



Colac Otway
SHIRE

UNSCHEDULED COUNCIL MEETING

AGENDA

Wednesday 11 October 2023

at 3:00 PM

COPACC

95 - 97 Gellibrand Street, Colac



COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

Wednesday 11 October 2023

TABLE OF CONTENTS

1 Declaration of Opening.....	3
2 Present.....	3
3 Apologies	3
4 Welcome and Acknowledgement of Country.....	3
5 Question Time	4
6 Declarations of Interest	4
7 Officer Reports.....	5
7.1 Contract 2405 Building Surveying & Inspection Services.....	5
7.2 Lake Colac Holiday Park Lease - Key Terms.....	9

COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

NOTICE is hereby given that the next **UNSCHEDULED COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 11 October 2023 at 3:00 PM.

AGENDA

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

3 APOLOGIES

4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

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

RECORDING AND PUBLICATION OF MEETINGS

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

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

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

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council meetings will be permitted without specific approval by resolution of the relevant Council meeting.

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

The sole purpose of this Unscheduled Council meeting is to consider the following agenda items:

- Contract 2405 Building Surveying & Inspection Services
- Lake Colac Holiday Park Lease - Key Terms.

5 QUESTION TIME

Please note that as this is an Unscheduled Council meeting, only questions pertaining to this agenda will be responded to. A maximum of 15 minutes is allowed for question time at Unscheduled Council meetings. Any person wishing to participate in question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 9 October 2023. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting. Written questions must be received by 5pm on Monday 9 October 2023.
2. Questions by videoconference (by prior arrangement).
3. Questions from the floor.

6 DECLARATIONS OF INTEREST

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

Item: 7.1

Contract 2405 Building Surveying & Inspection Services

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

1. PURPOSE

For Council to consider the awarding of Contract 2405 – Building Surveying and Inspections Services to Tenderer 1 for the period of up to three years.

2. EXECUTIVE SUMMARY

Council's building surveying and inspection service ensures Council's statutory building obligations are met and requirements of the Building Act and Regulations are carried out professionally and in a timely and professional manner.

Council has outsourced Building Surveying and Inspection Service since 2013 after Council found it challenging to engage suitably qualified and experienced building employees through the normal employment market. The market for building surveyors continues to be tight across the country, and Council benefits from an outsourced delivery model.

Council is asked to award a contract for its Municipal Building Surveying and Inspection Services which includes compliance and enforcement activities in accordance with the *Building Act 1993* and related legislation and regulations.

3. RECOMMENDATION

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.**

4. KEY INFORMATION

Background

Council's building surveying and inspection service ensures Council's statutory building obligations are met and requirements of the Building Act and Regulations are carried out professionally and in a timely and professional manner.

Council has outsourced Building Surveying and Inspection Service since 2013 after Council found it challenging to engage suitably qualified and experienced building employees through the normal jobs market. The employment market for building surveyors continues to be tight across the country, with Council to continue with an outsourced delivery model.

Current tender

A Request for Tender (RFT) was advertised on 11 August 2023 seeking responses from suitable companies to undertake the contract. Tender submissions were received by the 6 September 2023 closing date.

The submissions were evaluated by the Tender Evaluation Panel (TEP) using a set list of weighted criteria that considered not only financial value but also capacity, capability and local contribution. Follow up questions were also provided to the tenderers clarifying some aspects of their submission. A detailed evaluation assessment of the tenders is contained Attachment 1

The proposed contract term is two years with an optional one-year extension.

5. CONSIDERATIONS

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

Outsourcing of building services through the recommended contract will enable Council to provide important support and essential services to its community. In a reliable and cost-effective manner.

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

Council has obligations under legislation in relation to municipal building services. Awarding of the contract will enable Council to meet these requirements.

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

Not applicable

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

Not applicable

Public Transparency (s58 LGA 2020)

Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Objective 2: We are a financially robust organisation

Objective 3: We provide exceptional customer service

Objective 4: We support and invest in our people

Financial Management (s101 Local Government Act 2020)

Council allocated \$300,000 for this contract in 2023-24 budget.

