



Colac Otway
SHIRE

UNSCHEDULED COUNCIL MEETING

MINUTES

Wednesday 11 October 2023

at 3:00 PM

COPACC

95 - 97 Gellibrand Street, Colac



COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

Wednesday 11 October 2023

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COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

MINUTES of the *UNSCHEDULED COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL* held at COPACC on Wednesday 11 October 2023 at 3:00 PM.

MINUTES

The meeting commenced at 3:25pm

1 DECLARATION OF OPENING

OPENING PRAYER

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

AMEN

2 PRESENT

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

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

3 APOLOGIES

Nil

4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

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

RECORDING AND PUBLICATION OF MEETINGS

Please note: All Council meetings are live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Audio recordings are also taken to facilitate the preparation of the minutes of open Council meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

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

5 QUESTION TIME

Colac Otway Shire Council encourages community input, and integral to this, is the opportunity provided to ask questions at Council meetings.

A maximum of 15 minutes is allowed for question time at Unscheduled Council meetings. As this is an Unscheduled Council meeting, questions today need to be in relation to the item on the agenda.

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

David Walsh

“With the best value for money” often used by Council when it suits their purpose, or “We must get the best commercial return for ratepayer” when we no longer want to extend a lease .e.g. Forrest Caravan Park, Lake Colac Caravan Park.

- 1. How can spending \$500,000 of ratepayer's money with a \$77 a week rental return to ratepayer be best value for money or make any commercial sense?**

Response from General Manager Community and Economy

As Committee of Management for Crown Land, Council has responsibility for permanent and long-term infrastructure at this site. The infrastructure has deteriorated to a poor condition. Council has resolved to allocate \$500,000 to renew infrastructure in the park to achieve the following outcomes:

- Secure co-investment from another party.

- Secure a professional operator that is capable and experienced in ensuring the Lake Colac Holiday Park can continue to offer accommodation to visitors at a reasonable standard.

We understand that the holiday park doesn't return a financial profit to Council when investment in asset renewal and infrastructure is considered. This is true for most of Council's operations. In this case, Council has committed to the infrastructure investment in recognition of the importance of the park's role in providing accommodation to support economic activity in Colac and the region.

2. **Does the \$515,000 spent by the tenant of fixtures become council property or can they remove said fixtures at the end of a lease term, e.g. Portable cabins etc.?**

Response from General Manager Community and Economy

It is proposed that all capital infrastructure improvements will become Council assets at the conclusion of the lease.

3. **Is there a time limit when the new tenant must spend their \$515,000?**

Response from General Manager Community and Economy

It is anticipated that the majority of the capital improvements will be undertaken during the proposed closure of the park from 24 April 2024 to 20 September 2024.

Whilst there is no time limit proposed, it is in the tenant's best interests to undertake the works in the short term in order to receive a return on investment.

4. **Does the new tenants rent of \$77 per week exceed the last tenants weekly rent?**

Response from General Manager Community and Economy

The rent received from the previous tenant in the final year of the lease equates to about \$242 per week. There was no requirement for the previous tenant to pay rates or make any capital investment in infrastructure.

While we don't know what a final lease might look like yet, the current proposal by the preferred lessee includes Year 1 rent of \$77 per week in rent, and a further \$62 per week in rates and charges. Additionally, the lessee will contribute an average of \$1,650 per week in capital works over the first term of the lease which is proposed to be 6 years.

Importantly, the proposal offers a shared approach where Council and the tenant will both invest to lift the standard of the park to industry standards and better meet expectations of current day visitors.

Jason Schram

1. **At Councils February 2023 meeting it resolved to spend up to \$500,000 on long term infrastructure at the caravan park if the lessee made a commitment to match the funding and to implement a masterplan to be agreed by Council.**

- a) **Where is the masterplan agreed by council that determines what Council and the lessee will invest in, in regards to long term capital infrastructure?**

b) Does Council consider signage, boom gates etc. long-term infrastructure?

Response from General Manager Community and Economy

A master plan concept was included with the proposed tenant's submission to the Expression of Interest process so that Councillors have an understanding about how the park might be redeveloped.

Should Council resolve to award a lease for the Lake Colac Holiday Park, Council will work with the lessee to refine and agree on a final master plan for the site as per the Special Conditions of the lease.

Yes, Council considers signage and boom gates long term infrastructure.

2. As this lease gives no indication to the public or the Council what if anything will be built with public funds and highlights that the yearly return to Council is virtually nothing when a market value would be closer to \$50,000a year rent, would it consider running the Park itself as the Shire did in the past to provide better value to the ratepayer?

