



ORDINARY COUNCIL MEETING

AGENDA

23 NOVEMBER 2016

at 4.00PM

SENIOR CITIZENS CENTRE
APOLLO BAY

COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

23 NOVEMBER 2016

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COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

NOTICE is hereby given that the next **ORDINARY COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at the Senior Citizens Centre, Apollo Bay on 23 November 2016 at 4pm.

AGENDA

1. I DECLARE THIS MEETING OPEN

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. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendants here today.

I ask that we all show respect to each other and respect for the office of an elected representative.

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

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. Once everyone has had an opportunity to ask their initial questions, and if time permits, the Mayor will invite further questions.

Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting (subject to attendance and time).
2. Questions from the floor.

6. TABLING OF RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS

These responses will not be read out but will be included in the minutes of this meeting.

7. DECLARATION OF INTEREST

7. PETITIONS/JOINT LETTERS (if required)

8. CONFIRMATION OF MINUTES

- **Ordinary Council meeting held on 19 September 2016.**
- **Special Council meeting held on 12 October 2016.**
- **Special Council meeting held at 4.00PM on 9 November 2016.**
- **Special Council meeting held at 4.42PM on 9 November 2016.**

Recommendation

That Council confirm the above minutes.

10. OATH OF OFFICE

Recommendation:

That Council:

- 1. Note Cr Kate Hanson, Cr Stephen Hart, Cr Joe McCracken, Cr Chris Potter, Cr Jason Schram, Cr Chris Smith and Cr Terry Woodcroft took the Oath of Office on 4 November 2016 as per Section 63 of the Local Government Act 1989.***
- 2. Note the above Councillors also signed a declaration that they had read and would abide by the Councillor Code of Conduct in accordance with Section 63 of the Local Government Act 1989.***

ORDINARY COUNCIL MEETING
COPACC CINEMA LEASE
OM162311-1

LOCATION / ADDRESS	COPACC	GENERAL MANAGER	Ingrid Bishop
OFFICER	Ian Seuren	DEPARTMENT	Infrastructure and Leisure Services
TRIM FILE	F16/6678	CONFIDENTIAL	No
ATTACHMENTS	Attachment 1 - Bonniemike submission to COPACC Cinema Lease		
PURPOSE	The purpose of this report is to consider the termination of the recent the Eol process for the lease of cinema services at COPACC following the withdrawal from the process by Showbiz Group. The report also makes recommendations regarding the implementation of short term lease arrangements for the cinema whilst a process to secure a longer term outcome is finalised.		

1. DECLARATION OF INTERESTS

It is noted that Council's CEO is a neighbour to a submitter to the Section 190/223 process.

2. BACKGROUND

Since the development of COPACC in 2000, cinema services have been provided by a private operator through a lease agreement. The existing lease with Bonniemike Pty Ltd expires 30 November 2016.

Council called for Expressions of Interest (Eol) in May 2016 for the future provision of cinema services at COPACC. The Eol process is a lawful and public procurement process that invites commercial operators to outline their proposal in detail and demonstrate their capacity to address all of the requirements that Council specified.

In response to this, Council received two (2) Eol submissions from Bonniemike and Showbiz Group. Council considered both Eols at its August 2016 meeting (In-Committee), and resolved to endorse Showbiz Group Pty Ltd as the preferred proponent for the provision of cinema services at COPACC. Showbiz Group were deemed the preferred proponent based on their demonstrated capability and capacity to fulfil the requirements of the lease and to provide the best value and overall benefit to the community. The effect of this decision eliminated Bonniemike from the competitive procurement process.

Following this decision, as is required in accordance with sections 190 and 223 of the *Local Government Act 1989*, Council gave public notice of its intent to enter into a lease with Showbiz Group and invited submissions from the public in response to this. Eleven (11) submissions were received with four (4) submitters requesting to speak to their submissions at the Special Council Meeting on 9 November 2016.

At the Special Council Meeting, Council received and noted all eleven (11) submissions and heard from four (4) submitters – two residents, the current tenant and Showbiz Group.

Analysis of the submissions received follows:

Community concerns	Response
Concern that service for 5 days per week will not meet community demand. Submitters have indicated a desire to retain the opportunity to see a film 7 days per week.	Whilst the current arrangements for the provision of cinema services may have met community needs from a cinema perspective; these arrangements severely impede the community's access to the Auditorium for a range of activities such as the COPACC season programme, fundraising events, school concerts, dance school performances, touring productions, amateur theatre productions etc. Whilst flexibility for the community is important, data indicates that cinema attendance mid-week during school terms is extremely low. There is an ability to seek to address this in any new lease.
Retention of existing cinema staff because they are valued by the community.	It must be noted that this is not a matter that Council can specifically address.
Supply and Demand – need to capture data to support programming requirements and identify demand.	Showbiz Group indicated their commitment to undertake research to determine the community's needs and respond accordingly. It is recommended that data be captured over a 6 month period to identify demand and service provision requirements into the future. Although Showbiz Group has withdrawn from the process, officers are recommending that data collection continues as it will inform service delivery in the future. This should be a requirement of any short term lease extension.
Are the benefits/advantages such as Gold Cards and pensioner discounts still available?	The Showbiz Group proposal included concession prices and other benefits such as a Cinema Loyalty Program, Early Bird Special, Discount Day, etc. at a minimum.
Will the diversity of films be reduced?	The Showbiz Group proposal demonstrated a commitment to programming a broad selection of day and date release films and film genres which is Showbiz Group's current practice across its other regional Victoria venues.
Candy Bar hours and Box Office Hours – will they be reduced?	The Showbiz proposal involved operating from 11am to 8pm, 7 days a week in school holidays and public holidays; and from 11am to 8pm from

Community concerns	Response
	<p>Thursday to Monday during school term periods; and 1 hour prior to all ticketed events (includes performing arts events) regardless of the day. This would increase in line with the service demand i.e. increase to 7 days if the cinema service was 7 days.</p> <p>The lease requirement to ensure the availability of online ticketing would result in a 24 hr/7 days per week ticketing service – research indicates that approx. 60% of tickets are purchased online. This trend continues to grow. Online ticketing provides an opportunity to engage with our customers, provide value adds (special offers), a current database and opportunities to research what our customers want from COPACC.</p> <p>Comparative analysis suggests that box office hours greatly exceed many other regional venues including GPAC in Geelong.</p>
<p>Community's understanding of the Local Government procurement process is not clear.</p>	<p>The EoI process is a legitimate procurement process allowing Council to test the market and seek community feedback.</p> <p>It is accepted that this is complex and has created some process concerns but current legal obligations have been met.</p>
<p>The community's arts centre is to remain available and accessible to community groups.</p>	<p>In addition to cinema, an active, accessible performing arts centre is considered an important facility/service in terms of social connectedness, community wellbeing, population attraction and retention.</p> <p>Access to the Auditorium for live performances and community productions is extremely important and highly valued, however current access is limited. New lease arrangements could require an increase of the performing arts offering.</p> <p>It should be noted that since July 2015, approx. 30 corporate events have been turned away due to lack of available space.</p>
<p>Current arrangements result in community groups competing for limited programming availability.</p>	<p>Feedback from community hirers is that they would welcome the opportunity to have greater access to the Auditorium mid-week during school terms for rehearsals and performances and be able to spread out community bookings and events to alleviate programming clashes.</p>

Community concerns	Response
<p>Community feedback is that Council needs to support the live arts program and recognise that COPACC is a dedicated theatre as well as a cinema.</p>	<p>It is important to balance the needs for cinema with the needs for accessing the Auditorium for performing arts. Demand for midweek cinema during school term time is low.</p> <p>COPACC manages ticket waiting lists of up to 100 people listing several weeks prior to events with some members of the community appealing for tickets to purchase on social media.</p> <p>Year to date, the Auditorium has sold out 13 times with local productions by amateur groups attracting audiences in excess of 1,400 – that’s filling the theatre more than three times.</p> <p>Events previously turned away due to access issues include events for between 100 and 344 people. These events would have raised a minimum revenue of \$1,200 each. Large scale events can be worth \$6,000 in revenue.</p> <p>As noted above, new lease requirements will achieve a greater balance for arts programming during periods when cinema usage is at its lowest, if any.</p>
<p>It is crucial that community groups etc. can still hire out the venue for week-long bookings.</p>	<p>A new lease reflecting the needs of the community, will still provide an opportunity to hire the venue out for week-long bookings.</p>

3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

A Place to Live and Grow

Is a community where people feel cared for and supported; where buildings and spaces facilitate creativity, social activity and enrichment of life, and people have access to gain the skills and education needed to reach their potential.

Our Goal:

Improve access to buildings, spaces, services and education to support and enable quality of life.

A Healthy Community and Environment

Actively connects and includes people of all ages and backgrounds and promotes a healthy and vibrant community life in a clean, safe and sustainable environment.

Our Goal:

Respect cultural differences, support a diverse range of healthy and creative activities, foster community safety and promote environmental sustainability.

Other relevant strategic guidance

Council does not have an adopted strategy guiding the delivery of arts and cultural services however this is being addressed through the development of a new Arts and Culture Strategy.

Procurement of the service provider has been in line with Council's procurement policy. The process for considering and developing a new lease has been undertaken in accordance with the relevant sections of the *Local Government Act 1989*.

Issues / Options

Subsequent to the hearing of submissions at the Special Council Meeting on 9 November 2016, Showbiz Group contacted Council on 11 November 2016 to formally advise that they are withdrawing from the procurement process.

Showbiz Group advised that when responding to the EoI that they put their best offer forward, first time and were able to more than adequately meet the requirements of Council and the need to provide both cinema and performing arts services simultaneously and professionally. Their service model was designed to deliver this.

The impact of the Showbiz Group withdrawal is that Council must firstly, complete the current process and determine a new process to resolve the imminent expiry of the current cinema services lease.

It is important to note that due to the *withdrawal* of Showbiz Group from the EoI process, the legislative requirements for Council have changed.

As the preferred proponent has now withdrawn, the EoI process must be closed out/cancelled.

To do this Council must formally (by Council resolution) resolve to terminate the current Section 190/223 process and following this, write to all submitters to advise them of this decision.

It is important to note that any revised offer made by Bonniemike during the Section 190 process (including the submission tabled at the Special Council Meeting) cannot be considered by Council as part of the current EoI process and would be considered under a new process. This is because the EoI process has been the subject of evaluation in accordance with Council's procurement policies and legislative requirements.

Options

Council has the following options to consider:

1. Short Term – Determine to allow Bonniemike to remain as the cinema tenant on a short term basis (less than 5 years).

This would involve negotiating a new lease with Bonniemike as the lessee on a short term basis.

Options for time frames could be between one (1) year with a maximum of five (5) years. In this instance it is recommended that Council pursue a short term lease for 1 year whilst a process to secure a long term outcome is finalised.

In order to achieve a short term lease, noting that the current cinema lease expires on 30 November 2016, the following processes must occur;

The *Local Government Act 1989* requires that Council comply with section 190 which states:

Restriction on power to lease land

- (1) *A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.*
- (2) *Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.*
- (3) *If the lease is to be—*
 - (a) *for 1 year or more and—*
 - (i) *the rent for any period of the lease is \$50 000 or more a year; or*
 - (ii) *the current market rental value of the land is \$50 000 or more a year; or*
 - (b) *for 10 years or more; or*
 - (c) *a building or improving lease—*

the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.

- (4) *A person has a right to make a submission under section 223 on the proposed lease.*

Bonniemike must obtain a 5 year waiver from the Small Business Commissioner (5 years is the minimum term of a lease under the Retail Tenancies Act). A new short term lease would be subject to Bonniemike obtaining a waiver.

2. Long Term

Option A – Determine to negotiate a new lease with the current tenant Bonniemike via a private treaty arrangement.

This process allows for a longer term lease to be resolved i.e. 5 years plus and would need to occur in parallel to the short term process noted above. It would involve Council negotiating a new lease with Bonniemike on terms determined by Council.

The *Local Government Act 1989* requires that Council comply with section 190 which states:

Restriction on power to lease land

- (1) *A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.*
- (2) *Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.*
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 - (ii) *the current market rental value of the land is \$50 000 or more a year; or*
 - (b) *for 10 years or more; or*
 - (c) *a building or improving lease—*

the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.

- (4) *A person has a right to make a submission under section 223 on the proposed lease.*

Option B – Determine to undertake a new Eol process.

The benefit of an Eol process is that it provides a means of providing the private sector a transparent opportunity to respond to Council's requirements but also proffer innovative, agile, pragmatic and realistic service models and solutions that Council may not have considered available previously. Although one of the proponents has withdrawn, it has enabled Council to test the market and provided an opportunity to significantly improve the current arrangements which align more closely to community and Council needs.

Option B would repeat the process that has just occurred and would allow Council the opportunity to seek Eols from any interested commercial operators.

An Eol process requires Council to:

- (a) Resolve in principle to lease the provision of cinema services at the Colac Otway Performing Arts and Cultural Centre (COPACC) 95-97 Gellibrand Street, Colac.
- (b) Commence a public procurement process via an Expression of Interest.
- (c) Receive a report outlining the preferred service provider (Lessee) with recommendations to commence all statutory requirements.
- (d) Select a preferred provider.

Compliance with the requirements of section 190 of the Local Government Act is also required which states:

Restriction on power to lease land

- (1) *A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.*
- (2) *Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.*
- (3) *If the lease is to be—*
 - (a) *for 1 year or more and—*
 - (i) *the rent for any period of the lease is \$50 000 or more a year; or*
 - (ii) *the current market rental value of the land is \$50 000 or more a year; or*
 - (b) *for 10 years or more; or*
 - (c) *a building or improving lease—*

the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.

- (4) *A person has a right to make a submission under section 223 on the proposed lease.*

It is noted that there is no guarantee that submissions would be received due to the recent Eol process, resulting in no provision of cinema services. It is considered that the recent Eol process has adequately tested the commercial market for the provision of cinema services.

Recommended option

The recommended option is to:

- Short term – determine to allow Bonniemike to remain as the cinema tenant on a short term basis (1 year) through a new lease via a private treaty arrangement.
- Long term – determine to negotiate a new lease with the current tenant Bonniemike via a private treaty arrangement.

4. PROPOSAL

That Council resolve to lease the provision of cinema services at COPACC to Bonniemike Pty Ltd for one (1) year and commence the statutory process to enact the lease. Subject to Bonniemike meeting requirements of the short-term lease, prepare a longer term lease (5 years) in accordance with the *Local Government Act 1989*.

5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

The current EoI process has provided an opportunity for any interested commercial operators to outline their proposed service delivery model and cinema offering, and as a result, Council has had the opportunity to design a service that offers the greatest benefit and flexibility for the whole community.

Notwithstanding that the Showbiz Group proposal was deemed as providing the greatest value for money and overall benefit to our community, their withdrawal from the process means that Council must consider options for a new lease process as well as any opportunities that such a process offers Council to derive better value and improved outcomes that the existing arrangements provide.

A copy of the revised Bonniemike offer presented at the Special Council Meeting 9 November 2016 is provided at Attachment 1.

The revised Bonniemike proposal is consistent with an external valuation completed in May 2016. The proposed rent is similar to what Council currently receives from the existing lease however the new lease will require the lessee to pay for utilities associated with Cinema 2 and rates and taxes, representing better value to Council. In addition, the increased access to the Auditorium provides additional revenue opportunities for COPACC.

6. RISK MANAGEMENT & COMPLIANCE ISSUES

The EoI procurement process was considered and thorough. Council will now need to consider risks associated with the different options suggested.

If Council determines to negotiate a long term lease for less than 5 years with the current tenant, this may not be considered as a viable option for Bonniemike and they may withdraw from the process. This may result in a significant interruption to services.

If Council recommences the EoI process in the short term, there is no guarantee that Council will receive any interest; and could in fact receive a lesser offering than is currently being considered. This may result in a significant interruption to services.

To ensure that Council achieves maximum value and benefit for the community, Council will need to negotiate a new lease specifying the improved outcomes and opportunities that this process will provide so that the existing cinema and performing arts offer is significantly improved. Council will need to determine the new terms and conditions of the lease as soon as possible.

7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

There are no environmental considerations associated with this report.

8. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

Council gave public notice of the proposed lease in accordance with sections 190 and 223 of the *Local Government Act 1989* for a period of six weeks from 26 August 2016 until 7 October 2016. Eleven (11) written submissions were received with Council hearing from four (4) submitters on 9 November 2016.

9. IMPLEMENTATION

Should Council adopt the recommendation, officers will commence the statutory process immediately by adhering to the relevant sections (190 and 223) of the *Local Government Act 1989* which includes:

- Give public notice of Council's intention to lease to Bonniemike;
- Receive written submissions received in relation to the proposed lease;
- Consider and hear any submissions
- If written submissions are received, report back with recommendations to Council's January 2017 meeting.

In line with Council's requirements', officers will prepare a new lease based on the key terms of the Eol document and Bonniemike's supplementary information tabled at the Special Council Meeting on 9 November 2016.

A longer term lease will also be prepared during 2017 in accordance with the *Local Government Act 1989*, subject to Council being satisfied that Bonniemike has met the requirements of the one (1) year lease.

10. CONCLUSION

The COPACC facility is a significant community asset that must be made available for use by the community.

Allowing the facility to remain empty or vacant is highly undesirable particularly when the community is unable to access the facility and Council is turning away events, shows, performances and community groups – often when the facility is not being used. This underutilisation occurs when a cinema (either one or both), shows a film that either has no, or very low attendance. This underutilisation occurs on a regular basis particularly outside of school holidays.

Council determined to continue with the current model where cinema services are operated by a private operator who has experience in this area but using the conditions of a new lease to address the underutilisation, inefficiencies, service levels and risk and also improving the community's access to their facility.

The imminent expiry of the current lease has provided an opportunity for Council to consider the consistent underutilisation of the whole of the COPACC facility and imbalance of community access.

In order to be successful in achieving this goal, Council requires a business partner that understands the complexities of managing a multipurpose facility, with a diverse, broad-based user group. Council's aim is to also focus on business development, marketing and the customer experience.

As noted previously, the Eol procurement process was successful in that it has demonstrated that there were opportunities available to Council to provide a community facility that balances the desire for cinema services whilst also realising the full potential of the COPACC facility. Officers remain of the view that there is a great opportunity to significantly improve the current access arrangements.

One of the risks identified at the commencement of this process was that the market might not respond to Council's aspiration for the community and the facility i.e. that Council might not get any bids. It was also identified that as this is a unique multi-purpose venue, there may have been limited interest from the market. However, Council is fortunate to have had a response from two Victorian-based cinema operators who have industry experience and aim to ensure that our facility's potential is realised.

