfers - Final 2022-23 Report

<b>OFFICER</b>	Paula Gardiner
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Attachment 1 - Capital Project Budget Adjustments and Cash Reserves [9.3.1 - 2 pages]</li> <li>2. Attachment 2 - Operational Budget Adjustments and Cash Reserve Transfers [9.3.2 - 1 page]</li> <li>3. Attachment 3 - Capital Project Closures [9.3.3 - 6 pages]</li> <li>4. Attachment 4 - Operational Project Closures [9.3.4 - 2 pages]</li> <li>5. Attachment 5 - Capital Project Carry Forwards 2022-23 [9.3.5 - 3 pages]</li> <li>6. Attachment 6 - Operational Project Carry Forwards 2022-23 [9.3.6 - 2 pages]</li> </ol>

### RESOLUTION

**MOVED Cr Max Arnott, SECONDED Cr Margaret White**

**That Council:**

1. **Ratifies the project budgets as presented in Table 1 of this report, at a total cost to Council of \$50,000 funded from the Unallocated Renewal funds.**
2. **Ratifies the project budget adjustments in Attachment 1 – Capital Project Budget Adjustment and Cash Reserve Transfers of this report, with a net result of funds transferred:**
  - a. **To Unallocated Renewal funds of \$376,251**
  - b. **To the Strategic Project Reserve of \$52,917**
  - c. **To the Operational Project budget of \$95,542**
3. **Ratifies the project budget adjustments in Attachment 2 – Operational Project Budget Adjustments and Cash Reserve Transfers of this report, with a net result of funds transferred:**

**a. To Unallocated Discretionary funds of \$107,904**

**b. From the Capital Project Budget of \$95,542**

**4. Notes the projects identified for closure in Attachment 3 – Capital Project Closures and Attachment 4 – Operational Project Closures as at the end of the 2022-23 financial year.**

**5. Notes the projects identified for carry over to 2023-24 in Attachment 5 – Capital Project Carry Forward 2022-23 and Attachment 6 – Operational Project Carry Forward 2022-23.**

**CARRIED 7 : 0**

Item: 9.4

## Project Budget Adjustments and Cash Reserve Transfers - September 2023

<b>OFFICER</b>	Paula Gardiner
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	Nil

### RESOLUTION

*MOVED Cr Stephen Hart, SECONDED Cr Tosh-Jake Finnigan*

*That Council:*

- 1. Approves the project budget adjustments in Table 3a of this report, with a net result of funds transferred:
  - a. From unallocated renewal funds of (\$100,000).**

*CARRIED 7 : 0*

### APPOINTMENT OF ACTING CHAIR

*RESOLUTION*

*MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Graham Costin*

*That Council appoint Cr Margaret White as Acting Chair.*

*CARRIED 7 : 0*

Item: 9.5

## Contract 2401 - Memorial Square Public Toilets Redevelopment

<b>OFFICER</b>	Paula Gardiner
<b>GENERAL MANAGER</b>	Heath Chasemore
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	1. Memorial Square Public Toilets - Public Toilet Layout Plan - Concept Plan Adopted by Council - 2022- [9.5.1 - 1 page]

Cr Chris Potter declared a general conflict of interest pursuant to section 127 of the *Local Government Act 2020* and left the meeting at 5.30pm prior to discussion taking place on this matter.

Cr Chris Potter	Item 9.5 – Contract 2401 - Memorial Square Public Toilets Redevelopment
Nature of disclosure	General conflict of interest
Nature of interest	A family member is a principal in the business of BDH who submitted a tender for this contract.

## RECOMMENDATION

**MOVED** Cr Max Arnott, **SECONDED** Cr Kate Hanson

**That Council:**

1. **Awards Contract 2401 – Memorial Square Public Toilet Redevelopment, to BDH Constructions Pty Ltd for the lump sum price of \$1,168,838 (ex. GST).**
2. **Authorises the Chief Executive Officer to execute the contract documents on behalf of Council.**
3. **Authorises the Chief Executive Officer to perform all roles of the Principal.**
4. **Authorises the General Manager Community and Economy as the Superintendent for Contract 2401 – Memorial Square Public Toilet Redevelopment, including managing variations in accordance with the contract conditions.**
5. **Notes that unsuccessful tenderers will be advised of the outcome of the tender process and the successful tenderer and contract price will be listed on Council’s website.**

## AMENDMENT

**MOVED Cr Stephen Hart, SECONDED Cr Graham Costin**

**To amend point 4 to read:**

- 4. Authorises the General Manager Community and Economy as the Superintendent for Contract 2401 – Memorial Square Public Toilet Redevelopment, with the condition that any proposed variation that would increase the cost by more than \$10,000 (ex GST) and all variations that would increase the cost if the already approved variations have already increased the cost by \$60,000 (ex GST) or more, will require approval through resolution of Council at a Council Meeting prior to the Superintendent making any determination.**

Cr Tosh-Jake Finnigan foreshadowed they would move an amendment, in the event that the amendment currently before Council was lost.