Response from General Manager Community and Economy

Point G, of the Officers recommendation in the agenda indicates for the public the types of infrastructure expected to be funded through Council's investment of public funds.

Council recognises that providers in the market have more expertise and capability in the day-to-day operations and marketing of holiday parks. Council's strategic direction has been to attract a great operator from the market, and therefore a model of a self-run park hasn't been considered at this time.

3. Are there any yearly ongoing cost to the Shire in regard to the Caravan park and if so what are those costs?

Response from General Manager Community and Economy

Should Council support the recommendation, all costs associated with operating the Lake Colac Holiday Park will be the responsibility of the tenant.

James Judd

1. What are the priorities of the Colac Otway Shire Council, is it to prop up the Lake Colac Holiday Park or the interests of the region? The proposal to close to the general public the park from 24 April 2024 to 20 September 2024, will block access for almost the entire period for cool weather sports, plus hinder the tourism industry as this period includes two major holiday periods as well as the entire second term school period, plus impact on all planning for the third term school holiday. Also have a very major impact on the health of the community through restrictions on engagement in sports, plus support and access by people to other events in the region.

Response from General Manager Community and Economy

The Lake Colac Holiday Park provides an important accommodation offering for Colac and the broader region, which has a demonstrated visitor accommodation shortage limiting our ability to transform high visitation numbers to economic stimulus. A winter closure is preferred because it is the period where there is least demand for the park accommodation.

- 2. Why has the Colac Otway Shire Council officers recommended that the Lake Colac Holiday Park can be closed for works to be done from 24 April 2024 to 20 September 2024, instead of delaying the start date one week until 1 May 2024 as Anzac Day falls on 25 April 2024. Since you could have some travelling wanting to be in Colac on Anzac Day.**

Response from General Manager Community and Economy

The proposed closure dates were nominated by the preferred lessee, where they expect low occupancy. It's important to note that key terms recommended to Council indicate that the park could be closed from 24 April 2024 to 20 September 2024 to assist with capital improvement works, however doesn't mean that the park must close. Therefore, there is flexibility and any closure would be dependent on the length of time the tenant requires to undertake works along with forward bookings.

- 3. Is there any certainty that the Lake Colac Holiday Park will still be operating by the time the Colac Show is held in 2023? As the last extension was only to have sure it would operate over the spring school holiday's but still permitted it to be revoked early. We cannot have any more extensions to a lease that do not require operating till a minimum set date, under current agreement no people have certainty the holiday park will still operate over seven days after taking a booking.**

Response from General Manager Community and Economy

The park is operating under a management agreement until 30 November 2023, not a lease, and this period covers the Colac Show event.

- 4. Under recommendation - item 3 (9) and 3 (2) is any time specified in when the costs by Council and the lease holder must be run up by or could this be an obligation on all ratepayers for an undefined period of the time and funds for Shire infrastructure be withheld, plus if the fire services levy plus Council charges was to exceed \$5,000 per year, would the rent payable to Council be reduced by the excess charge per year of Council have top up the operators budget by any excess amount payable?**

Response from General Manager Community and Economy

There is no specified time for when capital improvements must be undertaken, however it will be in the lessee's best interests to undertake improvement works in the short term to receive a return on investment. Council's funding will be provided on the basis of agreed milestones for the delivery of works.

Council doesn't envisage a scenario where it 'tops up' the operator's budget in any way as a result of rates and charges exceeding \$5,000.

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Nil

6 DECLARATIONS OF INTEREST

Nil

Item: 7.1

Contract 2405 Building Surveying & Inspection Services

OFFICER	Rhassel Mhasho
GENERAL MANAGER	Heath Chasemore
DIVISION	Infrastructure and Operations
ATTACHMENTS	Nil

RESOLUTION

MOVED Cr Stephen Hart, SECONDED Cr Max Arnott

That Council:

- 1. Awards Contract 2405 – Building Surveying and Inspections Services to Tenderer 1 for the period of two years, with an option of a one-year extension, as recommended in the confidential information attached to this report.*
- 2. Authorises the Chief Executive Officer to execute the Contract 2405 – Building Surveying and Inspections Service on behalf of Council.*
- 3. Authorises the Chief Executive Officer to perform all roles of the Organisation's Representative in relation to Contract 2405 – Building Surveying and Inspection Services.*
- 4. Notes that the name of successful tenderer will be published on Council's website once the Contract have been executed and all tenderers have been notified.*