Recommendation

That Council:

- 1. Resolves to terminate the Eol process for the lease of cinema services at the Colac Otway Performing Arts and Cultural Centre (COPACC) 95-97 Gellibrand Street, Colac.***
- 2. Writes to all submitters including Bonniemike Pty Ltd and Showbiz Group Pty Ltd thanking them for their participation in the process.***
- 3. Subject to complying with its obligations under sections 190 and 223 of the Local Government Act 1989 (Act), proposes to provide a 12 month lease by private treaty to Bonniemike Pty Ltd for the provision of cinema services at COPACC on the following terms and conditions:***

<i>Proposed Tenant</i>	<i>Bonniemike Pty Ltd</i>
<i>Agreement Type</i>	<i>Lease Agreement</i>
<i>Lease Term</i>	<i>1 year</i>
<i>Rent</i>	<i>\$120,000 (inc GST)</i>
<i>Rent Review</i>	<i>A set increase of 3.5% per annum</i>
<i>Option</i>	<i>Nil</i>
<i>Security Deposit</i>	<i>6 months' rent (inc GST) from time to time</i>
<i>Special conditions</i>	<i>a) Operate cinema services for 7 days per week.</i> <i>b) The tenant must obtain from the Small Business Commissioner a certification pursuant to section 21(5) of the Retail Leases Act 2003 within 7 days of the commencement of the lease and provide a copy to the landlord within this timeframe.</i>