**LOST 2 : 4**

**DIVISION**

**For the motion: Cr Stephen Hart, Cr Graham Costin**

**Against the motion: Cr Max Arnott, Cr Tosh-Jake Finnigan, Cr Kate Hanson, Cr Margaret White**

## AMENDMENT

**MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Stephen Hart**

**To amend point 4 to read:**

- 4. Authorises the General Manager Community and Economy as the Superintendent for Contract 2401 – Memorial Square Public Toilet Redevelopment, with the condition that any proposed variation that would increase the cost by more than five percent of the adjusted contract sum will require approval through resolution of Council at a Council Meeting prior to the Superintendent making any determination.**

**EQUAL 3 : 3**

**The Acting Chair used their casting vote to vote against the amendment.**

**The amendment was LOST.**

**DIVISION**

**For the motion: Cr Stephen Hart, Cr Graham Costin, Cr Tosh-Jake Finnigan**

**Against the motion: Cr Max Arnott, Cr Kate Hanson, Cr Margaret White, Chair (casting vote)**

*The vote on the Recommendation in the Officer's Report (previously moved and seconded by Cr Max Arnott and Cr Kate Hanson) was put.*

## **RESOLUTION**

*That Council:*

- 1. Awards Contract 2401 – Memorial Square Public Toilet Redevelopment, to BDH Constructions Pty Ltd for the lump sum price of \$1,168,838 (ex. GST).*
- 2. Authorises the Chief Executive Officer to execute the contract documents on behalf of Council.*
- 3. Authorises the Chief Executive Officer to perform all roles of the Principal.*
- 4. Authorises the General Manager Community and Economy as the Superintendent for Contract 2401 – Memorial Square Public Toilet Redevelopment, including managing variations in accordance with the contract conditions.*
- 5. Notes that unsuccessful tenderers will be advised of the outcome of the tender process and the successful tenderer and contract price will be listed on Council's website.*

**CARRIED 5 : 1**

### **DIVISION**

*For the motion: Cr Graham Costin, Cr Max Arnott, Cr Tosh-Jake Finnigan, Cr Kate Hanson, Cr Margaret White*

*Against the motion: Cr Stephen Hart*

The meeting adjourned for a short break at 6.15pm.

The meeting resumed at 6.26pm.

Cr Chris Potter resumed the Chair at 6.26pm.

Item: 9.6

## Contract 2408 - Software Licence and Services Agreement with Civica Pty Ltd

<b>OFFICER</b>	Rikk Price
<b>GENERAL MANAGER</b>	Andrew Tenni
<b>DIVISION</b>	Corporate Services
<b>ATTACHMENTS</b>	Nil

### **RESOLUTION**

**MOVED Cr Max Arnott, SECONDED Cr Kate Hanson**

**That Council:**

- 1. Formalises its arrangement with Civica Pty Ltd for enterprise software through agreeing to enter Contract 2408 – Software Licence and Services Agreement with Civica Pty Ltd based on a schedule of rates referred to in Schedule 2 (refer confidential Attachment).**
- 2. Notes that the estimated contract value resulting from the scheduled pricing over the three-year term is \$605,280 (incl GST).**
- 3. Authorises the Chief Executive Officer to execute the Contract 2408 – Software Licence and Services Agreement, on behalf of Council.**
- 4. Authorises the Chief Executive Officer or their delegate, to perform all roles of the Principal.**

**CARRIED 7 : 0**

Item: 9.7

## Appointment of Audit and Risk Committee Chair and Re-appointment of Independent Member

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

### RESOLUTION

*MOVED Cr Margaret White, SECONDED Cr Kate Hanson*

*That Council:*

- 1. Expresses its appreciation to Brian Keane, outgoing Chair and Independent Member of the Audit and Risk Committee for his years of commitment and contribution to Colac Otway Shire.*
- 2. Appoints Melissa Field as the Chairperson of the Audit and Risk Committee for a period of one year, commencing on 1 October 2023.*
- 3. Reappoints Richard Trigg as an Independent Audit and Risk Committee member for a further three years, commencing on 1 December 2023.*
- 4. Notes that an Expression of Interest process will commence in October 2023 for the third Independent Member of the Audit and Risk Committee, to identify candidates suitable to recommend to Council for appointment.*

**CARRIED 7 : 0**



Item: 9.8

## Authorisation of Officers under the Planning and Environment Act 1987 - Archna Rani and Sean O'Keeffe

<b>OFFICER</b>	Janine Johnstone
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Unsigned - S 11 A Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - [9.8.1 - 1 page]</li><li>2. Unsigned - S 11 A Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - [9.8.2 - 1 page]</li></ol>

### RESOLUTION

**MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Kate Hanson**

**That Council:**

- 1. Appoints Archna Rani as an Authorised Officer pursuant to section 147(4) of the Planning and Environment Act 1987 (refer Attachment 1).**
- 2. Appoints Sean O'Keeffe as an Authorised Officer pursuant to section 147(4) of the Planning and Environment Act 1987 (refer Attachment 2).**
- 3. Authorises the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.**
- 4. Notes that the Instruments of Appointment and Authorisation come into force immediately the common seal of Council is affixed to the instruments and remain in force until Council determines to vary or revoke them.**