CARRIED 7 : 0

Item: 7.2

Lake Colac Holiday Park Lease - Key Terms

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

RECOMMENDATION

That Council:

1. *Notes that it determined a preferred lessee for the buildings and land known as "Lake Colac Holiday Park", 51 Fyans Street Colac, at its 23 August 2023 Council meeting.*
2. *Notes that it provided in-principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park.*
3. *Endorses the following key terms to be included in the Lake Colac Holiday Park Lease:*
 - a. *Commencement on 1 December 2023.*
 - b. *Term of the lease is up to 21 years, with reviews after 6 years and then 5 years thereafter.*

c. Rent as follows:

<i>Year 1</i>	<i>\$4,000</i>
<i>Year 2</i>	<i>\$4,120</i>
<i>Year 3</i>	<i>\$4,244</i>
<i>Year 4</i>	<i>\$4,371</i>
<i>Year 5</i>	<i>\$4,502</i>
<i>Year 6</i>	<i>\$4,637</i>

- d. *Rent from year 7 onwards is to be determined by rental review as per market valuation conditions contained in the lease agreement.*
 - e. *Tenant to pay all outgoings.*
 - f. *The net amount of annual rates and charges (including the Fire Services Levy) paid by the tenant shall not exceed \$5,000 (excluding GST) in year one of the lease, indexed to CPI annually.*
 - g. *Council to provide up to \$500,000 (excluding GST) towards capital works for infrastructure, including but not limited to boom gates, office/residence, new ablution block, ensuite removal, camp kitchen and signage.*
 - h. *The tenant to contribute a minimum of \$515,000 (excluding GST) towards capital works for infrastructure, including but not limited to various forms of accommodation.*
 - i. *Existing permanent residents at the Lake Colac Holiday Park may remain at the park subject to meeting conditions such as paying all site fees when they fall due and complying with relevant building laws and standards for essential safety measures.*
 - j. *The tenant may set fees and charges for permanent residents up to a cap of \$200 per week until 1 September 2025. From 2 September 2025 onwards, the fees and charges cap will increase by CPI annually.*
 - k. *The tenant may close the Lake Colac Holiday Park from 24 April 2024 to 20 September 2024 for works to be undertaken. During the closure period permanent residents will be able to remain residing at the park.*
 - l. *Council to be responsible for asset management consistent with obligations under the Residential Tenancies Act 1997.*
 - m. *The tenant to use 100% renewable energy at the premises from the commencement of the fourth year of the initial term of the lease.*
 - n. *The tenant must not remove any trees without Council's prior written consent.*
 - o. *Tenant to hold \$20 million public liability insurance.*
4. *Notes that the final lease, inclusive of the key terms in point 3, will be presented to a future Council meeting for consideration in accordance with its resolution at the 23 August 2023 meeting.*
5. *Notes that section 115 of the Local Government Act 2020 has been satisfied by previously undertaking a community consultation process seeking feedback from the community about its intention to the lease the land.*

The Officer recommendation was revised as outlined below.

REVISED OFFICER RECOMMENDATION

That Council:

1. *Notes that it determined a preferred lessee for the buildings and land known as "Lake Colac Holiday Park", 51 Fyans Street Colac, at its 23 August 2023 Council meeting.*
2. *Notes that it provided in-principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park.*
3. *Endorses the following key terms to be included in the Lake Colac Holiday Park Lease:*
 - a. *Commencement on 1 December 2023.*
 - b. *Term of the lease is six (6) years, with a further three extensions of five (5) years each by agreement of both parties.*

c. Rent as follows:

<i>Year 1</i>	<i>\$4,000</i>
<i>Year 2</i>	<i>\$4,120</i>
<i>Year 3</i>	<i>\$4,244</i>
<i>Year 4</i>	<i>\$4,371</i>
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- d. *Rent from year 7 onwards is to be determined by rental review as per market valuation conditions contained in the lease agreement.*
- e. *Tenant to pay all outgoings.*
- f. *The net amount of annual rates and charges (including the Fire Services Levy) paid by the tenant shall not exceed \$5,000 (excluding GST) in year one of the lease, indexed to CPI annually.*
- g. *In relation to its commitment of February 2023, to contribute up to \$500,000 (excluding GST) towards long-term infrastructure at the park, for which it has responsibility as delegated Crown Land Manager, Council:*
 - i. *Will contribute to infrastructure, including but not limited to boom gates, office/residence, new ablution block, ensuite removal, camp kitchen and signage; and*