4. ***Authorises the CEO to negotiate a lease with Bonniemike Pty Ltd in accordance with the terms and conditions in paragraph 3 and otherwise in a form acceptable to the CEO.***
5. ***Subject to Council being satisfied that Bonniemike Pty Ltd has met the requirements of the lease including but not limited to meeting customer service and cleaning standards and online ticketing, Council proposes, subject to complying with its obligations under sections 190 and 223 of the Act, to grant a five year lease to Bonniemike Pty Ltd via a private treaty arrangement based on the same key terms.***
6. ***Authorises Council officers to give public notice of the proposed lease in accordance with sections 190 and 223 of the Act for a period of four weeks;***
7. ***Determine that a 'Committee of Council' in accordance with section 223(1)(b)(i) of the Act will hear any persons who in their written submissions under section 223 of the Act have requested that they be heard in support of their submission.***
8. ***Appoint all Councillors to the Committee of Council.***
9. ***Authorises the Chief Executive Officer to undertake any and all administrative procedures necessary to enable Council to carry out its functions under section 190 and 223 of the Act.***
10. ***In the event that no submissions are received, Council resolves to grant the lease on the terms and conditions set out in paragraph 3 and authorises the CEO to execute the lease on behalf of Council.***

~~~~~

Gerard & Helen White  
Bonniemike Pty Ltd  
186 Torpys Road  
BUNGAREE VIC 3352  
Phone: 0407 501 773

9 November 2016  
Colac Otway Shire Council Meeting

Dear Sir/Madam

**COPACC Cinema Lease - Submission**

We would like to congratulate the newly appointed Mayor, deputy Mayor and councillors on their positions, and we thank you all for the opportunity to present our case at today's meeting.

We are appealing to the decision made during the tender process and hope you will give us full consideration before making a final decision. Based on the current "preferred proponent" the council would be agreeing to taking less rent and the Cinema would be open for less days per week (5 instead of 7), which we see as a disadvantage to the Colac community.

We refer to our Expression of Interest dated 8 July 2016 for Bonniemike Pty Ltd where we put forward the following clauses:

- Proposed Rent - \$100,203 p.a. plus GST (\$110,223), with an annual increase of 3.5%. We note this is higher than the offer made by Showbiz Group Pty Ltd as reported in council's statement to the Colac Herald, who have submitted an offer of \$90,909 p.a. plus GST (\$100,000) and is silent on rent increases.

We are willing to adjust our previous offer for your consideration to \$109,091 p.a. plus GST (\$120,000), with annual increases of 3.5%.

- Financial Capacity - We have demonstrated financial capacity through operating this cinema for the past 10+ years and always ensure rent payments are made in a timely manner.
- Cinema Operations - again we have operated this cinema for 10+ years and have a good group of employees & support staff. In addition we use local suppliers where possible and maintain a very good working relationship. We show the latest films on demand covering all patrons needs and provide many jobs for the community. Our staff go above and beyond the normal cinema duties to cater for all community needs and especially those of COPACC.
- Council & Community Access - we have allowed for additional council/community access, specifically during the second half of February, all of May, last two weeks of October, and all of November. We have also noted that we are very flexible and able to provide additional days through advanced planning and communication with us, to ensure everyone's needs are satisfied.

Upon reflection after reading articles in the Colac Herald dated 26 August and 4 November 2016 regarding the opportunities for more community access for COPACC to Auditorium 1, we would like to offer COPACC a further two days a week (outside school holidays) for community access to the Auditorium. We would assist in serving the whole community by providing movies in cinema 2 (continuing to operate 7 days a week), use of candy bar and continued sales of COPACC tickets. We feel this would be beneficial for all and the community.

We are still addressing the issue of providing online ticketing with our current showcase system provider. The current challenge is around the seating plan of the auditorium and the allocation of designated seats. We hope to have this up and running shortly. In addition we are currently trialling a new ticketing System.

- \* Cinema Services Offered – we currently offer the following services in addition to box office films & candy bar services:
  - o local films
  - o "art-house" films
  - o Extensive fundraising events for the community, including local schools, kindergartens, hospital, sporting clubs, and various other local charitable causes.

We will continue to provide additional services as seen fit, including our continued commitment to implementing the latest online ticket system as soon as possible.

We note at the time of taking over the lease in February 2005 we had planned to have John Bourke (Regent Cinema Ballarat Manager) run the complex on our behalf. However, after taking into consideration redundancies that would have been implemented & the economic impact on the community, we released John from his commitment, and continue to employ locals. We believe we have been instrumental in providing many opportunities to the residents of Colac and surrounding areas, and would continue employment of locals now and into the future.

If we have the opportunity to extend our lease there will be no disruption to the services provided to the community, business will continue as usual. We also note that we made a conscious decision to provide a 7 day a week service to the community since taking over the lease in February 2005. Opening 7 days a week aims to meet the needs/demands of all patrons (including ticket sales for COPACC) as well as providing a venue for the youth of Colac and creating more employment opportunities for locals. We believe reverting to a 5 day a week service is a step backwards. We ensure that this local facility is available to the whole community, keeping money in the community, providing local employment and ensuring local suppliers continue to be supported.

- \* Lease Terms – we propose that a meeting with COPACC is scheduled each month to discuss upcoming events, and any additional days required by the council/community to ensure the best possible outcome is achieved for all involved.

We would also be happy to add a clause to have the carpets & seats cleaned bi-annually to ensure the best upkeep for the facility and the patrons.

We also would like known that in 2012 was a turning point for the cinema industry in that Bonniemike had to make a decision to invest in digital projectors at a cost in excess of \$200K in order to maintain a cinema service at COPACC and for the Colac community.

We note the existing (restrictive) lease was not produced by Bonniemike Pty Ltd, it was inherited from the original lease operators back in 2001.

We have been disappointed with the lack of correspondence we have received in relation to the tender application. We note the contract was awarded to Showbiz Group Pty Ltd on 10 August 2016, however we were only notified on 25 August 2016, the day prior to publication in the local paper.

Finally, we believe we can work together to achieve the best outcome for the Colac Shire & community, through providing profitable returns for the Council (rent), 7 day a week cinema service to the community, while also providing community access to Auditorium 1 when specified and required.

Should you have any queries please let us know.

Yours faithfully

Gerard White  
Director

Helen White  
Director

**ORDINARY COUNCIL MEETING**  
**CONTRACT 1616 - WYE RIVER-SEPARATION CREEK - EROSION AND SEDIMENT CONTROL WORKS**  
**OM162311-2**

|                           |                                                                                                                                                             |                        |                                     |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------------------------|
| <b>LOCATION / ADDRESS</b> | Wye River-Separation Creek                                                                                                                                  | <b>GENERAL MANAGER</b> | Ingrid Bishop                       |
| <b>OFFICER</b>            | Andrew Kavanagh                                                                                                                                             | <b>DEPARTMENT</b>      | Infrastructure and Leisure Services |
| <b>TRIM FILE</b>          | F16/6678                                                                                                                                                    | <b>CONFIDENTIAL</b>    | No                                  |
| <b>ATTACHMENTS</b>        | Nil                                                                                                                                                         |                        |                                     |
| <b>PURPOSE</b>            | Council approval is required to award Contract 1616 – Wye River-Separation Creek – Erosion and Sediment Control Works for which tenders have been received. |                        |                                     |

## 1. DECLARATION OF INTERESTS

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

Following the Wye River and Separation Creek bushfires, land stability was recognised as an important issue. To assist in determining the most effective solution to mitigating the issue of land slips and instability, two projects have recently been undertaken. In April 2016 Coffey Environments Australia completed a report into geotechnical, land capability and wastewater management options. In September 2016 consultants GHD completed an Erosion and Sediment Control Plan (ESCP) for Wye River and Separation Creek.

The ESCP set out works for erosion and sediment control including hydromulching disturbed areas and installing erosion and sediment control measures including silt fences, debris and sediment traps, erosion control matting and slope drains.

The high rainfall through the winter and spring has caused land instability and erosion and the erosion control works are critical and urgent. The first stage of the works – hydromulching – has been successfully completed and grass is now growing on the treated areas.

Tenders were invited for the second stage of the works – Erosion and Sediment Control Works. Submissions closed on 2 November 2016.

Tenders were received from the following contractors (in alphabetical order):

**Deja Eight Pty Ltd**

**Wayne Fitzgerald**

Tenders were evaluated and a recommendation made in accordance with Council's *Procurement Policy and Tenders/Quotations and Purchasing Procedure*.

All tenders were evaluated and scored using the following selection criteria:

| <u>Criteria</u>                               | <u>Weighting</u> |
|-----------------------------------------------|------------------|
| Tendered price                                | 50               |
| Experience, track record, business management | 25               |
| Works methodology                             | 25               |

The Tender Evaluation Panel consisted of the following members:

Development Engineer, Bushfire Recovery  
Engineer Infrastructure, Bushfire Recovery  
Contract Governance Coordinator

Tenderers must also satisfy Colac Otway Shire Council that they meet requirements for occupational health and safety.

The submission by **Wayne Fitzgerald** was assessed by the tender evaluation panel as the best tender. It scored highest on the selection criteria and is recommended for acceptance by Council.

### 3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

#### **Good Governance**

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

#### *Our Goal:*

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

#### **Issues / Options**

It is considered essential to award the contract and proceed with the erosion and sediment control works to manage stormwater run-off and prevent further landscape erosion at Wye River and Separation Creek.

### 4. PROPOSAL

It is proposed to accept a tender and engage the recommended contractor to complete the project works.

The Tender Evaluation Panel selected Wayne Fitzgerald as the preferred tenderer, having submitted a competitive tender and scored highest on the selection criteria.

### 5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

The preferred tender is within the budget allocation for this project. The erosion and sediment control works are being funded from part of a \$5.974 million grant provided by the Victorian Government. \$280,000 was tentatively allocated to the erosion and sediment control works.

## 6. RISK MANAGEMENT AND COMPLIANCE ISSUES

The preferred tenderer, Wayne Fitzgerald, has a sound track record of management of risks and completion of contracts to specification and on time. Council should be confident that contracting with this contractor will manage exposure to occupational health and safety issues and any non-compliance issues with the contract.

Wayne Fitzgerald has provided details to confirm he has in place an effective, suitable occupational health and safety system.

## 7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

The Contractor is required under the contract to provide a suitable, approved environmental plan which will actively prevent incidents and occurrences.

## 8. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be to inform. The tender was advertised in the Colac Herald on 7 October 2016 and the Geelong Advertiser on 8 October 2016. The tender was also advertised on the Council's website and via TenderSearch.

## 9. IMPLEMENTATION

Upon Council's approval, the Contract will be awarded and works will be programmed to commence. If successful, Wayne Fitzgerald proposes to commence works in early December 2016 and will complete all works by practical completion on 31 January 2017 as specified in the tender documents.

## 10. CONCLUSION

The tender by Wayne Fitzgerald is recommended by the Tender Evaluation Panel and offers the best value to Council.

### Recommendation

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

- 1. Awards Contract 1616 for Wye River-Separation Creek – Erosion and Sediment Control Works to Wayne Fitzgerald at the tender price of \$253,780.00 (excluding GST)***
- 2. Delegates to the Chief Executive Officer authority to sign and place under Council seal the contract documents following award of Contract 1616.***

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ORDINARY COUNCIL MEETING
MARINE AND COASTAL ACT CONSULTATION PAPER SUBMISSION
OC162311-3

LOCATION / ADDRESS	Colac Otway Shire Coast	GENERAL MANAGER	Gareth Smith
OFFICER	Stewart Anderson	DEPARTMENT	Development and Community Services
TRIM FILE	F16/6678	CONFIDENTIAL	No
ATTACHMENTS	1. Marine Coastal Act Summary Brochure 2. Marine Coastal Act Consultation Executive Summary 3. Marine Coastal Act Submission 20161117		
PURPOSE	To seek endorsement of a submission to the Marine and Coastal Act Consultation Paper (August 2016).		

1. DECLARATION OF INTERESTS

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

2. BACKGROUND

The ninety five kilometres of coastline within our municipality, which includes a large section of the Great Ocean Road, is arguably the most significant economic driver within our region. In addition to this, the coastline has a significant number of high value cultural and environmental assets. This combination of values is recognised by our community who expect that this area will be appropriately managed into the future. These values are also recognised through the Great Ocean Road's National Heritage Listing and also at the international level through the region's iconic status as a tourist destination.

These social, economic and environmental values face significant challenges. Climate change, population growth, ageing infrastructure, fragmented governance systems and financing arrangements place pressure on the coast and their impacts are only expected to become more significant in the future.

To meet these challenges, the Victorian Government gave an election commitment to develop a new Marine and Coastal Act. An Expert Panel was established to guide development of the new Act and associated arrangements. A stakeholder reference group was also formed to provide input, which included the Municipal Association of Victoria (MAV) and Association of Bayside Municipalities (ABM).

The Marine and Coastal Act Consultation Paper (the Paper) was released in August 2016 (Executive Summary of the Consultation Paper and summary brochure are attached), with written submissions required by 23 October 2016. Due to the election period, Council sought and was given approval to make a submission once it had been considered by Council in November 2016. A briefing was held with Council on 17 November 2016 to discuss the draft submission.

3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

There are no significant policy matters that need to be considered as part of this submission. In terms of the Council Plan, this issue falls under *Pillar 2: A Planned Future*, which includes the Goal to 'Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.'

Issues / Options

The Paper explores Victoria's vision and values for a healthy coastal and marine environment and discusses the strengths of the current system. The Paper also identifies seven drivers and associated reforms in the current marine and coastal management system. These are:

- Clarifying functions of a marine and coastal system.
- Setting clear objectives for the marine and coastal system.
- Clearer governance and institutional arrangements.
- Strengthening marine management, policy and planning.
- Integrating planning systems.
- Adapting to climate change.
- Sustainable resourcing of the proposed system.
- Improving knowledge of the condition of marine and coastal areas.
- Boosting community involvement.

The Paper proposes that a new Marine and Coastal Act, and other policy reforms, that aim to help Victorians manage coastal and marine areas now and into the future.

A summary of the key recommendations in the Paper is provided below. The recommendations with an immediate major relevance to Council include a management comment explaining potential implications (in *italic*).

1: Clearer governance and institutional arrangements that better link capacity, resources and responsibility.

These arrangements include:

- An agile statewide Marine and Coastal Council that provides a conduit to the community, facilitates scientific research, advises on sustainable development and advises on the development of strategy and policy.
- An enhanced Marine and Coastal Strategy, including an implementation plan.
- A Marine and Coastal Policy to clearly outline state-wide policy positions and provide guidance to decision makers.

Regional Level Arrangements

- Strengthen coastal Catchment Management Authorities (CMAs) and Melbourne Water, through enhanced skills and expertise to provide advice on coastal flooding and erosion.
- *Council has raised concerns regarding coastal erosion. The Paper confirms there is no agency with clear responsibilities for erosion and proposes coastal CMAs take greater responsibility for advising and supporting land managers regarding erosion matters. Further it notes CMAs will require additional resources and expertise to fulfil this function.*
- Ensure Regional Catchment Strategies better reflect integrated catchment, coastal and marine issues.
- Regional and Strategic Partnerships that will enable communities and organisations to come together as needed to solve complex shared problems and plan for issues that cross jurisdictional boundaries.
- *The paper proposes to cease the legislative requirement of Coastal Action Plans and replace these with issue and geographic specific plans referred to as Regional and Strategic Partnerships (RASPs). Due to the proposed phasing out of Coastal Boards' leadership of such plans would be resolved between project partners, including local government. Approval would then be sought from the Minister which may also include seeking funding.*

- Reduce the complexity of advisory bodies by phasing out the Regional Coastal Boards. *There are three Regional Coastal Boards in Victoria with the Western Coastal Board pertinent to Council. Coastal boards have very little resources and therefore have not provided a significant support to Council in recent times.*

Local level arrangements:

- Creating skilled and capable coastal managers by transitioning from smaller committees of management (CoM) into either larger committees or to local government.
- *The proposed changes will only affect CoM with income less than \$1million per annum as these are proposed to be merged with an adjacent larger CoM or taken on by the likes of Councils. The Otway Coast Committee's income is greater than \$1million therefore the proposal will not affect Council. However, the Otway Coast Committee is not resourced adequately to manage the significant issues that arise along our coast therefore Council's submission provides an alternate proposal to enhance the management of the Great Ocean Road (GOR).*
- Maintain and promote the role of volunteers in local marine and coastal management.
- Strengthen the role of Parks Victoria in planning and managing marine and coastal protected areas.
- A greater role for Traditional Owners in formal management and planning of marine and coastal areas.

2: Strengthening marine management

- Greater marine focus in strategy and policy.
- Development of a marine spatial planning framework to guide where future planning might be needed.
- Greater focus on Port Phillip Bay by requiring an Environmental Management Plan.

3: Integrating planning systems

- Requirement for new coastal management plans to be prepared.
- Maintain the ministerial veto on use and development on coastal Crown land, but streamline it to focus on high risk activities.
- *This change has the potential to reduce planning and approvals red tape for crown land managers such as Council.*
- Reduce duplication between the consent process and Planning and Environment Act 1987 processes.
- *This change has the potential to reduce planning and approvals red tape for crown land managers such as Council.*

Having considered the above, Council's draft submission (attached) supports the State Governments commitment to reform the management of Victoria's coast. However, it is Council's opinion that the recommendations provided are not sufficient to achieve the meaningful and significant change that is required particularly in our region where the coast and road are inherently linked. This is because the Paper largely recommends retaining the existing management arrangement within our municipality (which includes a range of authorities undertaking a variety of roles) and is missing a major opportunity to make the meaningful change required.

As outlined in the draft submission, Council believes that a fundamentally new approach is required that responds to the needs and values of the coastline and the communities within the GOR region. This region requires a single, appropriately funded and resourced authority, to manage the coastline, including the areas of the GOR itself that are adjacent to the coast and which inherently require integrated management. The landslips and erosion along the GOR highlight how challenging managing this region is and how any management decisions need to be made in consideration of the GOR values and its broader economic benefits.

If it were to occur Council would not be transferring many of its responsibilities to a new GOR authority because Council does not manage much land along the area in question. There would be areas where new arrangements may need to be considered for Council (e.g. Apollo Bay Harbour). How these sorts of issues would be managed by a GOR Authority would need to be worked through on a case by case basis but the overarching logic is still sound. Regardless of exactly what form the GOR Authority takes or the areas it would cover, it would need to have direct involvement and direction by people from the local community. The draft submission emphasises that the GOR Authority governance model must ensure there is a mix of appropriately

skilled people along with representation from the local community to help ensure the local GOR needs are balanced against the broader State objectives.

If the concept of a GOR Authority was supported there would clearly need to be a substantial amount of community engagement to determine how it should be formed. Regardless of whether the State Government supports this major new initiative, the draft submission requests that Colac Otway Shire be formally engaged in future consultation opportunities as the process moves forward.

3. PROPOSAL

It is proposed that Council endorse the draft submission on the Marine and Coastal Act Consultation Paper.

4. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

There are no significant financial or resource implications associated with the proposal to make a submission on the Marine and Coastal Act Consultation Paper.

5. RISK MANAGEMENT AND COMPLIANCE ISSUES

There are no significant risk management or compliance issues associated with the proposal to make a submission on the Marine and Coastal Act Consultation Paper.

6. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

There are no environmental or climate change implications associated with the proposal to make a submission on the Marine and Coastal Act Consultation Paper.

7. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower. The method selected would be to inform the community of Council's submission and its support for the formation of a Great Ocean Road Authority.

8. IMPLEMENTATION

If the proposal in this report is supported the submission will be sent to the State Government by the CEO and action will be taken, where appropriate, to advocate for the formation of a Great Ocean Road Authority.

9. CONCLUSION

The Victorian Governments commitment to develop a new Marine and Coastal Act provides Council with an opportunity to influence how the coast is managed into the future. A single, appropriately funded and resourced authority, is what is required to best manage this iconic coastline and the GOR itself because their values are inherently linked and as such require integrated management. Accordingly, the attached draft submission advocates for a single GOR Authority to manage the area, which would replace the current arrangement that includes a range of authorities across a number of different land management units.

Recommendation

That Council:

- 1. Endorses the attached draft submission on the Marine and Coastal Act Consultation Paper.***

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## PROPOSED REFORMS TO IMPROVE THE SYSTEM

Seven drivers for change in the current marine and coastal management system were identified:

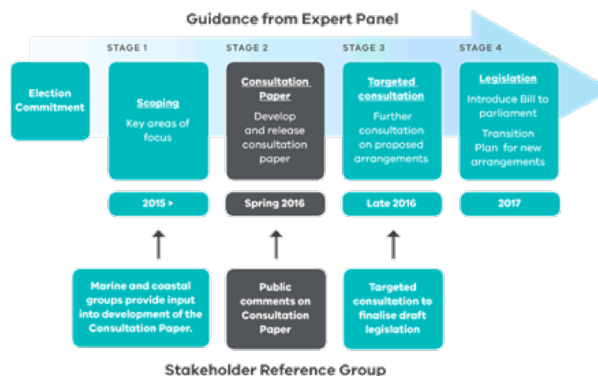


### Strengths to be maintained:

The proposed reforms are based around the key drivers for change and build on the strengths of the current system including:

- 96% of the Victorian coast is in public ownership, providing equitable public access, supporting important ecosystems and acting as a natural buffer.
- Many ways to harness, community support, involvement, connection and commitment to protecting coastal and marine areas
- A clear and stable policy and planning framework at a statewide and local level.

## FROM CONSULTATION PAPER TO NEW ACT - WHAT IS THE PROCESS?



## HOW CAN I GET INVOLVED?

We need your help to ensure that the things Victorians value most about marine and coastal areas are reflected in the new legislation. Hearing, understanding, and considering the views and experiences of marine and coastal users and communities is critical to the success of this legislation.

**Get involved in the conversation on the new Marine and Coastal Act by:**  
Visiting [www.haveyoursay.delwp.vic.gov.au](http://www.haveyoursay.delwp.vic.gov.au)

Learn more, read the consultation paper, provide your feedback or a submission, ask questions or have a discussion about the consultation paper.

You can also make a submission by email: [Marine.CoastalAct@delwp.vic.gov.au](mailto:Marine.CoastalAct@delwp.vic.gov.au)

Or by mail: Marine and Coastal Act Consultation Policy and Strategy Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne VIC 3002

We seek your views and comments, as well as your responses to the series of questions posed throughout this paper.

**The public consultation period will be open from 30 August 2016 to 23 October 2016.**

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**Our coast is special and important to all Victorians and is a treasured place for us to live, visit and work. Healthy coastal and marine environments support biodiversity, wellbeing, business and recreation.**

The Victorian Government is committed to strengthening our coastal management system ensuring we can protect our marine areas and coastlines and meet long term challenges such as impacts from climate change, population growth and managing ageing coastal structures.

Providing a better future for Victoria's coastal and marine environments is our priority and putting strong, effective legislation in place is critical to achieving those positive outcomes. Our community needs modern and relevant legal protection for our marine and coastal areas, so that we can all move in the same direction and everyone can make their best contribution toward taking care of the environment.

that takes care of us.

Guided by an expert panel we have prepared a consultation paper proposing a series of reforms to the coastal and marine management system.

The proposed system will include a new Marine and Coastal Act and other reforms that will support Victorians to manage coastal and marine areas now and into the future.

**We need your input and ideas for how we can together protect our marine and coastal environments. You can tell us if we have the right approach and where there are opportunities to work together.**

**VICTORIA**  
State Government  
Environment, Land, Water and Planning

PROPOSED REFORMS TO IMPROVE THE SYSTEM

PROPOSED REFORMS TO IMPROVE THE SYSTEM

PROPOSED REFORMS TO IMPROVE THE SYSTEM

**A common set of objectives to guide all Victorians involved in coastal and marine management.**

**They could look like:**

1. To protect and enhance marine and coastal environmental values, including ecological, geomorphological, geological, cultural and landscape features of significance, natural coastal processes, natural character, biological diversity and ecosystem integrity and resilience.
2. To plan for, manage, maintain and improve Victorian marine and coastal ecosystems, waters and lands by building ecosystem resilience to climate change impacts, avoiding detrimental incremental and/or cumulative ecosystem impacts and working with natural processes where practical.
3. To reduce current and future risks from climate change by improving the resilience of coastal communities and assets and adapting to the impacts of increased hazards.
4. To promote integrated and co-ordinated coastal and marine advice, planning, management, monitoring, reporting and decision making across government, industry, user groups and the community.
5. To acknowledge Traditional Owners' rights and aspirations for land and sea country, and use these rights and aspirations to inform coastal and marine management.
6. To promote, plan for and manage the sustainable use and development of Victoria's coastal and marine resources for recreation, conservation, tourism, commerce and industry in appropriate areas so that the ecological processes on which life depends and coastal character are maintained, and the total quality of life, now and in the future, is increased.
7. To improve community and user group stewardship and understanding of coastal and marine environments and natural processes, and engage the community and user groups in coastal and marine planning management and protection.
8. To ensure that all Victorians can enjoy a wide range of experiences, and diversity of natural coastal and marine habitats, now and in the future.

**FUNCTIONS OF A MARINE AND COASTAL SYSTEM**

**AIMED AT DELIVERING:**

**The vision and objectives for marine and coastal environments**

guide all decision-making

**Knowledge of condition of marine and coastal environs over time**

informs

**Statewide policy and strategic advice**

together with

**Regional or issues based planning (as needed)**

informs

**Clear planning and controls about access, use and development**

applied through

**Well-resourced, efficient and effective management arrangements**

providing services to and partnering with

**Informed community and user groups**

who are aware of and involved in decision-making across the system

COMMUNITY

TRANSPARENT AND ACCOUNTABLE



**Clearer governance and institutional arrangements that better link capacity, resources and responsibility.**

**These include:**

- An agile statewide Marine and Coastal Council that provides a conduit to the community, facilitates scientific research, advises on sustainable development and advises on the development of strategy and policy.
- An enhanced Marine and Coastal Strategy, including an implementation plan.
- A Marine and Coastal Policy to clearly outline statewide policy positions and provide guidance to decision makers.

**Regional**

- Strengthen coastal CMA's and Melbourne Water, through enhanced skills and expertise to provide advice on coastal flooding and erosion.
- Ensure Regional Catchment Strategies better reflect integrated catchment, coastal and marine issues.
- Regional and Strategic Partnerships that will enable communities and organisations to come together as needed to solve complex shared problems and plan for issues that cross jurisdictional boundaries.
- Reduce the complexity of advisory bodies by phasing out the Regional Coastal Boards.

**Local**

- Creating skilled and capable coastal managers by transitioning from smaller committees of management into either larger committees or to local government.
- Maintain and promote the role of volunteers in local marine and coastal management.
- Strengthen the role of Parks Victoria in planning and managing marine and coastal protected areas.
- A greater role for Traditional Owners in formal management and planning of marine and coastal areas.

**Strengthening marine management**

- Greater marine focus in strategy and policy.
- Developing a marine spatial planning framework to guide where future planning might be needed.
- Providing a greater focus on Port Phillip Bay by requiring an Environmental Management Plan.

**Integrating planning systems**

- Requiring coastal management plans to be prepared.
- Maintain the ministerial veto on use and development on coastal Crown land but streamline it to focus on high risk activities.
- Reduce duplication between the consent process and Planning and Environment Act 1987 processes.

**Adopting to climate change**

- Recognise Climate Change in the objectives of the new Marine and Coastal Act.
- Continue to update planning benchmarks for sea level rise.
- Provide strong, policy guidance and technical expertise on the process of adapting to climate change aligned with the revised Climate Change Act and the broader climate change agenda.

**Sustainable resources**

- Better reporting and awareness to increase transparency of revenue and spending.
- Review fees and charges to identify where the beneficiary pays principle can be applied most efficiently and equitably.
- Improve the distribution of revenue generated on the coast to where it is most needed through a levy on some Crown land managers.
- Determine appropriate cost sharing arrangements for coastal infrastructure.
- Continuing to invest in capacity building, sharing technical expertise and supporting volunteer programs.

**Improving knowledge**

- Require a "State of the Marine and Coasts" report to be periodically prepared.

**Involving the community**

- Encourage all Victorians to participate in managing and protecting our coastal and marine environments.
- Enhance opportunities for informal and formal involvement in marine and coastal management.
- Provide clear and transparent pathways for community input to decision making.

**Encourage all Victorians to participate in managing and protecting our coastal and marine environments.**

# Executive Summary

**Victoria's 2,512 km of coastline and approximately 10,000 square kilometres of marine waters encompass diverse ecosystems and species, and are of significant social and cultural value to Victorians.**

Victoria's coastline and marine waters support a range of activities that provide significant benefits to the economy. Marine and coastal environments underpin industries such as the tourism and commercial and recreational fishing sectors, which provide jobs to thousands of Victorians, particularly in regional areas.

Almost all (96%) of our coastline is Crown land, so all Victorians can access the coast and participate in its management and protection. Surveys show that four out of five Victorians visit the beach each year and most Victorians believe the coast is generally managed well.

The Victorian Government aims to be a leader in marine and coastal management. However, the current arrangements are complex, involving more than 60 different entities, and our marine management is not as well integrated as our coastal management. We must also come to grips with the effects of climate change and population growth if we are to continue to have a healthy coast and marine environment, appreciated by all, now and in the future.

To do so, the Victorian Government is delivering on its commitment to develop a new Marine and Coastal Act and improved management and oversight arrangements. To guide the development of this new Act and arrangements, an Expert Panel has been established to consider how the current system can be improved. This consultation paper outlines a series of proposed improvements the Expert Panel believes will bring the management and protection of marine areas, coasts and bays into a more holistic system.

Some of the proposed improvements will need to be enabled through a new Marine and Coastal Act, and some proposals may require minor changes to other legislation to ensure better integration within the entire system. Other proposed improvements do not require legislative change and can be achieved using existing mechanisms, changes to policy or

changes to the way we do things. Part III of this paper includes a summary of which proposals would require legislation and which could be achieved by other means.

This paper seeks feedback on the vision and objectives for marine and coastal management and discusses a number of alternatives to the current system. It recommends a system designed to deliver clear governance and institutional arrangements that better link capacity, resources and responsibility.

For example, building on the strengths of the existing advisory structures, this paper proposes that the current Victorian Coastal Council would be replaced with a strengthened statewide body, a Marine and Coastal Council, whose members would be drawn from the community, user groups and industry and importantly, it would include more representation from the marine sectors. The proposed new council would advise the Minister for Energy, Environment and Climate Change on development, sustainable management and implementation of policy and strategy under the Act, provide a conduit to the community and facilitate scientific research.

A proposed enhancement to the role of the five Catchment Management Authorities (CMAs) along the coast (in terms of both skills and expertise) would see them providing expert advice on issues such as coastal erosion as well as coastal flooding and inundation. CMAs would not, however, be expected to take on responsibilities for managing coastal protection assets; in the same way they are not responsible for managing flood mitigation infrastructure despite providing advice on flooding. In the Port Phillip and Westernport area, Melbourne Water has the role of providing advice on coastal flooding and it would be encouraged to provide advice on coastal erosion matters as well.

With an improved statewide Marine and Coastal Council and strengthened coastal CMAs, the three

current Regional Coastal Boards are proposed to be phased out at the end of their current terms. This will streamline and reduce duplication within the system with the relevant functions of the Regional Coastal Boards being performed by a combination of the Marine and Coastal Council (advice) and strengthened coastal Catchment Management Authorities (regional planning, facilitation and advice) as well as improved management arrangements and taking a more partnership-based approach to solving regional issues.

Traditional Owners have a unique role in shaping marine and coastal management through the implementation of agreements under the Native Title and Traditional Owner Settlement Acts. One formal way of doing this is through the establishment of Traditional Owner Land Management Boards. The proposed arrangements will see Traditional Owners increasingly participating in joint management of parks in marine and coastal environments with Parks Victoria.

About 30% of Victoria's public land along the coast is managed by Committees of Management (CoMs). Many of these are voluntary community groups, but others are agencies such as a local governments, Gippsland Ports, Phillip Island Nature Parks or Parks Victoria. This paper suggests a need for smaller Category 2 CoMs (with annual revenue less than \$1 m) being combined or consolidated into bigger, better-resourced Category 1 Committees or, where it is more appropriate, transferring their management responsibilities to local governments as CoMs or Parks Victoria. A process would be needed to work with the community and identify the specific issues and needs to determine the most appropriate future management model.

The proposals recognise that it would be imperative to harness and maintain community involvement. The ability to offer both formal and informal opportunities for community participation has been a key strength of the current system; it must be built on. However, there is a balance between encouraging participation and overburdening community members with too much responsibility, without the necessary expertise, support or resources to undertake the task. The risk is that small CoMs will struggle to generate the capacity to deal with the impacts of climate change and population growth.

The paper proposes that the new Act should enable communities and organisations to come together to solve shared problems at scales that are greater

than the boundaries of individual organisations. The proposal is for them to be able to enter into formal Regional and Strategic Partnerships (RASPs) led, with the approval of the Minister, by one of the partner agencies with the skills and resources required to address the issue and the capacity to bring the community along – subject to a prescribed process protecting people's rights and ensuring affected communities can have their say. RASPs would deal with regional planning or issue-based planning that crosses jurisdictional boundaries (for example, coastal hazard assessments, adaptation plans, visitation demand management strategies, environmental management plans).

Under the proposed system, the new Act would oblige the Minister to periodically assess the condition of marine and coastal environments through a 'State of the Marine and Coasts' report, consistent with the work of the Commissioner for Environmental Sustainability Victoria.

The new Act would enable the preparation of both strategy and policy for marine and coastal areas. The paper proposes an enhanced statewide Marine and Coastal Strategy, including an implementation plan that the Minister would be obliged to prepare with advice from the new Marine and Coastal Council. To better separate policy from strategy and to ensure greater emphasis on cross-cutting marine issues such as protecting marine habitats and ecosystem processes, the Minister would also be obliged to prepare a Marine and Coastal Policy for Victoria with guidance from the new council. The policy will clearly articulate statewide policy positions to provide guidance to decision makers within the system. The policy would not replace or duplicate accountabilities and policy setting for the management of specific sectors in coastal and marine areas and would be prepared in consultation with the relevant portfolios to ensure a holistic approach to marine and coastal management.

Victoria's marine waters are home to more than 12,000 species, most of which are found only in the waters of South Eastern Australia. This paper proposes to establish a Marine Spatial Planning Framework to provide an agreed process and approach for any future planning and dispute resolution in the marine estate. The proposed Marine Spatial Planning Framework would help guide the management and integration of activities in the marine environment and it would help integrate these with existing and proposed developments in these areas. The proposed framework would

## Marine and Coastal Act Consultation Paper

thereby balance the environmental, economic and social values of Victoria's marine estate. Under the proposals, existing agencies would continue to manage their specific responsibilities in the various marine sectors, however, consistent with the objectives of the new Act.

The proposed new Act would complement the Victorian Government's broader work to address climate change and help set out clear arrangements for adapting to the effects of climate change in marine and coastal environments. For instance, the proposed Marine and Coastal Strategy and Marine and Coastal Policy would be aligned and support the statewide adaptation plan, and Regional and Strategic Partnerships would steer adaptive management and responses at various scales. The strategy would continue to update the planning benchmarks for sea level rise, which could be clearly articulated in the Marine and Coastal Policy.

The Minister would continue to have a veto on the use and development of Crown land in coastal and marine areas under the proposed new Act, but the consent process would be streamlined to focus on high-risk activities outside approved coastal management plans or other approved plans. It would also better integrate with processes under the *Planning and Environment Act 1987* to avoid duplication and to clarify roles and responsibilities, and it would include penalty provisions for non-compliance with consent conditions and for unauthorised use or development.

The proposed arrangements would make revenue and spending more transparent. Proposals include reviewing fees and charges to identify where the 'beneficiary pays' principle can be applied in a fair and reasonable way. Other suggested options include better targeting resources to where they are most needed by establishing a levy on certain coastal Crown land managers. This is a similar model to the successful NSW Public Reserves Management Fund, which collects a small proportion of revenue from caravan parks, levies and licences and redistributes the funding (via grants and loans) to maintain and improve public reserves across the state. A process to determine appropriate and clearly articulated cost-sharing arrangements for coastal infrastructure is also proposed to be established.

The proposed system would reinforce the need and benefits of community involvement in marine and coastal management with enhanced opportunities for formal and informal involvement. Clear and

transparent opportunities for community input to decision making would be provided. For example, formal appointments to Committees of Management and advisory bodies, opportunities to be involved in planning and policy development and informal participation through friends groups and Coastcare would be maintained.

The proposed system would enable state government agencies, local governments, Traditional Owners, catchment management authorities, water corporations, Commonwealth agencies, Committees of Management, port authorities, local communities and user groups to work towards a common set of objectives. Importantly, they would do this in ways that encourage all Victorians to participate in managing and protecting our coasts and our marine estate. Doing so will set up the architecture for Victoria to continue to be a leader in marine and coastal management.



17 November 2016

Marine and Coastal Act Consultation  
Policy and Strategy Unit  
Department of Environment, Land, Water and Planning  
PO Box 500  
EAST MELBOURNE VIC 3002

Dear Sir/Madam

**Colac Otway Shire Council Draft Submission – Marine and Coastal Act Consultation Paper**

The Colac Otway Shire Council would like to thank the Department of Environment, Land, Water and Planning (DELWP) for the opportunity to provide a draft submission on the Marine and Coastal Act Consultation Paper (the Paper).

In terms of process, Council would like to first express our concerns regarding the timing of this consultation. Conducting the consultation during local government elections has not allowed Councillors (as elected representatives of the community) an opportunity to provide input into this submission. To address this issue, a draft submission is provided at this time. A final submission will be provided following consideration by the new Council in December 2016.

The coastline within our municipality, which includes the Great Ocean Road (GOR), is the most significant economic driver within our region due to the number of high value cultural and environmental assets. This combination of values is recognised by our community who expect that this area will be appropriately managed into the future. These values are also recognised through the GOR's National Heritage Listing and also at the international level through the regions iconic status as a tourist destination.

Council supports the State Government commitment to reform the management of the Victorian coast. However, Council also believes that the broad recommendations outlined in the Paper are not sufficient to achieve the meaningful and significant change that is required. Specifically, the Paper recommends largely retaining the existing management arrangement within our municipality (which includes a range of authorities undertaking a variety of roles) and is missing this major opportunity to make the meaningful change required to significantly improve the management of this iconic section of coast.

Council does not believe the proposed changes will provide meaningful change to managing the complex issues of the GOR region. The recent fires and landslips along the GOR highlight how challenging emergency management is in this region and how any emergency management decisions need to be made in consideration of the GOR values and its broader economic benefits.

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Council believes that a fundamentally new approach is required that responds to the needs and values of the coastline and the communities within the GOR region. For example, Council suggests that a single, appropriately funded and resourced GOR authority, be given consideration because the issues of the road and the coast require integrated management which can best be achieved through a single authority. With this recommendation in mind, the following comments are raised in response to the Paper.

***Role of Catchment Management Authorities (CMA) to provide expert advice***

If a GOR Authority were formed and adequately resourced it could effectively become the subject matter expert on coastal erosion and inundation issues in our region. However, if it was not formed Council supports the principle of a single 'subject matter expert' providing advice on coastal erosion and inundation issues. We recognise that the CMA's currently undertake this role for inundation but would need extra resources to also undertake this role to the level required for both inundation and coastal erosion.

If the State Government decided to pursue the option of CMAs undertaking this role, then it is critical that the level of detail provided in their advice is at a scale that is meaningful for the applicable land manager. The advice currently provided by CMAs in relation to erosion mitigation along inland water ways is often preliminary, general and broad. Although valuable, it often is not in a format to be practically implemented and requires additional advice for specific designs and monitoring.

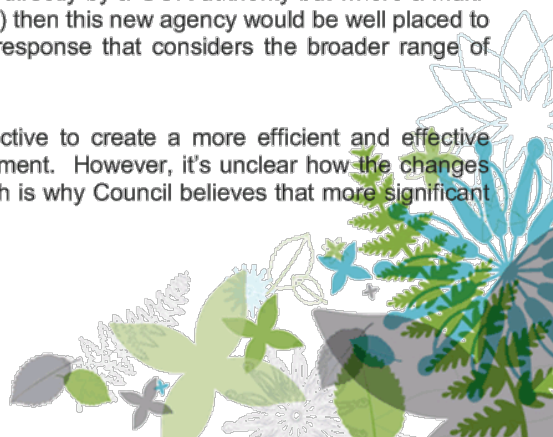
It is also important to note that the CMAs role in the delivery of Local Coastal Hazard Assessments (LCHA) to date has been limited to facilitating action rather than directly undertaking this work at a large scale. For example Colac Otway Shire, along with a number of other Councils in the South West region, is currently embarking upon a LCHA. Although the CMAs are a key stakeholder for the project, if they were to gain the responsibility for providing expert advice on erosion and inundation in the future then their role in these sorts of projects should be elevated to project manager level.

***Roles, Responsibility, Resourcing and Capacity***

The Paper puts forward the concept of Regional and Strategic Partnerships (RASP's) to deal with regional planning or issue-based planning that cross jurisdictional boundaries. The Paper notes Councils could often be expected to lead new Regional and Strategic Partnerships (RASPs). If this option is pursued, details for how this will be financially supported need to be provided because Councils are not in a position to fund this, particularly in a rate capping environment. Additional to this, Councils are unlikely to have the expertise to be able to manage planning matters related to marine and freshwater environments and therefore would not be best placed to lead the RASPs in many cases.

If it were formed, Council believes a GOR authority would be well placed to lead RASPs where required. The majority of issues that arise could be better dealt with directly by a GOR authority but where a multi-agency response is needed (e.g. Emergency Management) then this new agency would be well placed to work them to ensure there is an effective management response that considers the broader range of issues and values associated with the whole of the GOR.

As stated previously, Council commends the broad objective to create a more efficient and effective approach to managing this dynamic and complex environment. However, it's unclear how the changes will address immediate issues within our municipality which is why Council believes that more significant reform is required.



A recent example of this is the sand erosion issues in Apollo Bay and Marengo (see Attachment 1). The Otway Coast Committee (OCC - as the land manager) has struggled to respond to these issues due to resource and capacity constraints.

The limited resources and capacity of the OCC affects organisations (such as Council) who have assets located further in land. The OCC's inability to effectively manage the scale and complexity of the problems puts other assets at risk such as Barwon Water's reticulated water and sewage pipelines, Council's footpaths and also the Great Ocean Road. Together the OCC, DELWP and Council have responded to the erosion issues through sand replenishments. However, this response has been somewhat reactive and has hinged largely on Council facilitating, with State Government support.

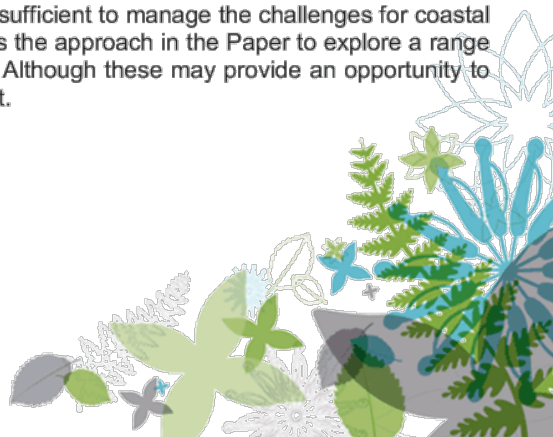
The OCC limited resources do not allow adequate management of areas with high environmental values as well as areas such as the Apollo Bay Foreshore that is essentially an urban environment on reclaimed land. To manage this type of issue for coastal committees the Paper proposes Action 3.6 which suggests transitioning Committees from Category 2 to Category 1 or to local government. However, even with Category 1 status it is not clear how the OCC will be sufficiently resourced to effectively manage current and future challenges. Transitioning responsibility to Council would be ineffective for achieving any meaningful and necessary change into the future, particularly in a rate capping environment.

Council has on a number of occasions, been requested by the OCC to assist in emergency works to stabilise dangerous areas as a result of coastal erosion. While Council will always endeavour to assist in such circumstances, the inability of the OCC to undertake this work impacts on Councils pre-planned annual works program. Therefore as stated above, Council believes that the formation of an effectively resourced GOR authority should be investigated. This approach would enable the income generated along the entire section of GOR coast to be more effectively distributed to manage the critical issues, but even with this approach additional funding options (as discussed below) would need to be implemented to ensure the GOR authority was effectively resourced.

#### ***Financing and Funding Options***

The majority of the Victorian coast is Crown Land. As such, Council recommends that any reforms provide for increased investment by the State Government given the coast is a State asset. The complexity of land management along the coast, where within a single 100 metre strip inland from the coast, land could be managed or controlled in some way by DEWLP, VicRoads, Parks Victoria, a water authority, a CMA, a Council, a Coastal Committee and the private sector, is inherently inefficient and almost certainly to be ineffective in pursuit of any land management objective. This complexity is the result of decisions made incrementally by the State and is unlikely to be resolved without a fundamental new approach, which would include legislative and administrative rationalisation of land management roles along the coast.

It is Council's opinion that the current funding model is not sufficient to manage the challenges for coastal land managers into the future. Therefore, Council supports the approach in the Paper to explore a range of options, including 'beneficiary pays' and levy systems. Although these may provide an opportunity to source further funding, their implementation may be difficult.



For example, under beneficiary pays it will be difficult to identify who the beneficiary is and what level of contribution they should pay towards a particular piece of infrastructure (e.g. beach access steps, boat ramps, the GOR, etc.). In the case of the GOR, it serves as a vital economic and social artery for the many thousands of permanent residents who live along it. However it is also a key tourism driver for the state, including Melbourne. In this instance there is perhaps an equity reason for ensuring a strong State Government general revenue component of any land management funding model.

Such a model must still provide opportunity for local communities to contribute to the development of localised mechanisms to raise further funding where required.

Balanced against a rationalisation of State Government land management roles must be an acknowledgement that for many coastal communities the foreshore is an inherent element of their economic and social life. Where that foreshore is managed by a body that reports or is answerable to a State Government body there is the possibility of a disconnect between the local community expectations and the State land management agencies. This disconnection is perhaps more likely where the reason a particular parcel of land falls under the jurisdiction of State agency is the result of historical accident rather than deliberate decision. Accordingly, a new GOR authority would need to have direct involvement and direction by people from the local community. A governance model that ensures there is a mix of appropriately skilled people along with representation from the local community would need to be developed to help ensure the local GOR needs are balanced against the broader State objectives.

Council would again like to thank DELWP for the opportunity to provide a draft submission into this process. We would also welcome the opportunity to provide further input and formally request that Colac Otway Shire be included in future consultation opportunities.

Please contact Stewart Anderson, Manager for Environment and Community Safety, on 5232 9414 if you require further information regarding this draft submission.

Yours Sincerely,

**Sue Wilkinson**  
Chief Executive Officer



Attachment 1. Coastal erosion impacts at Marengo and Apollo Bay.



ORDINARY COUNCIL MEETING  
**COMMUNITY ENGAGEMENT PLAN FOR COUNCIL PLAN**  
OM162311-4

|                           |                                                                                                                                                    |                        |                    |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------------|
| <b>LOCATION / ADDRESS</b> | Whole of Municipality                                                                                                                              | <b>GENERAL MANAGER</b> | Mark Lyons         |
| <b>OFFICER</b>            | Heather Johnson                                                                                                                                    | <b>DEPARTMENT</b>      | Corporate Services |
| <b>TRIM FILE</b>          | F16/6678                                                                                                                                           | <b>CONFIDENTIAL</b>    | No                 |
| <b>ATTACHMENTS</b>        | Nil                                                                                                                                                |                        |                    |
| <b>PURPOSE</b>            | To outline the approach to developing the Council Plan and other key strategic documents, with community engagement to facilitate community input. |                        |                    |

## 1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

The Council Plan is the key strategic document developed by Council for each four-year term. Every Council is required to prepare and adopt a Council Plan by 30 June in the year following a general election and to provide a period of public notice to enable the public to make submissions about the plan for a minimum of 28 days. In line with Council's 2013 community engagement policy and the newly elected Council's commitment to strengthen community engagement, additional opportunities will be provided for the community to input into the development of this Council Plan.

This report outlines the approach to be undertaken in the next few months to engage the community in the development of the Council plan and to coordinate this activity with other consultations required in the next few months.

## 3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

Each council is required to prepare and adopt a Council Plan **by 30 June** in the year following a general election. Before adopting its Council Plan, a council must give **public notice** of its intention to adopt the plan and invite public submissions. Members of the public may make written submissions if they so desire, including the opportunity to request to be heard in support of their submission. A council may review and update its Council Plan at any time, following the same process as for the original plan. At least once every year a council must consider whether the Council Plan requires any adjustment in respect to the remaining period of the plan. If a Council Plan is to be adjusted, the adjustments must also be subject to the public consultation process.

**Source: s 125 (3A) LG Act 1989**

A Council Plan must include:

- (a) the strategic objectives of the Council;
- (b) strategies for achieving the objectives for at least the next 4 years;
- (c) strategic indicators for monitoring the achievement of the objectives;
- (d) a Strategic Resource Plan containing the matters specified in section 126;
- (e) any other matters which are prescribed by the regulations.

**Source: s 125 (1) LG Act 1989**

Community engagement is an enabling policy, underpinning the development of all policy and strategy for Council. Such practice facilitates better understanding by people in the municipality; greater support in decision making implementation; better knowledge by the organisation of issues and barriers to policy or strategy implementation; and promotes the community's understanding of Council's work.

Colac Otway has a community engagement policy which was last reviewed and updated in 2013. This policy will again be updated in the next 12 months, with the purpose of incorporating contemporary community engagement practice to support Council's agenda.

### **Issues / Options**

The Council plan has three main inputs:

- the strategic objectives of the newly elected Council.
- Data and evidence about the shire, its population and key issues.
- Feedback and aspirations of members of the community.

The community engagement process facilitates the input from community members into the plan. It is a two way process, by which:

- The aspirations, concerns, needs and values of citizens and communities are incorporated at all levels and in all sectors in policy development, planning, decision making, service delivery and assessment; and
- Governments and other businesses and civil society organisations involve citizens, clients, and other stakeholders in these processes.

Community engagement practice includes a wide range of activities and can be implemented in different ways. It can be done with low or high levels of resources and time. The factors influencing this will be an organisation's commitment, its capability and available resources including time and budget.

Council's policy is underpinned by the IAP2 spectrum – IAP stands for the International Association for Public Participation. This guides practitioners in what tools or approaches are relevant for different needs. Table One summarises the broad approach.

**Table 1: IAP2 Spectrum And Approaches to Engagement**

| Increasing Level of Public Impact | INFORM                                                                                                                                     | CONSULT                                                                                                                                 | INVOLVE                                                                                                                                                                              | COLLABORATE                                                                                                                                                                      | EMPOWER                                                                                                              |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Public Participation Goal</b>  | To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions. | To obtain public feedback on analysis, alternatives and/or decisions                                                                    | To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.                                        | To partner with the public in each aspect of the decision including the development of alternatives and the identification of preferred solutions.                               | To place final decision – making, or in put into the final decision making, into the hands of the public.            |
| <b>Promise to the Public</b>      | We will keep you informed.                                                                                                                 | We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.         | We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision. | We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible. | We will implement/ give serious weight, to what you decide;                                                          |
| <b>Example Tools</b>              | <ul style="list-style-type: none"> <li>• Fact Sheets</li> <li>• Websites</li> <li>• Open houses</li> </ul>                                 | <ul style="list-style-type: none"> <li>• Public comment</li> <li>• Focus groups</li> <li>• Survey</li> <li>• Public Meetings</li> </ul> | <ul style="list-style-type: none"> <li>• Workshops</li> <li>• Deliberate polling</li> </ul>                                                                                          | <ul style="list-style-type: none"> <li>• Citizen Advisory committees</li> <li>• Consensus – building</li> <li>• Participatory decision making</li> </ul>                         | <ul style="list-style-type: none"> <li>• Citizen juries</li> <li>• Ballots</li> <li>• Delegated decisions</li> </ul> |

Colac Otway Council is committed to the objective of engaging the community as much as practical and possible into decision-making on council matters. The spectrum demonstrates that the type of tools utilised should be guided by the type of engagement, which is also guided by the significance of the decisions to be made. In that context, Council is conscious of the need to manage resources and achieve value for money. Therefore, community engagement activities will be resourced to balance opportunities for engagement with the need to manage resources wisely.

## 4. PROPOSAL

A planned approach to community engagement will be employed during the development of the Council Plan 2017 – 21, utilising internal organisational resources. The approach will include the following activities:

- Attendance at events to take advantage of interactions with the community. This will include the community conversations; other events which occur during the consultation phase; and a few additional events to ensure all areas of the shire have an opportunity to contribute. At these events. Staff will attend and seek input from community members.
- Invitations to key community/business organisations to provide an opportunity for them to submit their ideas about the Council plan;
- Community survey will be placed on the website and distributed through Council services and at events, to seek information from community members.



In addition to the Council Plan, Council will be developing an annual budget, revising the rating strategy and the Municipal Public Health and Well-Being Plan. The consultations listed above will incorporate questions and the opportunity to input into these plans as well.

It is intended to undertake these activities in December 2016 and February 2017, with the survey open for the full period. In order to meet statutory timelines the final draft of the Council Plans and other documents will need to be complete by the end of March. In summary, the timelines are as follows:

- December 2016 and February 2017 - community engagement and gathering of data and evidence from the organisation;
- Early March the first draft is completed;
- During April Council considers and finalises the draft Council Plan, Municipal Public Health and Well-Being Plan, Budget and rating strategy;
- 26<sup>th</sup> April the Council at their Ordinary Council Meeting considers the plans and endorses for consultation;
- Statutory exhibition period commences, with the public able to review and provide comments on the plan. Public submissions are heard at the end of this period.
- During June, Council considers all submissions and finalise the plans, in order to approve by 30 June (the Ordinary Council Meeting is currently scheduled for 28<sup>th</sup> of June 2016).

## **5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

These activities will be undertaken utilising internal resources of staff and some budget allocation to cover advertising and facilitation of events. These costs are included in the 2016/17 budget.

## **6. RISK MANAGEMENT AND COMPLIANCE ISSUES**

Engaging with the community does entail risks. These include:

- Raising community expectations – it is a fundamental principle of community engagement practice to be very clear with the community about the type and level of engagement being undertaken. This includes clarity about the outcome of any engagement activity and what community participants can expect from their participation and input;
- Resourcing risks can also occur, given the need to rely on communication methodologies – for example:
  - Utilising council staff requires their payment, often for work outside of normal business hours, requiring additional payment, or time in lieu for hours worked;
  - Utilising media and other communication technologies to reach people usually requires payment, especially to make sure council's message is delivered as desired. Relying on media releases means relying on the media outlet and their interpretation of the message;
  - If unanticipated issues or groups arise during engagement, it may be necessary to undertake additional activity to reach those people or address those issues.

## **7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS**

Not applicable

## **8. COMMUNITY ENGAGEMENT**

The process of engaging over the next few months also confirms a commitment to community engagement practice throughout the organisation and for the term of the current Council. Council intends to review and update the community engagement policy to reflect a stronger commitment and to consider how activities should be resourced to support this during the term of Council. This might include activities such as:

- Annual community engagement plan to be developed with the budget process;
- Allocation of EFT and funding for costs in budget process, to facilitate practice;
- Training and development of staff to enhance community engagement practice throughout the organisation.

Council will allocate resources in its annual budgeting process to enable community engagement practice, for both internal and externally funded resources. External resources will be used when there is a need for independence (eg, to facilitate sensitive discussions or in deliberative democracy actions which require independently selected participants); or when internal resources are insufficient to meet the needs of engagement projects.

## 9. IMPLEMENTATION

The following activities are planned for the next few months and provide the backbone for Council’s approach to community engagement:

- Consult activities to support input into the Council Plan, Budget, Rating Strategy and the Municipal Public Health and Well-being Plan;
- A structured community process to examine in more detail the outcomes of the Colac 2050 technical research and options for land-use and economic development to achieve the objectives of this project;
- Community Conversations, which are regular opportunities to meet in different locations across the Shire. These provide an opportunity for councillors and local community members to meet with relevant council officers to discuss issues arising in those areas;
- Development of a detailed community engagement plan for 2017/18 including an approach to developing both staff and community capability in community engagement methodologies.

## 10. CONCLUSION

The Council plan is the key guiding, strategic document for Council and it is committed to engaging the community in its development. A range of activities will be undertaken with a view to achieving value for money, to enable this engagement.

### **Recommendation**

***That Council:***

- 1. Endorses the community engagement plan for development of the 2017-2021 Council Plan.***