**CARRIED 7 : 0**

Item: 9.9

## S6 Instrument of Delegation - Council to Members of Council Staff - Update

<b>OFFICER</b>	Janine Johnstone
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Attachment 1 - Unsigned S 6 Instrument of Delegation - Members of Staff - 20230828 [9.9.1 - 152 pages]

### RESOLUTION

**MOVED Cr Stephen Hart, SECONDED Cr Max Arnott**

**That Council:**

- 1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation (Attachment 1), delegates to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in that instrument, the powers, duties and functions set out in the Instrument, subject to the conditions and limitations specified in that Instrument.**
- 2. Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.**
- 3. Authorises the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.**
- 4. Notes that on the coming into force of the S6 Instrument of Delegation, the previous S6 Instrument of Delegation from Council to members of Council staff (authorised by resolution of Council on 29 March 2023) is revoked.**
- 5. Notes the duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that from time to time be adopted.**

**CARRIED 7 : 0**

Item: 9.10

## Audit and Risk Committee Biannual Report

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Chair Biannual Report to Council of Colac Otway September 2023 [9.10.1 - 6 pages]

### **RESOLUTION**

*MOVED Cr Kate Hanson, SECONDED Cr Margaret White*

*That Council:*

- 1. Receives for information the Colac Otway Shire Audit and Risk Committee Biannual Report, dated 14 September 2023.*
- 2. Thanks the Chair and Committee members for their efforts and commitment to Colac Otway Shire Council.*

**CARRIED 7 : 0**

Item: 9.11

**Audit and Risk Committee Meeting - Confirmed Minutes - 16 August 2023**

<b>OFFICER</b>	Natasha Skurka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. Audit and Risk Committee Meeting Minutes - 16 August 2023 [9.11.1 - 24 pages]

**RESOLUTION**

*MOVED Cr Margaret White, SECONDED Cr Kate Hanson*

*That Council receives for information the Colac Otway Shire Audit and Risk Committee confirmed minutes, dated 16 August 2023.*

**CARRIED 7 : 0**

**Item: 9.12**

**Report of Informal Meeting of Councillors**

<b>OFFICER</b>	Lyndal McLean
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Informal Meeting of Councillors - 16 August 2023 - Councillor Briefing [9.12.1 - 2 pages]</li> <li>2. Informal Meeting of Council - Council Meeting Preparation - 23 August 2023 [9.12.2 - 2 pages]</li> <li>3. Informal Meeting of Councillors - Councillor Briefing - 6 September 2023 [9.12.3 - 2 pages]</li> <li>4. Informal Meeting of Councillors - Councillor Briefing - 13 September 2023 [9.12.4 - 2 pages]</li> </ol>

**REPORTING**

*The Informal Meetings of Councillors are reported herewith:*

<b>1. Councillor Briefing</b>	<b>16 August 2023</b>
<b>2. Council Meeting preparation</b>	<b>23 August 2023</b>
<b>3. Councillor Briefing</b>	<b>6 September 2023</b>
<b>4. Councillor Briefing</b>	<b>13 September 2023</b>

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

**Item 10.1**

**Notice of Rescission - 69 McLachlan Street, Apollo Bay**

**COUNCILLOR** Cr Graham Costin

**ATTACHMENTS** Nil

Cr Graham Costin withdrew his Notice of Rescission earlier in the meeting.

## Item 10.2 Notice of Motion - Colac BMX

<b>COUNCILLOR</b>	Cr Graham Costin
<b>ATTACHMENTS</b>	1. Argument for BMX Track - Open Letter [10.2.1 - 4 pages]

### NOTICE OF MOTION

*MOVED Cr Graham Costin*

*That Council:*

- 1. Notes:*
  - a. The continuing community interest and recent media coverage over a lack of a BMX/bike park facility in Colac.*
  - b. Council allocated \$10,000 in its 2022-23 Budget to undertake investigations and designs for a 'shovel-ready' bike, pump or BMX track project in either Colac, Birregurra or Apollo Bay for 2023-24 Budget consideration and/or grant application, however the allocation proved inadequate to commence this work.*
  - c. The 2018 Elliminyt Recreation Reserve Master Plan includes the design and construction of a dirt jumps facility at a cost of \$75,000, noting that no investigations or designs had been undertaken to inform this amount.*
  - d. The 2023 Colac City Reserves Planning Project estimates a \$240,000 study of site options for a BMX/bike park facility in Colac.*
- 2. Will support our community members to set up a local BMX Club and to identify high-level cost estimates for a formal BMX track.*
- 3. Requests a briefing report before the end of March 2024 on options for a reduced scope low-cost BMX/bike park project preparation study for consideration in the preparation of Council's 2024-25 Budget.*

*LAPSED for want of a seconder.*

*The meeting was declared closed at 6.50pm*

**CONFIRMED AND SIGNED** at the meeting held on 25 October 2023.

.....**MAYOR**