- ii. *Agrees that the tenant may undertake delivery of the relevant capital works in accordance with an agreed Project Management Plan that includes hold points for Council approvals; and*
 - iii. *Will make progress payments towards the capital works on claims that align to relevant hold points.*
 - h. *The tenant to contribute a minimum of \$515,000 (excluding GST) towards capital works for infrastructure, including but not limited to various forms of accommodation.*
 - i. *Existing permanent residents at the Lake Colac Holiday Park may remain at the park subject to meeting conditions such as paying all site fees when they fall due and complying with relevant building laws and standards for essential safety measures.*
 - j. *The tenant may set fees and charges for permanent residents up to a cap of \$200 per week until 1 September 2025. From 2 September 2025 onwards, the fees and charges cap will increase by CPI annually.*
 - k. *The tenant may close the Lake Colac Holiday Park from 24 April 2024 to 20 September 2024 for works to be undertaken. During the closure period permanent residents will be able to remain residing at the park.*
 - l. *Council to be responsible for asset management consistent with obligations under the Residential Tenancies Act 1997.*
 - m. *The tenant to use 100% renewable energy at the premises from the commencement of the fourth year of the initial term of the lease.*
 - n. *The tenant must not remove any trees without Council's prior written consent.*
 - o. *Tenant to hold at least \$20 million public liability insurance.*
- 4. *Notes that the final lease, inclusive of the key terms in point 3, will be presented to a future Council meeting for consideration in accordance with its resolution at the 23 August 2023 meeting.*
- 5. *Notes that section 115 of the Local Government Act 2020 has been satisfied by previously undertaking a community consultation process seeking feedback from the community about its intention to the lease the land.*

RESOLUTION

MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Margaret White

That Council:

- 1. Notes that it determined a preferred lessee for the buildings and land known as "Lake Colac Holiday Park", 51 Fyans Street Colac, at its 23 August 2023 Council meeting.*
- 2. Notes that it provided in-principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park.*
- 3. Endorses the following key terms to be included in the Lake Colac Holiday Park Lease:*
 - a. Commencement on 1 December 2023.*
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c. Rent as follows:

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<i>Year 5</i>	<i>\$4,502</i>
<i>Year 6</i>	<i>\$4,637</i>

- d. Rent from year 7 onwards is to be determined by rental review as per market valuation conditions contained in the lease agreement.*
- e. Tenant to pay all outgoings.*
- f. The net amount of annual rates and charges (including the Fire Services Levy) paid by the tenant shall not exceed \$5,000 (excluding GST) in year one of the lease, indexed to CPI annually.*
- g. In relation to its commitment of February 2023, to contribute up to \$500,000 (excluding GST) towards long-term infrastructure at the park, for which it has responsibility as delegated Crown Land Manager, Council:*
 - i. Will contribute to infrastructure, including but not limited to new ablution block, ensuite removal, camp kitchen and other infrastructure; and*
 - ii. Agrees that the tenant may undertake delivery of the relevant capital works in accordance with an agreed Project Management Plan that includes hold points for Council approvals; and*

- iii. *Will make progress payments towards the capital works on claims that align to relevant hold points.*
 - h. *The tenant to contribute a minimum of \$515,000 (excluding GST) towards capital works for infrastructure, including but not limited to various forms of accommodation.*
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 - l. *Council to be responsible for asset management consistent with obligations under the Residential Tenancies Act 1997.*
 - m. *The tenant to use 100% renewable energy at the premises from the commencement of the fourth year of the initial term of the lease.*
 - n. *The tenant must not remove any trees without Council's prior written consent.*
 - o. *Tenant to hold at least \$20 million public liability insurance.*
4. *Notes that the final lease, inclusive of the key terms in point 3, will be presented to a future Council meeting for consideration in accordance with its resolution at the 23 August 2023 meeting.*
5. *Notes that section 115 of the Local Government Act 2020 has been satisfied by previously undertaking a community consultation process seeking feedback from the community about its intention to lease the land.*

CARRIED 6 : 1

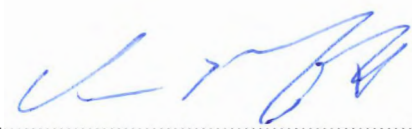
DIVISION

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

Against the motion: Cr Graham Costin

The meeting was declared closed at 4.05 pm

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

A handwritten signature in blue ink, appearing to be 'L. R. B.', is written over a light blue rectangular background.

.....MAYOR