~~~~~\) ~~~~~

**ORDINARY COUNCIL MEETING
PROPOSED COUNCIL MEETING DATES 2017
OM162311-5**

| | | | |
|---------------------------|--------------------------------------------------------------|------------------------|--------------------|
| LOCATION / ADDRESS | Whole of Municipality | GENERAL MANAGER | Mark Lyons |
| OFFICER | Jenny Wood | DEPARTMENT | Corporate Services |
| TRIM FILE | F16/6678 | CONFIDENTIAL | No |
| ATTACHMENTS | Nil | | |
| PURPOSE | To confirm the scheduling of Council meeting dates for 2017. | | |

1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

2. BACKGROUND

Council holds “Ordinary, Planning and Special meetings” for the purpose of transacting the business of the Council. Meetings are open to the public and the community is welcome to attend to observe their elected representatives consideration of issues.

Previously Ordinary Meetings have been held on the 4th Wednesday of the Month at 4pm and Planning Meetings have been held at 10.30am on the 2nd Wednesday of the Month at COPACC in Colac, with 2 meetings held at the Apollo Bay Senior Citizens Centre.

3. DISCUSSION

Following the recent Local Government Election Council must establish its future meeting schedule for Ordinary Council and Planning Committee meetings.

To enable the maximum number of Community members the option to attend Council meetings it is recommended Council trial a later meeting start time of 6pm for both Ordinary Council and Planning Committee meetings. With the later start time it will be important that the length of Council meetings is managed to ensure the health and safety of Councillors and staff who may be required to participate into the late evening. To this end the meeting schedule has only been set for the first half of the year and will be reviewed in May 2017 to ensure the balance between community participation and the effectiveness of Council decision making is maximised.

Planning Committee meetings are recommended to continue to be held on the 2nd Wednesday of the month and the 4th Wednesday of the month for Ordinary Council meetings.

It is also recommended that two of the Monthly Ordinary Council Meetings be held in Apollo Bay, one in the first 6 months of the year and another in the later months of 2017.

4. COUNCIL PLAN / OTHER STRATEGIES / POLICY

Good Governance

Means we care about and are responsive to the community encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

Issues / Options

Local Law No. 4 requires that Council fix the date and time of Council meetings.

5. PROPOSAL

It is recommended that Ordinary Council meetings for 2017 commence at 6.00 pm and be scheduled as follows:

- | | |
|-------------------------------|-----------------------------------|
| • Wednesday, 25 January 2017 | COPACC – Colac |
| • Wednesday, 22 February 2017 | Apollo Bay Senior Citizens Centre |
| • Wednesday, 22 March 2017 | COPACC – Colac |
| • Wednesday, 26 April 2017 | COPACC – Colac |
| • Wednesday, 24 May 2017 | COPACC - Colac |
| • Wednesday, 28 June 2016 | COPACC – Colac |

It is recommended that Planning Meetings for 2107 commence at 6.00 pm and be scheduled as follows:

- | | |
|------------------------------|--------------------|
| • Wednesday, 8 February 2017 | 6pm, COPACC, Colac |
| • Wednesday, 8 March 2017 | 6pm, COPACC, Colac |
| • Wednesday, 12 April 2017 | 6pm, COPACC, Colac |
| • Wednesday, 10 May 2017 | 6pm, COPACC, Colac |
| • Wednesday, 14 June 2017 | 6pm, COPACC, Colac |

6. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

The proposed arrangements generally match those already in place and appropriate budget allocations have been allocated. Additional costs are incurred for meetings held away from COPACC and these have been included in current budget allocations.

7. RISK MANAGEMENT AND COMPLIANCE ISSUES

There are a number of minor Occupational Health and Safety issues in relation to holding Council Meetings at other locations and where meetings extend late into the evening. With existing safety practices in place and the close monitoring of meeting finish time all risks can be managed.

8. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

Not applicable.

9. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be to inform. Under the *Local Government Act 1989* Council is required to give at least 7 days public notice of a Council Meeting or a special meeting unless there are urgent or extraordinary circumstances that prevent a Council from doing so. Meetings held outside of Colac will be given additional publicity within the host community.

10. IMPLEMENTATION

The proposed schedule of Ordinary Council and Planning Meetings would commence in January 2017 and conclude at the end of June 2017. The Meeting Schedule for the Second half of the year will be confirmed at the Ordinary Council Meeting held in June 2017 following a review of the appropriateness of the schedule and attendance by the Community.

11. CONCLUSION

The recommendation puts in place the meeting times and locations for the first half of 2017.

Recommendation

That Council:

1. Confirm the meeting dates, times and venues for Ordinary Council meetings for 2017 as:

- Wednesday, 25 January 2017 6pm, COPACC, Colac
- Wednesday, 22 February 2017 6pm, Apollo Bay Senior Citizens Centre
- Wednesday, 22 March 2017 6pm, COPACC, Colac
- Wednesday, 26 April 2017 6pm, COPACC, Colac
- Wednesday, 24 May 2017 6pm, COPACC, Colac
- Wednesday, 28 June 2017 6pm, COPACC, Colac

2. Confirms the meeting dates, times and venues for Planning meeting for 2017 as:

- Wednesday, 8 February 2017 6pm, COPACC, Colac
- Wednesday, 8 March 2017 6pm, COPACC, Colac
- Wednesday, 12 April 2017 6pm, COPACC, Colac
- Wednesday, 10 May 2017 6pm, COPACC, Colac
- Wednesday, 14 June 2017 6pm, COPACC, Colac

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**ORDINARY COUNCIL MEETING  
APPOINTMENT OF COUNCILLORS AND OFFICERS  
TO COMMITTEES AND EXTERNAL BODIES  
OM162311-6**

<b>LOCATION / ADDRESS</b>	Whole of Municipality	<b>GENERAL MANAGER</b>	Mark Lyons
<b>OFFICER</b>	Jenny Wood	<b>DEPARTMENT</b>	Corporate Services
<b>TRIM FILE</b>	F16/6678	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	Nil		
<b>PURPOSE</b>	The purpose of this report is to consider the appointment of Councillors and Council Officers to various committees and external bodies.		

## 1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

Council has Councillor/Officer representation on a number of committees associated with a variety of interests. This includes managing Council owned or managed facilities, advising Council on issues and representing Council views on regional and state wide matters.

A number of the committees are not managed by Council and operate under their own charter and determine their procedures, policies and practices. Council involvement is to participate and influence the activities of those external groups where those activities are in the public's interest.

## 3. DISCUSSION

Each year the representation on the external Committees and Bodies is reviewed to gain efficiency and effectiveness of our representation. Following are the Committees that require a Councillor or Councillors to be appointed:

### (1) Australian Local Government Association

<b>Required Representatives</b>	1 Councillor
<b>Other Information</b>	Annual meeting held in June

### (2) Barnard Trust Committee

<b>Required Representatives</b>	1 Councillor
<b>Other Information</b>	Educational scholarship; annual meeting held in March

### (3) Barwon South West Waste and Resource Recovery Local Government Forum

<b>Required Representatives</b>	1 Councillor
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**(4) Colac Community Library and Learning Centre Joint Use Board**

<b>Required Representatives</b>	1 Councillor 1 Officer
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**(5) Colac Otway Network of Community Centres**

<b>Required Representatives</b>	1 Councillor
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**(6) Community Hub Inc.**

<b>Required Representatives</b>	2 Councillors
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**(7) COPACC Trust**

<b>Required Representatives</b>	2 Councillors 2 Officers
---------------------------------	--------------------------

**(8) Corangamite Regional Library Corp.**

<b>Required Representatives</b>	1 Councillor 1 Officer
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**(9) Lavers Hill & District Emergency Response Planning Committee**

<b>Required Representatives</b>	1 Councillor 1 Officer
---------------------------------	------------------------

**(10) Lavers Hill Swimming Pool Committee of Management**

<b>Required Representatives</b>	1 Councillor 1 Officer
---------------------------------	------------------------

**(11) Municipal Aerodrome Committee – Colac**

<b>Required Representatives</b>	1 Councillor 1 Officer
---------------------------------	------------------------

**(12) Municipal Association of Victoria**

<b>Required Representatives</b>	1 Councillor
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**(13) Municipal Emergency Management Planning Committee**

<b>Required Representatives</b>	2 Councillors 1 Officer
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**(14) Municipal Fire Management Planning Committee**

<b>Required Representatives</b>	2 Councillors 1 Officer
---------------------------------	-------------------------

**(15) Ondit Quarry Consultative Committee**

<b>Required Representatives</b>	1 Councillor 1 Officer
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**(16) Otways Tourism Advisory Committee**

<b>Required Representatives</b>	1 Councillor
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**(17) Port of Apollo Bay Consultative Group**

<b>Required Representatives</b>	1 Councillor 1 Officer
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<b>Other Information</b>	Recommended GM Infrastructure and Leisure also be added.
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**(18) Rural Financial Counselling Service Vic – Wimmera Southwest (RFC)**

<b>Required Representatives</b>	1 Councillor
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**(19) Tirrengower Drainage Scheme Committee of Management**

<b>Required Representatives</b>	1 Councillor
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**(20) Weeds Consultative Committee**

<b>Required Representatives</b>	1 Councillor 2 Officers
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**(21) G21 Pillar Membership – Arts and Culture**

<b>Required Representatives</b>	1 Councillor 1 Officer
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**(22) G21 Pillar Membership – Economic Development**

<b>Required Representatives</b>	1 Councillor 1 Officer
---------------------------------	------------------------

**(23) G21 Pillar Membership – Education and Training**

<b>Required Representatives</b>	1 Councillor 1 Officer – Manager Economic Development and Events
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**(24) G21 Pillar Membership – Environment**

<b>Required Representatives</b>	1 Councillor 1 Officer - Manager Environment and Community Safety
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**(25) G21 Pillar Membership – Health and Well Being**

<b>Required Representatives</b>	1 Councillor 1 Officer - Manager Community Services
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**(26) G21 Pillar Membership – Planning and Services**

<b>Required Representatives</b>	1 Councillor 1 Officer - General Manager Development and Community Services
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**(27) G21 Pillar Membership – Sports and Recreation**

<b>Required Representatives</b>	1 Councillor 1 Officer - Manager Arts and Leisure
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**(28) G21 Pillar Membership – Transportation**

<b>Required Representatives</b>	1 Councillor 1 Officer - General Manager Infrastructure and Leisure Services
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**(29) Timber Towns Victoria**

<b>Required Representatives</b>	1 Councillor
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**(30) Old Beechy Rail Trail Committee**

<b>Required Representatives</b>	1 Councillor - 1 Officer
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**Recommendation 1**

***That Council appoint Cr Potter to the Australian Local Government Association (ALGA) until determined otherwise.***

**Recommendation 2**

***That Council appoint Cr Smith to the Barnard Trust Committee until the Ordinary Council Meeting until determined otherwise.***

**Recommendation 3**

***That Council appoint Cr Hart to the Barwon South West Waste and Resource Recovery Local Government Forum until determined otherwise.***

**Recommendation 4**

***That Council appoint Cr Hart to the Colac Community Library and Learning Centre Joint Use Board until determined otherwise.***

**Recommendation 5**

***That Council appoint Cr Woodcroft to the Colac Otway Network of Community Centres until determined otherwise.***

**Recommendation 6**

***That Council appoint Cr Hanson and Cr Hart to the Community Hub Inc. until determined otherwise.***

**Recommendation 7**

***That Council appoint Cr McCracken and Cr Smith to the COPACC Trust until determined otherwise.***

**Recommendation 8**

***That Council appoint Cr Hart to the Corangamite Regional Library Corp. until determined otherwise.***

**Recommendation 9**

***That Council appoint Cr Hart to the Lavers Hill and District Emergency Response Planning Committee until determined otherwise.***

**Recommendation 10**

***That Council appoint Cr Hart to the Lavers Hill Swimming Pool Committee of Management until determined otherwise.***

**Recommendation 11**

***That Council appoint Cr McCracken and Cr Smith (if required) to the Municipal Aerodrome Committee – Colac until determined otherwise.***

**Recommendation 12**

***That Council appoint Cr Woodcroft to the Municipal Association of Victoria until determined otherwise.***

**Recommendation 13**

***That Council appoint Cr Potter and Cr Schram to the Municipal Emergency Management Planning Committee until determined otherwise.***

**Recommendation 14**

***That Council appoint Cr Potter and Cr Woodcroft to the Municipal Fire Management Planning Committee until determined otherwise.***

**Recommendation 15**

***That Council appoint Cr Smith to the Oudit Quarry Consultative Committee until determined otherwise.***

**Recommendation 16**

***That Council appoint Cr Hanson and Cr Hart (if required) to the Otways Tourism Advisory Committee until determined otherwise.***

**Recommendation 17**

***That Council appoint Cr Potter to the Port of Apollo Bay Consultative Group until determined otherwise.***

**Recommendation 18**

***That Council appoint Cr Smith to the Rural Financial Counselling Service Vic – Wimmera Southwest (RFC) until determined otherwise.***

**Recommendation 19**

***That Council appoint Cr Smith to the Tirrengower Drainage Scheme Committee of Management until determined otherwise.***

**Recommendation 20**

***That Council appoint Cr Schram and Cr Smith (if required) to the Weeds Consultative Committee until determined otherwise.***

**Recommendation 21**

***That Council appoint Cr Woodcroft to G21 Pillar Membership – Arts and Culture until determined otherwise.***

**Recommendation 22**

***That Council appoint Cr Potter to the G21 Pillar Membership – Economic Development until determined otherwise.***

**Recommendation 23**

***That Council appoint Cr Hart to the G21 Pillar Membership – Education and Training until determined otherwise.***

**Recommendation 24**

***That Council appoint Cr Hart to the G21 Pillar Membership - Environment until determined otherwise.***

**Recommendation 25**

***That Council appoint Cr Hanson to the G21 Pillar Membership – Heath and Well Being until determined otherwise.***

**Recommendation 26**

***That Council appoint Cr McCracken to the G21 Membership – Planning and Services until determined otherwise.***

**Recommendation 27**

***That Council appoint Cr Schram to the G21 Pillar Membership - Sports and Recreation until determined otherwise.***

**Recommendation 28**

***That Council appoint Cr Potter to the G21 Pillar Membership - Transportation until determined otherwise.***

**Recommendation 29**

***That Council appoint Cr Potter to the Timber Towns Victoria Committee until determined otherwise.***

**Recommendation 30**

***That Council appoint Cr Smith to the S.86 Old Beechy Rail Trail Committee until determined otherwise.***

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COUNCIL APPOINTMENT TO INTERNAL COMMITTEES

OM162311-7

| | | | |
|---------------------------|----------------------------------------------------------------------------------------|------------------------|--------------------|
| LOCATION / ADDRESS | Whole of Municipality | GENERAL MANAGER | Mark Lyons |
| OFFICER | Jenny Wood | DEPARTMENT | Corporate Services |
| TRIM FILE | F16/6678 | CONFIDENTIAL | No |
| ATTACHMENTS | Nil | | |
| PURPOSE | The purpose of this report is to appoint/reappoint Councillors to Internal Committees. | | |

1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

2. BACKGROUND

The *Local Government Act 1989* acknowledges the need for Special Committees of the Council and Advisory Committees. Part 4 Division 2 of the *Local Government Act 1989* allows for committees made up of Councillors, Council staff and other persons and for a Council by Instrument of Delegation to delegate any of its functions, duties or powers to a Special Committee. Procedural requirements in respect to these committees include that whereby a Council may specify in an Instrument of Delegation that a member of a Special Committee who as a member of the public or of Council staff does not have voting rights on the Special Committee.

The Committees of Council as set out below are recommended in dealing with the business of Council.

In forming the committees, the following guidelines apply to meetings of the committees to ensure communication and accountability to the full Council.

- Mayor to be ex-officio to all committees;
- Minutes of all meetings to be circulated to full Council;
- All Councillors able to attend but voting rights are for appointed committee members only.

Council Committees

1. Planning Committee
2. Chief Executive Officer Appraisal Committee

Advisory Committees

3. Audit Committee
4. Central Reserve Advisory Committee
5. Colac Livestock Selling Centre Advisory Committee
6. Friends of the Colac Botanic Gardens Committee
7. Lake Colac Co-ordinating Committee

The following table outlines the proposed arrangements. It is noted that Council Officers attend a number of the committees either as a member of the committee or as an administrative resource person.

(1) Planning Committee

| | |
|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | All Councillors |
| Meeting Details | To meet on 2 nd Wednesday of the month commencing at 6pm am or more frequently as required. |
| Other Information | The Planning Committee has been established as a Special Committee under section 86 of the <i>Local Government Act 1989</i> and section 188 of the <i>Planning and Environment Act 1987</i> . The committee comprises all Councillors and has the power to determine on planning matters as set down in the Instrument of Delegation. |

(2) Chief Executive Officer Appraisal Committee

| | |
|------------------------------------------------|------------------------------------------------------|
| Number of delegates to be appointed to Council | All Councillors |
| Meeting Details | Half Yearly |
| Other Information | Primary purpose to review the performance of the CEO |

(3) Audit Committee

| | |
|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | 2 Councillors |
| Meeting Details | Quarterly or more frequently as determined |
| Other Information | Made up of 2 Councillors and 2 independent members. An independent member to be chairperson. The committee is an advisory committee of Council. CEO is non-voting member. |

(4) Central Reserve Advisory Committee

| | |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | 1 Councillor |
| Meeting Details | Bi-monthly |
| Other Information | Purpose is to facilitate communication between Council, park users, local police and local residents about matters concerning planning, development, maintenance and operation of the reserve. |

(5) Colac Livestock Selling Centre Advisory Committee

| | |
|------------------------------------------------|---------------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | 1 Councillor |
| Meeting Details | Annual budget meeting and others as required |
| Other Information | Purpose is to provide advice on the operations of the centre and make recommendations to Council. |

(6) Friends of the Colac Botanic Gardens Advisory Committee

| | |
|------------------------------------------------|---------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | 1 Councillor |
| Meeting Details | Monthly |
| Other Information | Purpose is to undertake voluntary projects and to act as an advisory committee for Council. |

(7) Lake Colac Advisory Committee

| | |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number of delegates to be appointed to Council | 2 Councillors |
| Meeting Details | Quarterly |
| Other Information | Purpose is to be a forum to assist Council in the implementation of the Lake Colac Management Plan and the Lake Colac Master Plan. To advise Council on the revitalization and development of Lake Colac. |

Recommendation 1

That Council appoints all Councillors as members of the Planning Committee.

Recommendation 2

That Council appoints all Councillors as members of the Chief Executive Officer Appraisal Committee until determined otherwise.

Recommendation 3

That Council appoints Cr Hart and Cr Schram as members of the Audit Committee until determined otherwise.

Recommendation 4

That Council appoints Cr Smith as member of the Central Reserve Advisory Committee until determined otherwise.

Recommendation 5

That Council appoints Cr Smith as a member of the Colac Livestock Selling Centre Advisory Committee until determined otherwise.

Recommendation 6

That Council appoints Cr McCracken as a member of the Friends of the Colac Botanic Gardens Committee until determined otherwise.

Recommendation 7

That Council appoints Cr Schram and Cr Smith as members of the Lake Colac Co-ordinating Committee until determined otherwise.

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**ORDINARY COUNCIL MEETING  
PROPOSED AMENDMENTS TO COUNCIL MEETING DATE - DECEMBER 2016  
OM162311-8**

<b>LOCATION / ADDRESS</b>	Whole of Municipality	<b>GENERAL MANAGER</b>	Mark Lyons
<b>OFFICER</b>	Jenny Wood	<b>DEPARTMENT</b>	Corporate Services
<b>TRIM FILE</b>	F16/6678	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	Nil		
<b>PURPOSE</b>	The purpose of this report is to confirm the change of date for the Council meeting scheduled to be held on 21 December 2016.		

## 1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

Meeting dates for the 2016 Calendar year were set by Council Resolution in November 2015. The meeting to be held in December historically has been held on the 3<sup>rd</sup> Wednesday of the Month to allow time for resolutions and actions to be dealt before the Holiday Period.

The 3<sup>rd</sup> week of December this year falls on 21 December 2016, therefore will not allow the Organisation to effectively action any resolutions that may be required.

## 3. POLICY

Not applicable

## 4. ISSUES / OPTIONS

Changing set meeting dates does not preclude the calling of a Special Meeting if the need arises to deal with a matter during December.

## 5. PROPOSAL

That the Council Meeting currently set for Wednesday 21 December at 4pm be moved forward one week to Wednesday 14 December at 6pm to allow the organisation to effectively action any resolutions of that meeting.

## 6. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be inform and include: Notification in the Newspaper and on the Colac Otway Shire Website.

## 7. CONCLUSION

It is recommended that meeting currently scheduled for 21 December 2016 at 4pm be moved forward one week to occur on Wednesday 14 December 2016 at 6pm.

### **Recommendation 1**

***That Council:***

***Re-schedule the Ordinary Council meeting currently scheduled to be held on Wednesday 21 December 2016, 4pm at COPACC to be held on Wednesday 14 December 2016 6pm at COPACC.***

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**ORDINARY COUNCIL MEETING
AUTHORISATION OF PLANNING OFFICERS UNDER
THE PLANNING AND ENVIRONMENT ACT 1987
OM162311-9**

| | | | |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------------|
| LOCATION / ADDRESS | Whole of Municipality | GENERAL MANAGER | Sue Wilkinson |
| OFFICER | Mark Lyons | DEPARTMENT | Corporate Services |
| TRIM FILE | F16/6678 | CONFIDENTIAL | No |
| ATTACHMENTS | Nil | | |
| PURPOSE | The purpose of the report is for Council to appoint Anna Borthwick, Co-ordinator Built Environment, Bushfire Recovery and Stuart Caldwell, Bushfire Recovery and Statutory Planner as authorised officers under the <i>Planning and Environment Act 1987</i> . | | |

1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

2. BACKGROUND

Council recently appointed Anna Borthwick and Stuart Caldwell to positions within the Bushfire Recovery team. Anna Borthwick is a qualified town planner and is the Coordinator of the team that is responsible for considering planning, building, health and infrastructure related approvals supporting the rebuilding of houses destroyed and damaged by the 2015 Christmas Day bushfire at Wye River and Separation Creek. Stuart Caldwell is a statutory planner within the team, responsible for providing planning advice and processing planning permit applications and related statutory approvals.

Both staff are delegated to undertake a range of functions under various legislation relative to the role, but require further authorisation under the *Planning and Environment Act 1987* to clarify that they represent Council as the Responsible Authority under various provisions of that Act.

- (a) The *Planning and Environment Act 1987* regulates enforcement and is reliant on authorised officers acting on behalf of the Responsible Authority.
- (b) Currently Council's authorised officers are acting under a broader Appointment and Authorisation by the Chief Executive Officer pursuant to section 224 of the *Local Government Act 1989*.
- (c) Legal advice has recommended that authorised officers be appointed by Council using an instrument to address specific authorisation provisions of section 147(4) of the *Planning and Environment Act 1987* versus the broader authorisations of section 224 of the *Local Government Act 1989*.
- (c) The broader Instrument of Appointment and Authorisation by the Chief Executive Officer pursuant to section 224 of the *Local Government Act 1989* must also be retained as it appoints the officers as authorised officers for the administration and enforcement of other acts.

3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

Leadership and Governance

Council will fulfil its leadership, statutory and legal obligations to its community and staff in a way that is: fair, ethical, inclusive, sustainable, financially responsible and meets the needs and practical aspirations of current and future generations.

Issues / Options

The Instrument of Authorisation relates only to the powers arising from the *Planning and Environment Act 1987*. Currently, the power to commence proceedings in Council's name is also delegated under the Instrument of Delegation from the CEO to Council Staff. Staff members authorised under other legislation, such as the *Local Government Act 1989* are appointed under delegation by the CEO.

4. PROPOSAL

The proposal is to appoint Anna Borthwick and Stuart Caldwell as authorised officers pursuant to section 147(4) of the *Planning and Environment Act 1987* and the regulations made under that Act.

5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

Nil

6. RISK MANAGEMENT AND COMPLIANCE ISSUES

The *Planning and Environment Act 1987* regulates enforcement and is reliant on authorised officers acting on behalf of the responsible authority. The authorisation of officers under this Instrument is consistent with legal advice received.

7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

Nil

8. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The appropriate method is to inform.

9. IMPLEMENTATION

The attached Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) comes into force immediately upon its execution.

10. CONCLUSION

Council is required to appoint authorised officers pursuant to section 147(4) of the *Planning and Environment Act 1987* for matters relating to planning compliance and enforcement.

Recommendation

That Council:

- 1. Appoints Anna Borthwick and Stuart Caldwell as authorised officers pursuant to the Planning and Environment Act 1987.**
- 2. Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it.**
- 3. Delegates to the Chief Executive Officer authority to sign and place under Council Seal the Instrument of Appointment and Authorisation.**

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**ORDINARY COUNCIL MEETING**  
**FIRST QUARTER FINANCIAL PERFORMANCE REPORT 2016-2017**  
**OM162311-10**

<b>LOCATION / ADDRESS</b>	Whole of Municipality	<b>GENERAL MANAGER</b>	Sue Wilkinson
<b>OFFICER</b>	Mark Lyons	<b>DEPARTMENT</b>	Corporate Services
<b>TRIM FILE</b>	F16/6678	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	Quarterly Council Report - 2016-2017 - First Quarter Performance Report to Council		
<b>PURPOSE</b>	The purpose of this report is to provide information regarding the first quarter financial report.		

## 1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

Council adopted the budget for 2016/17 including Capital works and Major Projects programmes as its ordinary meeting held on 22 June 2016.

## 3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

### Good Governance

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective financially sustainable.

### Issues / Options

Attached to this report is the First Quarter Financial Performance Report 2016-2017.

Overall, the report confirms that Council continues to deliver a balanced budget and remains financially sustainable.

## 4. PROPOSAL

This report is for information only.

## 5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

Financial and resource matters affecting the budget performance of Council are detailed in the attached report.

## 6. RISK MANAGEMENT AND COMPLIANCE ISSUES

This report meets the reporting and risk obligations of officers to Council.

## 7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

There is no direct environmental and climate change considerations arising from this report, however many items within the budget do have impact upon the environment and potential climate change implications. These items have been addressed at the time of setting and adopting the annual budget.

## 8. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected is to inform as per statutory obligations when preparing the Council Plan and Budget. This is a quarterly financial report that is for the information of Council.

## 9. IMPLEMENTATION

The Council Plan and Budget were adopted by Council at its meeting held on 22 June, 2016 and implementation will occur during the financial year.

## 10. CONCLUSION

This report has been compiled by the Financial Services Unit with the assistance of the Executive Management Team and all business units of Council. It reflects the performance to date against budget and targets adopted by Council. The report provides an outline of the first quarter result there are no material issues that adversely affect Council's overall financial position.

### **Recommendation**

***That Council receives the first quarter financial performance report for 2016-2017.***

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First Quarter Financial Performance Report 2016-2017

September 2016



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About the report

In accordance with the Local Government Act 1989, Council must establish and maintain a budgeting and reporting framework that is consistent with the principles of sound financial management.

In line with our commitment to sound financial management, Council is provided with an analysis of financial and non-financial information each quarter. This information will include at a minimum a comparison of budgeted income and expenditure and actual income and expenditure.

This report covers the period from 1 July 2016 to 30 September 2016 and reports on:

- Significant variations from the adopted budget;
- Council's cash balance and forecast;
- Council's investment performance;
- Council's financial statements;
- Income and expenditure for the services provided by Council.

Overview

The adopted budget amounts within the operating statement indicate a forecast surplus of \$6.02 million and while there are timing differences affecting YTD estimates there are not any significant variances that would affect Council's overall financial position.

2015-16 Financial Statements Audit

In finalising the 2015-16 financial reports, and in consultation with our auditors, changes were made to the treatment of assets associated with the Port of Apollo Bay.

It was agreed that the Port of Apollo Bay would no longer be treated as a controlled entity or controlled asset of Colac Otway Shire and therefore under Accounting Standards should not be consolidated into the Shire's results. These results were consolidated in previous financial years and therefore the 2016/17 budget included estimates for Port arrangements that will no longer need to be recognised (mainly depreciation expense and the capital value of assets). Recommended adjustments to the budget, to reflect this new position, will be finalised as part of the half year budget review.

Operating Statement

The information in the table below shows operating income and expenditure for the period ending 30 September 2016. The five (5) columns of data provide information on the following:-

- Original budget as adopted by Council
- YTD actual results to 30 September 2016
- YTD budget to 30 September 2016 (i.e. estimated timing of income and expenditure)
- \$ value variance YTD actuals compared to YTD budget
- % value YTD variance to YTD budget.

**Comprehensive Income Statement
For Period Ended 30 September 2016**

| | Original
Budget
2016-17 | YTD Actual
2016-17 | YTD Budget | YTD
Variance | % YTD
Variance |
|---------------------------------------|-------------------------------|-----------------------|-------------------|--------------------|-------------------|
| Operating revenue | | | | | |
| Rates and charges | 28,744,422 | 28,461,092 | 28,744,422 | (283,330) | (1.0%) |
| Statutory fees and charges | 570,200 | 105,839 | 187,020 | (81,181) | (43.4%) |
| User fees and charges | 4,588,450 | 971,783 | 1,214,324 | (242,541) | (20.0%) |
| Operating grants - state | 4,643,270 | 932,942 | 913,122 | 19,820 | 2.2% |
| Operating grants - federal | 6,421,157 | 1,621,926 | 1,654,573 | (32,647) | (2.0%) |
| Capital grants - state | 400,000 | - | - | - | 0.0% |
| Capital grants - federal | 7,458,206 | 115,352 | 1,123,446 | (1,008,094) | (89.7%) |
| Contributions | 371,150 | 47,680 | 46,203 | 1,477 | 3.2% |
| Reimbursements | 290,860 | 173,377 | 35,877 | 137,500 | 383.3% |
| Finance revenue | 419,607 | 76,749 | 102,647 | (25,898) | (25.2%) |
| Other revenue | 88,700 | 63,681 | 37,465 | 26,216 | 70.0% |
| Net gain / loss on disposal of assets | 83,000 | 8,140 | 20,750 | (12,610) | (60.8%) |
| Total operating revenue | 54,079,022 | 32,578,559 | 34,079,849 | (1,501,290) | (4.4%) |
| Operating expenses | | | | | |
| Employee benefits | 19,518,411 | 5,393,496 | 4,954,194 | (439,302) | (8.9%) |
| Materials and services | 5,366,774 | 1,466,986 | 1,774,490 | 307,504 | 17.3% |
| Contracts | 11,458,085 | 2,531,732 | 2,102,187 | (429,545) | (20.4%) |
| Depreciation and amortisation | 10,236,909 | 2,452,746 | 2,559,219 | 106,473 | 4.2% |
| Finance expenses | 288,631 | 56,115 | 45,029 | (11,086) | (24.6%) |
| Bad and doubtful debts | 2,000 | 290 | 501 | 211 | 42.2% |
| Other expenses | 1,184,000 | 1,005,411 | 249,116 | (756,295) | (303.6%) |
| Assets written off | - | - | - | - | |
| Total operating expenses | 48,054,810 | 12,906,777 | 11,684,736 | (1,222,041) | (10.5%) |
| Operating Surplus / (Deficit) | 6,024,212 | 19,671,783 | 22,395,113 | (2,723,330) | 326.5% |

This report is the first for the 2016/17 reporting period and the year to date budget (YTD) provides a guide to the timing of receipts and payments. Timing differences can occur during the financial year and where variances occur on a YTD basis this does not imply that the annual budget will be affected.

A summary analysis of variances greater than 5% on a YTD basis have been prepared below.

Operating Revenue – Variance Analysis to YTD Budget > 5%

Statutory fees and charges: Town planning and building permits, animal and parking infringements are lower than estimated on a YTD basis although this is not expected to impact the annual result.

User Fees and Charges: The main variation relates to activity levels in the livestock selling centre and Great Ocean Road Visitor information Centre (GORVIC) being down on expectations on a YTD basis. No changes are recommended at this stage with both businesses reviewing their income and expenses for the remainder of the financial year with the aim to achieve budgeted results.

Capital grants – federal: This variance relates to timing differences and the payment of the grants is expected to be received by the end of the financial year.

Reimbursements: Additional income associated with the V/Line train accident at Phalps Road has been received. A review of all expected re-imbursements will be completed as part of the half year budget review.

Finance revenue: An analysis of variations relates to timing differences for income receipts and budget targets are expected to be achieved by the end of the financial year.

Other Revenue: This line item represents ancillary receipts which occur at varying times throughout the year. Where appropriate any recommended changes will be reported as part of the half year budget review.

Net gain/loss on disposal of assets: Vehicle sales have been delayed but are expected to be realised by the end of the financial year.

Operating Expenses – Variance Analysis to YTD Budget >5%

Employee benefits: After adjusting for timing differences the budget is expected to be within annual expectations. Current results include wages that will be capitalised (relating to capital works), payments for sick leave which tend to be higher during winter period and payments for annual leave and long service leave that vary throughout the year.

Materials, Services, Contracts and Other cost: The results include amounts that have not yet being capitalised as projects have not been completed, it is expected that over the financial year these costs will be in line with Council's budget.

Finance expenses: The variation relates to a timing difference for the early repayment of loan six (6) which was fully funded by reserve funds as part of the budget. Any final adjustment between expense types will be reported to council as part of the half year review.

Financial Position Statement

The table provides details on the financial position or balance sheet as at 30 September 2016.

Balance Sheet As At 30 September 2016

| | YTD Actual
2016-17 |
|---------------------------------------------|-----------------------|
| Assets | |
| Current Assets | |
| Cash & Cash Equivalents | 11,512,814 |
| Trade and Other Receivables | 28,389,951 |
| Inventories | 143,699 |
| Total Current Assets | 40,046,464 |
| Non Current Assets | |
| Other Non Current Assets | 306,733 |
| Property, Infrastructure, Plant & Equipment | 287,342,632 |
| Total Non Current Assets | 287,649,365 |
| Total Assets | 327,695,829 |
| Liabilities | |
| Current Liabilities | |
| Trade and Other Payables | 3,386,791 |
| Interest Bearing Loans and Borrowings | 261,887 |
| Trust Deposits | 671,364 |
| Provisions | 4,530,815 |
| Total Current Liabilities | 8,850,856 |
| Non Current Liabilities | |
| Interest Bearing Loans and Borrowings | 4,137,020 |
| Provisions | 4,428,741 |
| Total Non Current Liabilities | 8,565,761 |
| Total Liabilities | 17,416,617 |
| Net Assets | 310,279,212 |
| Equity | |
| Accumulated Surplus | 146,328,262 |
| Reserves | 163,950,950 |
| Total Equity | 310,279,212 |

Capital Works Statement

The table below provides details on the capital works expenditure as at 30 September 2016.

The capital works original budget for the 2016/17 financial year was \$18.3 million of which \$13.1 million related to the renewal of Council's existing assets, with a further \$5.2 million allocated for upgrading or new assets.

The delivery of the capital works program is scheduled to maximise the use of favourable weather conditions during summer and autumn. The program schedule is also influenced by the preparation lead time required for design work, tender evaluation and contract negotiations.

The July to September period typically is traditionally a quieter period with a limited number of projects being in the delivery phase due to weather.

Capital works expenditure is expected to align with the budgeted figure over the remaining months of the financial year. If any changes are anticipated these will be reported as part of the half year budget review.

Capital Works Statement For the period Ended 30 September 2016

| Category | Original Budget | YTD Actual | YTD Budget | YTD Variance | % YTD Variance |
|------------------------------------------------|-------------------|------------------|------------------|------------------|----------------|
| Property | | | | | |
| Building | 4,516,335 | 396,977 | 1,091,050 | 694,073 | 63.6% |
| Property Total | 4,516,335 | 396,977 | 1,091,050 | 694,073 | 63.6% |
| Plant and Equipment | | | | 0 | |
| Plant, Machinery and Equipment | 1,142,000 | 111,535 | 285,500 | 173,965 | 60.9% |
| Fixtures Fittings and furniture | 469,632 | 13,673 | 61,416 | 47,743 | 77.7% |
| Computers and Telecommunications | 265,450 | 55,773 | 65,269 | 9,496 | 14.5% |
| | 1,877,082 | 180,982 | 412,185 | 231,203 | 56.1% |
| Plant and Equipment Total | | | | | |
| Infrastructure | | | | | |
| Roads | 9,118,956 | 769,552 | 2,045,464 | 1,275,912 | 62.4% |
| Bridges | 250,000 | 91,126 | 62,499 | (28,627) | -45.8% |
| Footpath and Cycle way | 1,525,000 | 12,989 | 128,750 | 115,761 | 89.9% |
| Drainage | 450,000 | 21,712 | 75,000 | 53,289 | 71.1% |
| Recreational, Leisure and Community Facilities | 301,650 | 0 | 75,411 | 75,411 | ot Started |
| Parks Open Space and streetscapes | 257,975 | 47,547 | 64,494 | 16,947 | 26.3% |
| Infrastructure Total | 11,903,581 | 942,926 | 2,451,618 | 1,508,692 | 61.5% |
| Grand Total | 18,296,998 | 1,520,885 | 3,954,853 | 2,433,968 | 61.5% |

| Represented by | Original Budget | YTD 2016-2017 Actual | YTD 2016/17 Budget | YTD Variance | % YTD Variance |
|--------------------|-------------------|----------------------|--------------------|------------------|----------------|
| New | 369,975 | 10,401 | 74,495 | 64,094 | 86.0% |
| Renewal | 13,135,008 | 1,147,602 | 2,892,536 | 1,744,934 | 60.3% |
| Upgrade | 4,792,015 | 362,882 | 987,822 | 624,940 | 63.3% |
| Grand Total | 18,296,998 | 1,520,885 | 3,954,853 | 2,433,968 | 61.5% |

Cash Balance

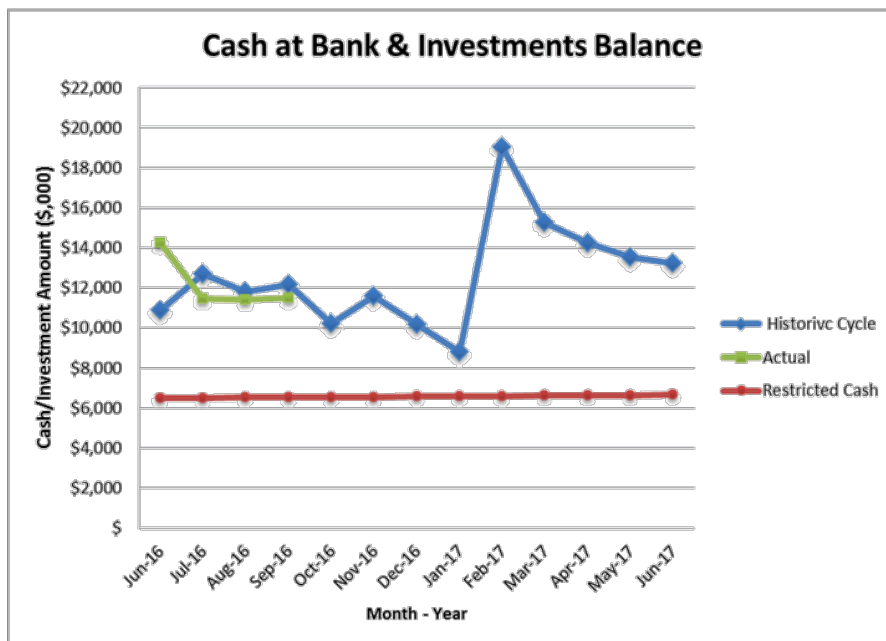
The chart below show projections of how Council's cash balance is expected to perform over the course of the 2016/17 financial year. The chart portrays:

- The Estimate – which is an estimation of what the cash balance is expected to be at the end of each month based upon historical averages. The estimate will reflect recent years which include one off major projects.
- The Actual – this is the actual balance at the end of each month of the year up to and including September 2016.
- Restricted Cash – this is the value of funds Council has a legal obligation to expend or reimburse and Councils estimated staff liabilities.

Restricted cash includes:-

- Estimated Long Service Leave
- Estimated Annual leave
- Port of Apollo Bay funds held on behalf of the State government
- Recreational lands contributions held on behalf of developers
- Tirrengower Drainage Scheme landholder contributions
- Trust funds held on behalf of others.

The graph below shows Council's cash balance is within expectations and every opportunity is taken to invest surplus cash to maximise investment returns.



The table below shows Council's investments during September have an average return on investment of 2.25% compared with the average cash deposit rate (1.59%) and 90 Day bank (1.81%) bill rate.

In order to meet Council's financial commitments investments are rolled over on a regular basis. Council's investment policy limits the investments in any one institution to 75%.

Investment Report
Colac Otway Shire - Return on investment

| Market Rates | Council Performance | | | Market Indicators | |
|---------------------|---------------------|---------------------|-----------------------------|------------------------|------------------------|
| | At Call Deposits | Fixed term Deposits | Average Monthly Performance | Reserve Bank Cash rate | 90 Day Bank Bill Index |
| Minimum Rate | 1.50% | 2.35% | 1.50% | 1.50% | 1.73% |
| Maximum Rate | 1.75% | 3.00% | 3.00% | 1.75% | 1.93% |
| Average Rate | 1.56% | 2.68% | 2.25% | 1.59% | 1.81% |

Investments held at 30 September 2016

| | Mature October | Mature November | Mature December | Investment Amount | Institution allocation |
|-------------------------|------------------|------------------|------------------|-------------------|------------------------|
| Commonwealth Bank | 1,300,000 | 2,400,000 | 204,000 | 3,904,000 | 38% |
| Bank West | 2,000,000 | 2,000,000 | 2,300,000 | 6,300,000 | 62% |
| Total | 3,300,000 | 4,400,000 | 2,504,000 | 10,204,000 | 100% |
| Maturity breakup | 32% | 43% | 25% | | |

Underlying result

The underlying operating result is a measure of the capacity of a municipality to finance recurrent services, pay debt interest and meet the cost of asset use (depreciation).

The model utilised by Colac Otway Shire (as set out in the Local Government Performance Reporting Framework) to calculate the underlying operating result is to deduct from the operating surplus/deficit shown in the Income Statement: capital grants which are not part of a recurrent program, cash contributions (eg developer contributions), contributed non-cash assets; asset revaluations and other "once off" adjustments.

The underlying result for the Colac Otway Shire is displayed in the table below.

**Underlying Result
as at 30 September 2016**

| Factors | YTD Actual | YTD Budget
2016-17 | Original
Budget
2016-17 |
|--------------------------------------------|-------------------|-----------------------|-------------------------------|
| Operating Result Surplus (deficit) | 19,671,783 | 22,432,986 | 6,024,212 |
| less Non Recurrent Capital grants | - | 1,123,446 | 4,982,250 |
| less Capital contributions | - | - | - |
| less Cash contributions | 47,680 | 46,203 | 371,150 |
| Underlying Result surplus (deficit) | 19,624,103 | 21,263,337 | 670,812 |

The YTD underlying surplus reflects the impact of recognising the income at the start of the year (eg rates) while only three months expenditure has occurred. The YTD underlying surplus will reduce throughout the financial year in line with original budget expectations.

Sundry Debtors

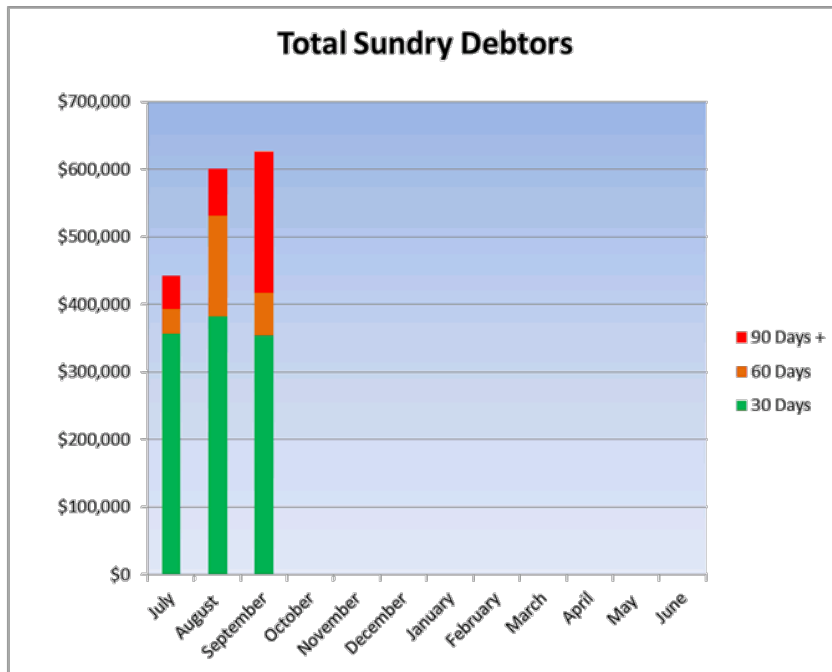
At the end of September 2016 Council has outstanding sundry debts of \$449k. Of the amount outstanding \$210k is overdue 90 days or more. The table below shows the amount is principally made up of three debtors and all payments are expected to be received:

| Sundry Debtors over \$5,000 90 Days and more | | | | |
|----------------------------------------------|--------------------------|---------------|-------------------------|---------------------------------------------------------------------------------------------------------------------|
| Category | Debtor Name | Debtor Number | Amount 90
Days and + | Collection Status / Notes |
| Misc | Tennis Australia | 7790.01 | \$22,000.00 | Cororooke Tennis Courts, national court rebate scheme - milestone for payment not yet completed due to wet weather. |
| Grants | Department of Health | 6368.20 | \$140,000.00 | Bluewater Warm Water Pool final instalment - to be received after acquittal scheduled November 2016. |
| Grants | Regional Development Vic | 1101.20 | \$20,000.00 | Regional Development - Wye River Open Space to be received early 2017 |

The balance of other amounts owed in the 90 day category are made up of smaller debts from planning permit activities, property clearance and aged care services.

Council is pursuing all outstanding monies. This involves a mix of Council Officers directly contacting the outstanding debtor and the use of an external debt collection agency as appropriate.

The graph below shows the aging of sundry debtors. The recent increase relates to the final grant payment for the Bluewater warm pool which is awaiting the completion of an audited acquittal. The acquittal is due for completion in November.



Rate Debtors

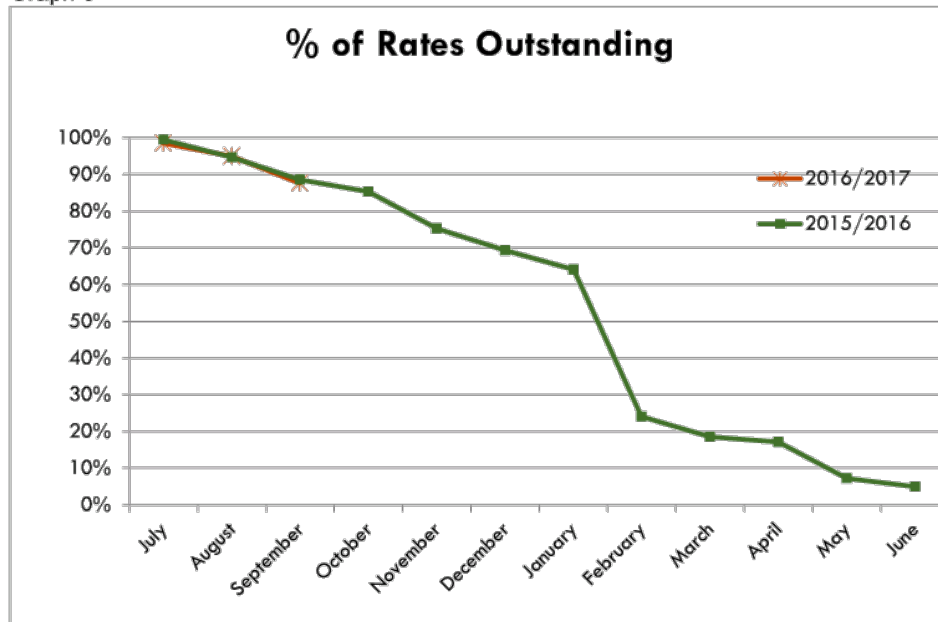
In the first quarter, \$28.5million was raised in rates and charges including a batch of supplementary valuations generated by changes to council's property base. At 30 September, 12.4% of the rates raised have been collected compared to the same period of the 2015-2016 financial year of 11.5%..

The due date for ratepayers opting to pay in full is 15 February 2017. For ratepayers opting to pay via instalments the first instalment was due 30 September 2016. The next instalments are due 30 November 2016, 28 February 2017, and 31 May 2017. Any ratepayer who has not opted for instalment payments must make the full payment on 15 February 2017.

The take up of instalments so far in the 2016/17 year indicate that approximately 40% of ratepayers choose the pay by instalments. This remains in line with the previous year.

Graph 3 shows that current collection trends are closely following the 2015/16 collection trend.

Graph 3



Contracts Awarded and Tenders Advertised

The table below summarises all contracts that have been entered into by Council and tenders advertised in the three months July to September 2016.

July

Contracts Awarded

| Contract No. | Description | Contractor | Value \$ (excluding GST) |
|--------------|------------------------------------------------------------------|--------------------|--------------------------|
| 1605 | External Plant Hire | Panel of providers | Schedule of rates |
| 1606 | Supply of crushed rock, sealing aggregate and pavement materials | Panel of providers | Schedule of rates |

Tenders Advertised

| Tender No. | Description | Starting Date | Closing Date |
|------------|-----------------------------------------|---------------|--------------|
| 1611 | EOI Bluewater stadium Floor Replacement | 22/07/2016 | 17/08/2016 |

August**Contracts Awarded**

| Contract No. | Description | Contractor | Value \$
(excluding GST) |
|---------------------|---------------------------------------------------|------------------------|-------------------------------------|
| 1607 | Provision of Municipal building surveyor services | MBS Services Australia | \$228,980 |
| 1609 | Bituminous sealing works | Inroads | \$1,101,779 |

Tenders Advertised

| Tender No. | Description | Starting Sate | Closing Date |
|-------------------|-------------------------------------|----------------------|---------------------|
| 1612 | Bluewater stadium Floor Replacement | 22/08/2016 | 5/9/2016 |

September**Contracts Awarded**

| Contract No. | Description | Contractor | Value \$
(excluding GST) |
|---------------------|--------------------------|---------------------------------|-------------------------------------|
| 1612 | Blue water stadium floor | Ace Floors and Coatings Pty Ltd | \$765,000 |

Tenders Advertised

| Tender No. | Description | Starting Date | Closing Date |
|-------------------|---------------------------------------------------|----------------------|---------------------|
| 1613 | Concrete works programme | 09/09/2016 | 12/10/2016 |
| 1614 | Birregurra tennis and netball court redevelopment | 24/09/2016 | 26/10/2016 |

Trending Issues

Vision Super Defined Benefits Superannuation Vested Benefits Index

Council has a potential financial exposure to the Vision Super Defined Benefits superannuation plan. Under the Australian Prudential Regulation Standards (SPS160) defined benefits funds must meet strict funding requirements. This funding requirement is measured by the Vested Benefits Index, which shows as a percentage the ratio of investments held by the fund compared to the estimated benefits payable by the fund at the same time.

The latest available quarterly Vested Benefits Index for the Vision Super Defined Benefits fund is listed in the table 8 below:

Table 8

| Date | Vested Benefits Index |
|----------------|-----------------------|
| June 2015 | 105.8% |
| September 2015 | 104.0% |
| December 2015 | 104.4% |
| March 2016 | 102.4% |
| June 2016 | 102.0% |

NB* September 2016 figures were unavailable at the time of publishing this report
The fund's quarterly threshold limits are:

| Quarter Ending | VBI Threshold |
|----------------|---------------|
| September 2015 | 97.0% |
| December 2015 | 97.0% |
| March 2016 | 97.0% |
| June 2016 | 100.0% |

If the VBI falls below the nominated amount in any quarter then the Australian Prudential Regulation Authority may require that the fund make a funding call on its members. Any funding call made must return the fund to a VBI position of over the nominated figure within 3 years.

The gap between index and the VBI threshold has been narrowing in the recent past. The next quarter figures from Vision Super will provide an indication if the gap is likely to change. It is not envisioned that a call will be made in the immediate future. Council officers are monitoring the September quarter's index results.

Sustainability Ratios

It is important that Council remain financially sustainable in the long term and the Victorian Auditor General's Office (VAGO) measure eight (8) ratios for all Councils and have established benchmarks to measure the relative risk rating. It is important to note that the combination of results must be analysed along with future trends to determine financial stability.

Council continues to maintain a sound financial position with the majority of indicators in the low risk categories. Those ratios that are in the medium category are marginally below that required to meet the low risk benchmark. It is expected that Council will maintain this position through to the end of the 2016-2017 financial year.

Sustainability Ratios

| Ratio | Calculation | Explanation | Actual Result
2015/2016 | Original Budget
2016/2017 |
|---------------------------|-------------------------------------------------------------|----------------------------------------------------------------------------------------|----------------------------|------------------------------|
| Net Result Ratio | Net operating result / Total income | Measures operational result including capital income | 3.8% | 11% |
| Liquidity Ratio | Current Assets / Current Liabilities | Measure of Council's abilities to meet their short-term commitments | 198% | 144% |
| Indebtedness | Non-Current Liabilities / Own sourced income | Capacity to cover debt commitments with own sourced income | 25.79% | 22.23% |
| Internal Financing Ratio | Total income less capital grants received/ operating costs | Measures the ability to fund operations from only internal sources | 95% | 89.20% |
| Capital replacement ratio | Capital Renewal, Upgrade and New expenditure / Depreciation | Measures total expenditure on assets to the cost of fixed assets being consumed | 131% | 179% |
| Renewal gap | Capital Renewal expenditure / Depreciation | Measures the expenditure on existing assets to the cost of fixed assets being consumed | 123% | 128.31% |
| Debt Management ratio | Interest Bearing Debt / Rates and Charges | Proportion of rates and charges covering debt | 17.29% | 13.83% |
| Debt Commitment ratio | Interest Paid and Principal paid / Rates and Charges | Proportion of rates and charges covering debt payments | 3.28% | 3.80% |

VAGO Benchmarks

| Indicator | High | Medium | Low |
|---------------------------|----------------------------|----------------------------------------|-------------------|
| Net Result Ratio | Negative 10% or less | Between negative 10% and zero | Greater than zero |
| Liquidity Ratio | Equal to or less than 75% | Between negative 75% and 100% | Greater than 100% |
| Indebtedness | Greater than 60% | Between negative 40% and 60% | Less than 40% |
| Internal financing Ratio | Less than 75 % | Between negative 75% and 100% | Greater than 100% |
| Capital replacement ratio | Equal to or less than 100% | Between negative 100% and 150% | Greater than 150% |
| Renewal gap | Equal to or less than 50% | Between negative 50% and 100% | Greater than 100% |
| Debt Management ratio | More than 35% | Between negative 35% and more than 25% | Less than 25% |
| Debt Commitment ratio | More than 10% | Between negative 5% and 10% | Less than 5% |

ORDINARY COUNCIL MEETING
MINUTES OF THE OLD BEECHY RAIL TRAIL COMMITTEE
OM162311-11

| | | | |
|---------------------------|------------------------------------------------------------------------------|------------------------|-------------------------------------|
| LOCATION / ADDRESS | Whole of Municipality | GENERAL MANAGER | Ingrid Bishop |
| OFFICER | Nicole Frampton | DEPARTMENT | Infrastructure and Leisure Services |
| TRIM FILE | F16/6678 | CONFIDENTIAL | No |
| ATTACHMENTS | Meeting Minutes - Old Beechy Rail Trail Committee - 18 July 2016 - confirmed | | |
| PURPOSE | To note the Minutes of the Old Beechy Rail Trail Committee | | |

1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

2. BACKGROUND

It has been previously agreed to by Council that the minutes of the Old Beechy Rail Trail Committee should be included in the Council agenda once any confidential items have been identified and the minutes have been confirmed by the Committee.

Meetings are held every two months, commencing February of each year.

Recommendation

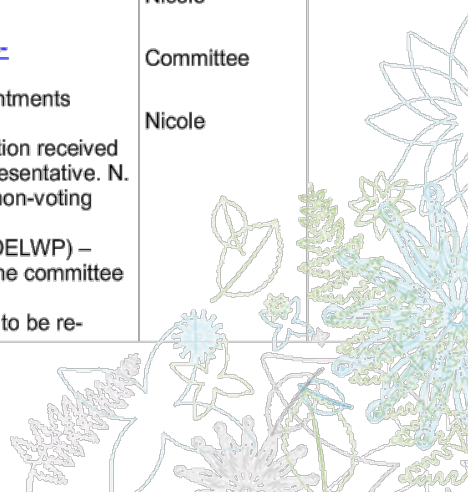
That Council notes the Minutes of the Old Beechy Rail Trail Committee for 18 July 2016.

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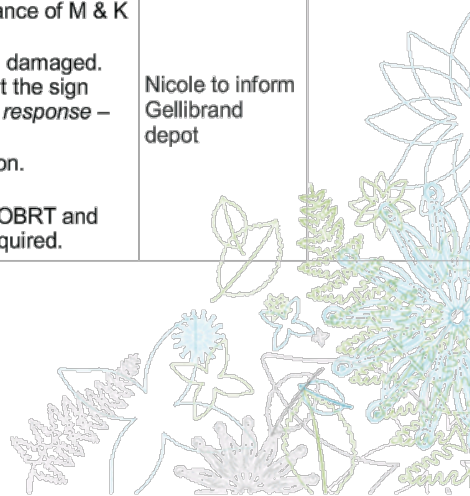
# MINUTES

	ITEMS & ACTIONS	RESPONSIBLE OFFICER	ACTION DUE DATE
1.	<b>ATTENDEES</b> Cr. Chris Smith (Chair), Tony Grogan, Anthony Zappelli, Cyril Marriner, Noel Barry, Bernard Jordan (Bushwalking Victoria), Nathan Swain, Robert Bendon (DELWP), Nicole Frampton (COS – Minutes)		
2.	<b>APOLOGIES</b> Tricia Jukes  <b>ABSENT</b> Glen Anderson (Midway)		
3.	<b>CONFIRMATION OF MINUTES FROM PREVIOUS MEETING – 23 May 2016</b> <b>Corrections – minor spelling corrections made.</b>  <b>Moved –</b> Noel Barry <b>Seconded –</b> Tony Grogan <b>Carried</b>		
4.	<b>BUSINESS ARISING FROM PREVIOUS MINUTES:</b> <ul style="list-style-type: none"> <li>• OBRT water bottles – Nicole provided a sample of the current OBRT drink bottle style. Council sold the drink bottles for \$5 each. There are 2 boxes remaining. That should be enough to use for the Golden Gumboot event. Will not order any more at this point in time. <ul style="list-style-type: none"> <li>○ Otway E Bikes expressed an interest in selling the drink bottles.</li> </ul> </li> <li>• Arrange signage for reporting defects along the OBRT</li> <li>• Emergency Marker posts installation – update – see works report for detail.</li> <li>• Trail Improvements to steep sections (at the dismount bicycle signs) of the trail between Dinmont and Ditchley</li> <li>• Trail inspection (11/04/2016) follow up – update provided.</li> <li>• New Council Website – OBRT page <ul style="list-style-type: none"> <li>○ View the page at: <a href="http://www.colacotway.vic.gov.au/Parks-Recreation/Old-Beechy-Rail-Trail">http://www.colacotway.vic.gov.au/Parks-Recreation/Old-Beechy-Rail-Trail</a></li> </ul> </li> <li>• Committee Appointments – Confirmation of committee appointments received from: <ul style="list-style-type: none"> <li>○ Beech Forest and District Progress Association – nomination received for N. Swain to be appointed to the committee as the representative. N. Swain invited to attend the committee in the interim as a non-voting member until formal committee appointment</li> <li>○ Department of Environment, Land, Water and Planning (DELWP) – nomination received for C. Clifford to be re-appointed to the committee as the representative.</li> <li>○ Bushwalking Victoria – nomination received for B. Jordan to be re-</li> </ul> </li> </ul>	<p>Nicole</p> <p>Nicole to discuss with business</p> <p>Nicole</p> <p>Nicole</p> <p>Nicole</p> <p>Nicole</p> <p>Nicole</p> <p>Committee</p> <p>Nicole</p>	

OBRT Meeting – 18/07/2016

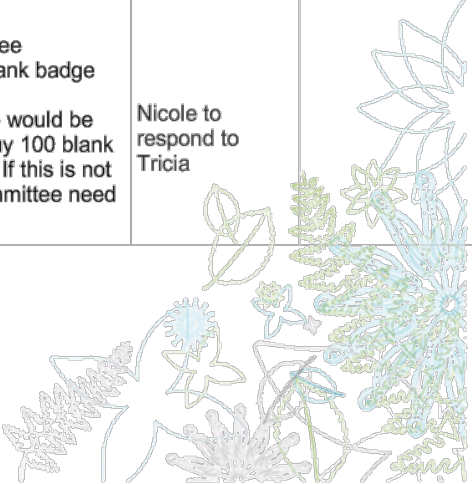


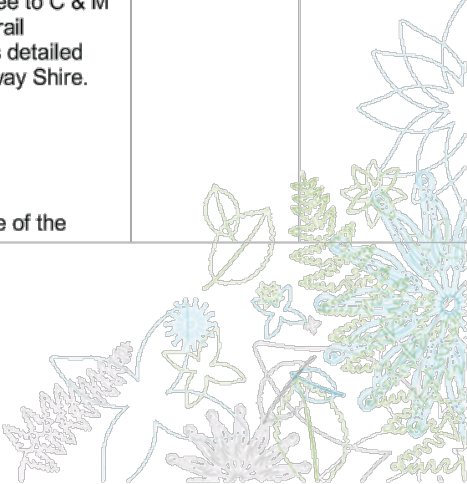
	<p>appointed to the committee as the representative.</p> <ul style="list-style-type: none"> <li>o Two current committee members will not be re-nominating for appointment.</li> <li>o An advertisement will be required seeking nominations for representatives from the Colac and Kawarren/Gellibrand areas.</li> <li>o Nominations have not yet been received from Friends of the Old Beechy Rail Trail, Lavers Hill and District Progress Association, Midway Plantations, Otway Country to Coast Tourism Association, and Parks Victoria.</li> <li>o Letters will be sent to all landowners seeking interest to join the OBRT Committee – the committee membership has one landowner representative.</li> </ul>		
5.	<p><b>CORRESPONDENCE - IN</b></p> <ul style="list-style-type: none"> <li>• Friends of the Old Beechy Rail Trail – Newsletter No. 46 March/June 2016</li> <li>• Email 4/07/2016 – DELWP seeking clarification of the trail alignment abutting the boundary for Forest Park and 100 Maggio's Rd, Barongarook</li> <li>• Phone Call 8/07/2016 – log trucks operating on trail between Dinmont and Ditchley</li> <li>• Letter 8/06/2016 from Beech Forest and District Progress Association – nomination of new member to replace member resignation – new member to be appointed with new committee appointments later in the year.</li> <li>• Email 13/07/2016 from DELWP re-nominating C. Clifford as the representative for the OBRT Committee.</li> </ul>		
6.	<p><b>CORRESPONDENCE – OUT</b></p> <ul style="list-style-type: none"> <li>• Various – letters to Progress Associations seeking representatives for the OBRT Committee.</li> <li>• Email 8/07/2016 – reply to DELWP email from 4/07/2016.</li> </ul>	Nicole	
7.	<p><b>WORKS REPORT – Presented by Nicole Frampton</b>  <b>Works Report – Provided by COS Gellibrand Depot</b>          Old Beechy Rail Trail works since last meeting (23 May 2016).</p> <ul style="list-style-type: none"> <li>• 28-29/06/16 – a full inspection of the trail was carried out. Issues identified include:             <ul style="list-style-type: none"> <li>o A few sections of the trail will require re-sheeting – this work will be carried out over summer.</li> <li>o Culvert markers.</li> <li>o Faded finger boards.</li> <li>o Low hanging tree limbs.</li> <li>o Washing out between Dinmont and Ditchley.</li> <li>o One of the seats is damaged – Gellibrand depot to fix.</li> </ul> </li> <li>• Gate smashed by a fallen tree has been replaced at the entrance of M &amp; K Gardiners property (1805 Colac Lavers Hill Rd, Kawarren).</li> <li>• Lovat Shelter – original sign next to the new shelter has been damaged. Original sign hasn't been replaced – does the committee want the sign replaced now that the shelter has been installed? <i>Committee response – original sign does not need to be replaced.</i></li> <li>• Finalising documentation for the Emergency Marker installation.</li> <li>• General maintenance including clearing of trees as required.</li> <li>• Harvest works – monitoring works being conducted near the OBRT and any trail crossings. Installation of trail diversion signage as required.</li> </ul>	Nicole to inform Gellibrand depot	



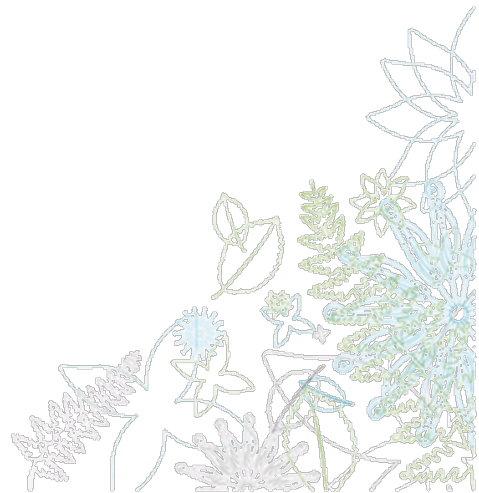




10.	<p><b>EXECUTIVE OFFICER REPORT</b></p> <p><u>Pedestrian Counters</u></p> <table border="1"> <thead> <tr> <th></th> <th>Reading</th> <th>Ped Count</th> <th>No of Days</th> <th>Peds/day</th> </tr> </thead> <tbody> <tr> <td>Colac</td> <td>5427</td> <td>795</td> <td>54</td> <td>15</td> </tr> <tr> <td>Coram (Forest St Sth)</td> <td>7198</td> <td>354</td> <td>54</td> <td>7</td> </tr> <tr> <td>Maggio's Road</td> <td>27892</td> <td>585</td> <td>54</td> <td>11</td> </tr> <tr> <td>Maxwell Road</td> <td>36944</td> <td>344</td> <td>54</td> <td>6</td> </tr> <tr> <td>Fry's Road</td> <td>4590</td> <td>1145</td> <td>105</td> <td>11</td> </tr> <tr> <td>Larson's Gate</td> <td>36310</td> <td>2255</td> <td>105</td> <td>21</td> </tr> <tr> <td>Beech Forest</td> <td>2770</td> <td>240</td> <td>61</td> <td>4</td> </tr> <tr> <td>Fairyland</td> <td>3132</td> <td>279</td> <td>61</td> <td>5</td> </tr> <tr> <td>Ditchley</td> <td>8418</td> <td>507</td> <td>61</td> <td>8</td> </tr> <tr> <td>Zappelli's (Dinmont)</td> <td>31762</td> <td>861</td> <td>61</td> <td>14</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>• Thank you to the committee members for collecting the numbers.</li> <li>• Nicole to organise for the new Beech Forest &amp; District Progress Association member to collect the Beech Forest, Fairyland, Ditchley and Zappelli (Dinmont) numbers for next meeting.</li> </ul>		Reading	Ped Count	No of Days	Peds/day	Colac	5427	795	54	15	Coram (Forest St Sth)	7198	354	54	7	Maggio's Road	27892	585	54	11	Maxwell Road	36944	344	54	6	Fry's Road	4590	1145	105	11	Larson's Gate	36310	2255	105	21	Beech Forest	2770	240	61	4	Fairyland	3132	279	61	5	Ditchley	8418	507	61	8	Zappelli's (Dinmont)	31762	861	61	14	Nicole Frampton	
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11.	<p><b>GENERAL BUSINESS</b></p> <ul style="list-style-type: none"> <li>• Sign requires relocating just before Wimba – Follow up with property owner and arrange for signage to be relocated.</li> <li>• Meeting Frequency for 2017 discussed – every 1<sup>st</sup> Monday of the even months – 10am to 12:30pm. <ul style="list-style-type: none"> <li>○ Monday 6 February 2017</li> <li>○ Monday 3 April 2017</li> <li>○ Monday 5 June 2017</li> <li>○ Monday 7 August 2017</li> <li>○ Monday 2 October 2017</li> <li>○ Monday 4 December 2017</li> </ul> <p><i>New committee to finalise the dates once appointed.</i></p> </li> <li>• Badges – Discussion was held around the cost of the committee purchasing its own badge machine. The cost of purchasing blank badge moulds. How much the badges would be sold for. <ul style="list-style-type: none"> <li>○ Nicole to investigate whether the Council badge machine would be available for the committee to use. Can the committee buy 100 blank badge moulds from Council rather than purchasing 500? If this is not possible, what brand of blank badge mould does the committee need to purchase?</li> </ul> </li> </ul>	<p>Nicole</p> <p>Noted.</p> <p>Nicole to respond to Tricia</p>																																																								

<ul style="list-style-type: none"> <li>• Mini Pamphlets/Brochures – Discussion about what size the pamphlets should be and what information the committee wants to provide on the brochures. Aim – to spark some interest about the trail without providing the full detail of the trail. The committee could then sell the full maps. Some sample brochures were viewed – preferred size is DL. Chris to discuss this with Tricia and report back to the next meeting.</li> <li>• Lavers Hill to Crowes and Melba Gully - Concept Plans for an Off-Road Trail – Project Update provided to the committee. Committee discussed the revised plans.</li> <li>• Future planning – re-investigate better trail alignment with some of the Midway Sections and some of the road crossings             <ul style="list-style-type: none"> <li>○ <b>Trail alignment between Banool and Wimba</b> – Noel provided a map for possible re-alignment between Banool and Wimba. There were 3 overhead bridges along the trail – the proposed trail re-alignment would show the location of one of the bridges. The committee is in favour of this being considered. Further detail would be required including how the trail re-alignment would be funded. Nicole to investigate and report back to the next meeting.</li> </ul> </li> <li>• “Train” rides (by C &amp; M Smith) along the Old Beechy Rail Trail for the 2016/2017 season.             <ul style="list-style-type: none"> <li>○ C. Smith advised that the train will operate again if the committee votes to go ahead.</li> <li>○ The train is expected to operate from Gellibrand to Dinmont from November 2016 to May 2017. The train rides will operate the same as previous years (approximately 10 train rides conducted per year).</li> <li>○ A Risk Assessment will be provided to Council and will need to be reviewed prior to conducting the train rides on behalf of the committee.</li> <li>○ The train will operate in accordance with the completed Risk Assessment.</li> </ul> </li> </ul> <p>C. Smith left the room at 12:14pm whilst the matter was discussed.</p> <p>Tony Grogan took over the position as Chairperson whilst the committee members discussed the operation of the “train” for 2016/2017 season.</p> <p><b>Motion</b> – The Old Beechy Rail Trail Committee members agree to C &amp; M Smith operating the “train” on behalf of the Old Beechy Rail Trail Committee from November 2016 until the end of May 2017 as detailed above and as per the Risk Assessment provided to Colac Otway Shire.</p> <p><b>Moved</b> – Noel Barry Seconded – Cyril Marriner Carried by All.</p> <p>C. Smith re-entered the room and was advised of the outcome of the</p>	<p>Chris/Tricia</p> <p>Nicole</p> <p>Nicole</p>	
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	<p>decision.</p> <ul style="list-style-type: none"> <li>Beechy Fun Run – the Gellibrand Community House Coordinator has asked if the committee is interested in having a representative attend a meeting for the fun run (date to be confirmed). The run uses the Old Beechy Rail Trail. The purpose of the meeting is to establish a local group of stakeholders to have input and support the event, with the intent being to improve local community support for the event. C. Smith to represent the committee at the initial meeting.</li> <li>Future trail re-alignment in Colac – committee discussed the section between Harris Road (water reservoir) and Beechy Court.</li> </ul>	<p>Nicole to email Tricia</p>	
<p>12.</p>	<p>Meeting closed 12:25pm.</p> <p>Next meeting – Monday 12 September 2016 – 10am to 12.30pm. Venue – COPACC – Meeting Room 2.</p> <p><i>Lunch (at own expense) following the next meeting to show appreciation to Committee members who will not be seeking re-appointment to the committee – Venue: the Austral.</i></p>		



**ORDINARY COUNCIL MEETING**  
**ASSEMBLY OF COUNCILLORS**  
**OM162311-12**

<b>LOCATION / ADDRESS</b>	Whole of Municipality	<b>GENERAL MANAGER</b>	Mark Lyons
<b>OFFICER</b>	Sarah McKew	<b>DEPARTMENT</b>	Corporate Services
<b>TRIM FILE</b>	F16/6678	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Assembly of Councillors - Australia Day Advisory Committee - 7 September 2016</li><li>2. Assembly of Councillors - Colac Friends of the Botanic Gardens - 8 September 2016</li><li>3. Assembly of Councillors - Councillor Briefing - 14 September 2016</li><li>4. Assembly of Councillors - Planning Meeting Preparation - 19 September 2016</li><li>5. Assembly of Councillors - Lake Colac Coordinating Committee - 4 October 2016</li><li>6. Assembly of Councillors - Pre-Council Meeting Preparation - 12 October 2016</li><li>7. Assembly of Councillors - Councillor Briefing - 7 November 2016</li><li>8. Assembly of Councillors - Special Council Meetings Preparation - 9 November 2016</li></ol>		
<b>PURPOSE</b>	The purpose of this report is to provide details of the Assemblies of Councillors which have taken place.		

## 1. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

## 2. BACKGROUND

The *Local Government Act 1989* S.3 (1) defines an 'Assembly of Councillors' as:

A meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers or is likely to be:

- the subject of a decision of the Council or
- subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee.

The *Local Government Act 1989* S.3 (1) defines an Advisory Committee as:

Any committee established by the Council, other than a special committee, that provides advice to:

- the Council; or
- a Special committee; or
- a member of Council staff who has been delegated a power, duty or function of the Council under S. 98 (Delegations).

## **Criteria**

When considering whether or not a committee is an advisory committee, there are two key criteria to consider:

- How is it established?
- What is its advisory role?

For a committee to be considered an 'advisory committee' under the Act, it must be established by the Council. This generally requires a decision to establish the committee by:

- Council resolution; or
- resolution of a special committee; or
- a Council management decision.

*Local Government Act 1989* S.80 requires a written record to be made by Council Staff member:

"At an assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of":

- the names of all Councillors and members of Council staff attending; and
- the matters considered; and
- any conflict of interest disclosures made by a Councillor attending.

This information is:

- to be recorded (documented);
- to be retained by the Chief Executive Officer for 4 years;
- to be made available for public inspection at the Council Offices for 12 months after the date of the Assembly of Councillors.

## **Council Agenda**

An agenda item is required to note the Assembly of Councillors.

It is a requirement that the written record of any Assembly of Councillors must be (as soon as practicable):

- reported at an ordinary meeting of the Council; and
- incorporated in the minutes of that Council meeting.

## **Written Record**

The written record of an Assembly must include at least:

- the names of all Councillors and names of Council staff attending;
- the matters considered;
- any conflict of interest disclosures made by a Councillor attending;
- whether a Councillor who has disclosed a conflict of interest leaves the Assembly.

## **Procedure at an Assembly of Councillors**

A Councillor who has a conflict of interest at an assembly of Councillors must:

- disclose to the meeting that he or she has a conflict of interest; and
- leave the meeting while the matter is being discussed and is recalled once the discussion has concluded.

## **Staff attendance**

It is important that any meeting that is an assembly of Councillors should have at least one member of Council staff in attendance to:

- prepare the record of the Assembly;
- make recommendations about Council decisions;
- disclose any conflict of interest if applicable.

Relevant meetings in a Colac Otway Shire context that meet the reporting requirements include:

- Councillor Briefings (including pre-meeting briefings);
- Australia Day Advisory Committee;
- Central Reserve Advisory Committee;
- Colac Livestock Selling Centre Advisory Committee;
- Friends of the Colac Botanic Gardens Advisory Committee;
- Lake Colac Coordinating Advisory Committee; and

### 3. COUNCIL PLAN / OTHER STRATEGIES / POLICY

The *Local Government Act 1989* requires that records of meetings which constitute an Assembly of Councillors be tabled at the next practicable meeting of Council and incorporated into the minutes of the Council meeting.

#### Issues / Options

Not all gatherings or meetings at which Councillors are present will constitute assemblies of Councillors. For a meeting to be an assembly of Councillors it **MUST** be one of the two types of meetings described above.

Examples of Meetings or Committees that would **NOT** be defined as an Assembly of Councillors are:

- Ordinary Meeting of the Council;
- an Audit Committee established under S.139 of the *Local Government Act*;
- Special Committee of the Council;
- a committee or working group established by another organisation;
- chance meetings of Councillors and Council staff that are not planned or scheduled;
- meetings of other organisations such as clubs, associations, peak bodies or political parties.

### 4. PROPOSAL

The following assemblies of Councillors have been held and are attached to this report for noting:

- |                                                          |                                 |
|----------------------------------------------------------|---------------------------------|
| • <b><i>Australia Day Advisory Committee</i></b>         | <b><i>7 September 2016</i></b>  |
| • <b><i>Colac Friends of the Botanic Gardens AGM</i></b> | <b><i>8 September 2016</i></b>  |
| • <b><i>Councillor Briefing</i></b>                      | <b><i>14 September 2016</i></b> |
| • <b><i>Planning Committee Meeting Preparation</i></b>   | <b><i>19 September 2016</i></b> |
| • <b><i>Lake Colac Coordinating Committee</i></b>        | <b><i>4 October 2016</i></b>    |
| • <b><i>Special Meeting Preparation</i></b>              | <b><i>12 October 2016</i></b>   |
| • <b><i>Councillor Briefing</i></b>                      | <b><i>7 November 2016</i></b>   |
| • <b><i>Special Council Meeting Preparation</i></b>      | <b><i>9 November 2016</i></b>   |

## 5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS

Nil

## 6. RISK MANAGEMENT AND COMPLIANCE ISSUES

The inclusion of the Assembly of Councillors report meets the compliance requirements of the *Local Government Act 1989*:

Section 80 A – requirements for an assembly of Councillors;  
Section 3 (1) – definition of an ‘advisory committee’ and ‘assembly of Councillors’.

## 7. ENVIRONMENTAL AND CLIMATE CHANGE CONSIDERATIONS

Nil

## 8. COMMUNITY ENGAGEMENT

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of July 2013, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be to inform. This is achieved by including documentation and notification of the Assembly of Councillors that have occurred to the public at the Ordinary Council Meeting.

## 9. IMPLEMENTATION

All meetings that are defined as an Assembly of Councillors will be recorded, documented and kept by Council for 4 years. They will be reported to the next practicable Ordinary meeting of Council.

## 10. CONCLUSION

The *Local Government Act 1989* requires that records of meetings which constitute an Assembly of Councillors be tabled at the next practicable meeting of Council and incorporated in the minutes of the Council meeting. All relevant meetings have been recorded, documented and will be kept by Council for 4 years. The attached documents provide details of those meetings held that are defined as an Assembly of Councillors.

### Recommendation

*That Council notes the Assembly of Councillors reports for:*

- |                                                   |                          |
|---------------------------------------------------|--------------------------|
| • <i>Australia Day Advisory Committee</i>         | <i>7 September 2016</i>  |
| • <i>Colac Friends of the Botanic Gardens AGM</i> | <i>8 September 2016</i>  |
| • <i>Councillor Briefing</i>                      | <i>14 September 2016</i> |
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| • <i>Special Meeting Preparation</i>              | <i>12 October 2016</i>   |
| • <i>Councillor Briefing</i>                      | <i>7 November 2016</i>   |
| • <i>Special Council Meeting Preparation</i>      | <i>9 November 2016</i>   |

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Assembly of Councillors Record

This Form MUST be completed by the attending Council Officer and returned IMMEDIATELY to Document Management Co-ordinator for filing. A copy of the completed form must be provided to the Executive Officer to the CEO, Mayor & Councillors for reporting at the next Ordinary Council Meeting. {See over for Explanation/Guide Notes}

Assembly Details:

Date: 7 / 9 / 16

Time: 2.42am/pm

Assembly Location: COPACC

(some e.g's. COPACC, Colac Otway Shire Offices, 2 - 6 Rae Street, Colac, Shire Offices - Nelson Street, Apollo Bay)

In Attendance:

Councillors: C.R. Russell / C.R. Buchanan / C.R. Hart / C.R. Woodcroft
..... /

Officer/s: T. White / H. Fine / M. Lyons / H. Johnson
G. Fletcher / S. Wilkinson /

Matter/s Discussed: Australia Day Awards.

(some e.g's. Discussion s with property owners and/or residents, Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay, Council Plan steering committee with Councillors and officers.)

Conflict of Interest Disclosures: (refer page 5)

Councillors: Lynne Mill /

Officer/s: /

Left meeting at: 14.40 pm Discussion Commenced 14.42 pm

Completed by: T. White



Assembly of Councillors Record

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Assembly Details:

Date: 8 / 9 / 16
Time: 6.00 am/pm

Assembly Location: Colac Botanic Gardens Tearooms - Fyans St Colac
(some e.g's. COPACC, Colac Otway Shire Offices, 2 - 6 Rae Street, Colac, Shire Offices - Nelson Street, Apollo Bay)

In Attendance:

Councillors: T Woodcraft,

Officer/s: M ROBINSON

Matter/s Discussed: Colac Friends of Botanic Gardens - General Meeting for September

(some e.g's. Discussions with property owners and/or residents, Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay, Council Plan steering committee with Councillors and officers.)

Conflict of Interest Disclosures: (refer page 5)

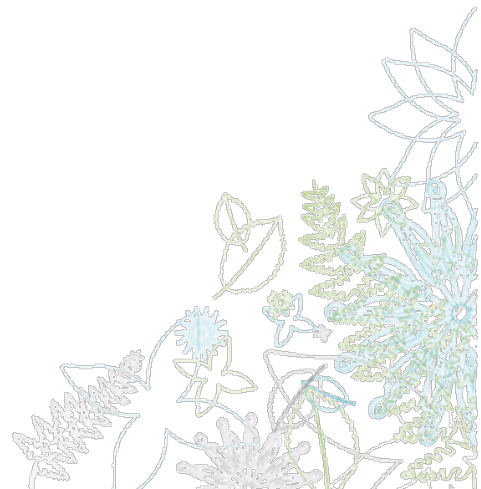
Councillors:

Officer/s:

Left meeting at: 8.00 PM
Completed by: [Signature] MARK ROBINSON (20.9.16)

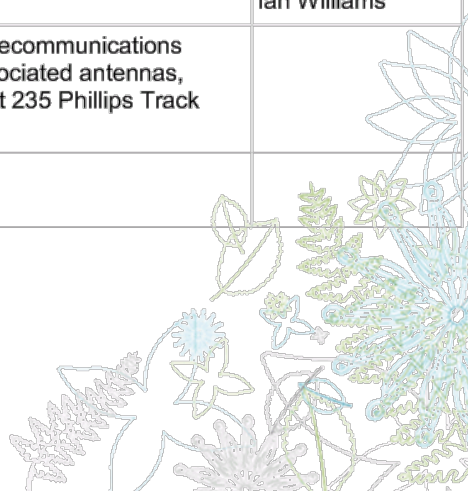
Assembly of Councillors

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-----------------|-----------------------------|
| INVITEES:
Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Greg Fletcher | | | |
| ATTENDEES:
Cr Buchanan, Cr Russell, Cr Hart, Daniel Fogarty, David Testa, Jenny Wood, Sarah McKew, Greg Fletcher (arrived at 9.11am), Sue Wilkinson (arrived at 9.44am), Mark Lyons (arrived at 9.26am) | | | |
| EXTERNAL ATTENDEES:
Mike Said | | | |
| APOLOGIES:
Cr Crook, Cr Woodcroft, Ingrid Bishop | | | |
| ABSENT:
Cr Delahunty, Cr Smith | | | |
| | Declaration of Interest | Item No. | Reason |
| NIL | | | |
| 9.00am – 10.12am | Half-yearly Audit Committee Report and Overview of Financial Statements | | Mike Said
Daniel Fogarty |
| 10.12am | Meeting closed | | |



Assembly of Councillors

| INVITEES:
Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Heather Johnson | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| ATTENDEES:
Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Heather Johnson (arrived at 2.47pm), Vige Satkunarajah, Blaithin Butler, Suzanne Barker, Ian Williams | | | |
| EXTERNAL ATTENDEES: | | | |
| APOLOGIES: | | | |
| ABSENT:
Cr Delahunty, Cr Smith | | | |
| 2.44pm | Declaration of Interest | Item No. | Reason |
| Left the meeting at 3.07pm; returned at 3.09pm. | Cr Russell | PC 160919 – 2 Development of a 30m high telecommunications facility (PP89/2016-1) | As Telstra is the applicant and I own Telstra shares, I have an indirect financial interest – s78A |
| Left the meeting at 3.07pm; returned at 3.09pm. | Cr Hart | PC 160919 – 2 Development of a 30m high telecommunications facility (PP89/2016-1) | As Telstra is the applicant and I own Telstra shares, I have an indirect financial interest – s78A |
| 2.46pm – 2.52pm | PC 160919 – 3 Approval of Development Plan (DPO4) 30 and 40 Marriners Lookout Road, Apollo Bay | | Blaithin Butler
Suzanne Barker
Ian Williams |
| 2.52pm – 3.07pm | PC 160919 – 4 Approval of Development Plan (DPO5) 6280 Great Ocean Road, Apollo Bay | | Blaithin Butler
Suzanne Barker
Ian Williams |
| 3.07pm – 3.09pm | PC 160919 – 2 Development of a 30m high telecommunications facility (steel reinforced concrete pole) with associated antennas, outdoor cabinet and associated infrastructure at 235 Phillips Track (PP89/2016-1) | | |
| 3.09pm | Meeting closed | | |





Assembly of Councillors Record

This Form MUST be completed by the attending Council Officer and returned IMMEDIATELY to Document Management Co-ordinator for filing. A copy of the completed form must be provided to the Executive Officer to the CEO, Mayor & Councillors for reporting at the next Ordinary Council Meeting.

Assembly Details: Lake Colac Coordinating Committee Meeting

Date: 4/10/16

Time: 1.00 pm

Assembly Location: COPACC Meeting Room 2

In Attendance:

Councillors: Cr Chris Smith

Officer/s: Travis Riches, Environment Coordinator
Liza Kennedy, Environment and Community Safety Administration Officer

Matter/s Discussed:

- Lake Colac literature review
- Carp management
- General business

Conflict of Interest Disclosures:

Councillors: No conflicts of interest were declared

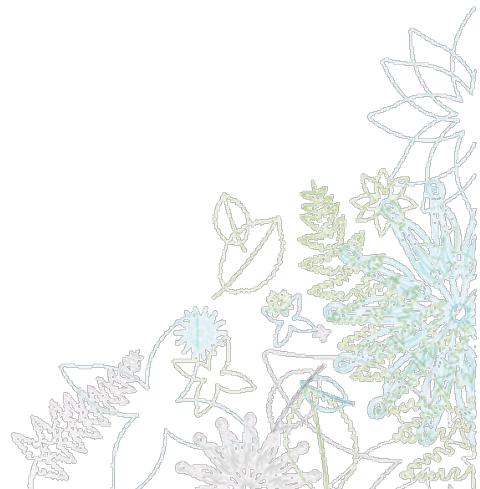
Officer/s: No conflicts of interest were declared

Meeting closed at 3:00 pm

Completed by: Travis Riches

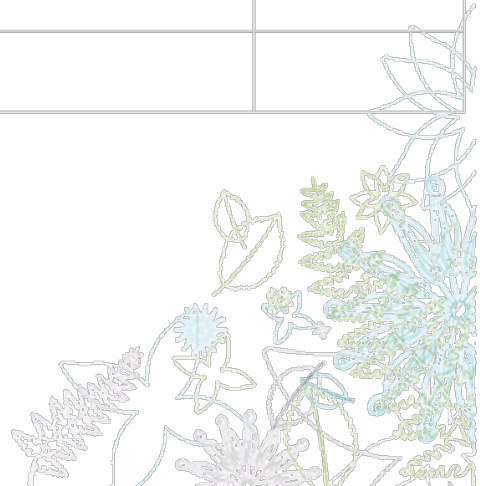
Assembly of Councillors

| | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------|--------------------------------|
| INVITEES:
Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Heather Johnson, Nicholas Welsh, Margaret Giudice | | | |
| ATTENDEES:
Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook (arrived 3.30pm), Sue Wilkinson, Mark Lyons, Ingrid Bishop, Heather Johnson, Margaret Giudice, Nicholas Welsh, Melissa Garner, Harry Timmermans, Vige Satkunarajah | | | |
| EXTERNAL ATTENDEES: | | | |
| APOLOGIES: | | | |
| ABSENT:
Cr. Smith, Cr. Delahunty | | | |
| | Declaration of Interest | Item No. | Reason |
| 3.28pm | NIL | | |
| 3.28pm | Annual Report | | Nick Welsh
Margaret Giudice |
| 3.40pm | Closed | | |



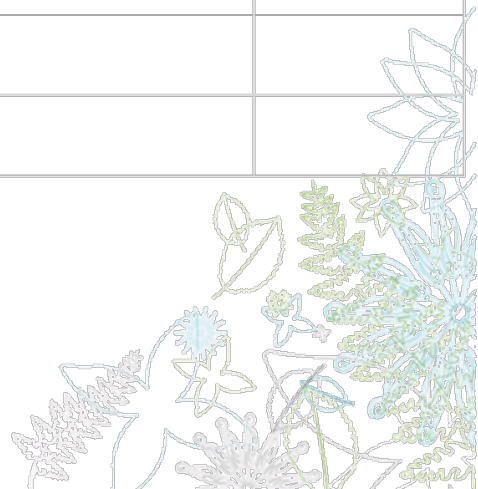
Assembly of Councillors

| | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-------------|-----------------|
| INVITEES:
Cr Smith, Cr Woodcroft, Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Gareth Smith | | | |
| ATTENDEES:
Cr Smith, Cr Woodcroft, Cr Hanson, Cr Hart, Cr Schram, Cr Potter, Cr McCracken, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Gareth Smith, Karen Patterson, Jenny Wood | | | |
| EXTERNAL ATTENDEES:
Steve Cooper | | | |
| APOLOGIES:
Nil | | | |
| ABSENT:
Nil | | | |
| | Declaration of Interest | Item | Reason |
| | Nil | | |
| 3.14pm – 5.00pm | COPACC Cinema Briefing (including tour of COPACC) | | Karen Patterson |
| 5.00pm – 5.20pm | Election of the Mayor and Deputy Mayor | | Jenny Wood |
| 5.20pm – 5.25pm | Election of Representative to the G21 Board | | |
| 5.25pm – 5.41pm | Councillor Induction | | |
| 5.41pm | Closed | | |



Assembly of Councillors

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------|---------------|
| INVITEES:
Cr Schram, Cr Potter, Cr Hanson, Cr McCracken, Cr Woodcroft, Cr Hart, Cr Smith (arrived 3pm), Sue Wilkinson, Mark Lyons, Ingrid Bishop, Gareth Smith | | | |
| ATTENDEES:
Cr Schram, Cr Potter, Cr Hanson, Cr McCracken, Cr Woodcroft, Cr Hart, Cr Smith (arrived 3pm), Sue Wilkinson, Mark Lyons, Ingrid Bishop, Gareth Smith, Jenny Wood, Sarah McKew | | | |
| APOLOGIES:
Nil | | | |
| ABSENT:
Nil | | | |
| | Declaration of Interest | Item No. | Reason |
| | Nil | | |
| 2.20pm –
2.40pm | Term of the Mayor | | |
| | Election of the Mayor | | |
| 2.40pm –
2.50pm | Establishment of the role of the Deputy Mayor and term of the Deputy Mayor | | |
| | Election of the Deputy Mayor | | |
| 2.50pm –
3.00pm | Appointment of the Mayor as representative on the G21 Board | | |
| 3.00pm –
3.10pm | COPACC Cinema Lease Consideration of Submissions | | |
| 3.10pm | Closed | | |



IN COMMITTEE

That pursuant to the provisions of Section 89 (2) of the Local Government Act, the meeting be closed to the public and Council move "In-Committee" in order to deal with:

| SUBJECT | REASON | SECTION OF ACT |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|--------------------------|
| Minutes of In-Committee Council Meeting held on 19 September 2016 | this matter deals with contractual matters; AND this matter may prejudice the Council or any person. | Section 89 (2) (d) & (h) |
| Australia Day Awards 2017 | this matter may prejudice the Council or any person. | Section 89 (2) (h) |
| Contract 1616 – Wye River-Separation Creek – Erosion and Sediment Control Works | this matter deals with contractual matters. | Section 89 (2) (d) |