Service Performance (s106 Local Government Act 2020)

Council's Building Department has significant responsibilities relating to public safety under the *Building Act*, as well as other related legislation including the *Emergency Management Act*. These range from processing building permit applications, applications for Report and Consent, undertaking inspections, issuing Building Notices & Orders to achieve safety and compliance, processing swimming pool registrations and ensuring compliance of businesses with Essential Safety Measure requirements.

Risk Assessment

The service provided is required to address legislative responsibility for Council to engage a Municipal Building Surveyor (MBS), to undertake specific Council functions under the Building Act and Building regulations, and to maintain public safety.

The tenderers are required as part of their submission to provide the requested documents and company policies and registration of their staff so that an assessment can be made for Quality Management, Occupational Health and Safety Management and Environmental Management

Communication/Implementation

Upon award of the contract, the successful tenderer and unsuccessful tenderers will be notified via email. A Letter of Acceptance will be sent to the successful tenderer outlining any further information that is required prior to preparation of contract such as any applicable insurances and/or licenses, and applicable securities. Services will not commence until the contract has been executed.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Awards Contract 2405– Building Surveying and Inspections Services to for the period of two years, with an option of a one-year extension, at the schedule of rates referred to in the confidential attachments.

This option is recommended by officers as not awarding the contract will compromise Council’s ability to comply with its obligations under the *Building Act 1993*.

Item: 7.2

Lake Colac Holiday Park Lease - Key Terms

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

1. PURPOSE

The purpose of this report is to consider the key terms for the Lake Colac Holiday Park, prior to finalising the lease for presentation to a future Council meeting.

2. EXECUTIVE SUMMARY

Council considered the response to the 'Invitation for Expression of Interest' for the lease of the Lake Colac Holiday Park at its 23 August 2023 Council meeting. Council determined a preferred proponent and resolved to provide in-principle support for the Chief Executive Officer to finalise special conditions of the lease before presenting a final lease to Council for approval.

The key terms are ready for Council's consideration prior to a final lease being presented to a future Council meeting, in accordance with the resolution from the 23 August 2023 Council meeting.

3. 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:

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

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.*

4. KEY INFORMATION

Background

Council commenced an Expression of Interest (EOI) process on 24 March 2023 seeking a lessee for the Lake Colac Holiday Park, after resolving at its meeting on 22 February 2023 to make a capital investment of \$500,000. This investment recognised:

- The community and economic importance of the park, particularly in the context of the local and regional visitor accommodation shortage.
- Council's responsibility as the asset owner/manager of most of the fixed infrastructure at the park.
- The expectation that a lessee would carry the full financial burden of replacing and upgrading aged assets at the park undermined the viability of the park to a lessee, as had been the identified through the unsuccessful EOI process in 2022.

Council considered submissions to the EOI process at its 23 August 2023 meeting and resolved:

That Council:

- 1. Notes the Expression of Interest process inviting submissions for the lease of the property located at 51 Fyans Street Colac, known as the Lake Colac Holiday Park.*
- 2. Notes the submissions received in response to the Expression of Interest invitation: a. are provided for Councillors' information as confidential attachments to this agenda; and b. have been assessed against the criteria included in the 'Invitation for Expression of Interest' document adopted by Council at its meeting on 27 July 2022.*
- 3. Determines that Submitter 1 is the preferred lessee for the Lake Colac Holiday Park as per the recommendation of the panel's Evaluation Report (confidential attachment).*
- 4. Provides in principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park, which may include additional incentive-based opportunities that provide a benefit to both parties, but should not deviate from the underlying key lease terms included in the EOI documentation.*
- 5. Includes a special condition in the final draft lease developed through point 4 that ensures the lessee can only charge a rental amount for permanent residents of \$200 per week, or less, until at least 1 September 2025 and to not increase this rental amount by more than CPI per annum after that date.*
- 6. Receives the final draft lease for approval at a future Council meeting.*

Preferred Lessee Submission

The preferred lessee submitted a comprehensive and well-rounded submission to the EOI, which met all of the evaluation criteria. The submission aims to modernise and diversify the visitor accommodation offering at the Lake Colac Holiday Park to improve the visitor experience. The submission included substantial capital works including complete replacement of the existing ensuite amenities with new centralised amenities including accessible facilities. Accommodation offerings would include glamping tents, safari tents and a limited number of units which can be used for visitor accommodation and/or temporary worker accommodation. The preferred lessee would provide a model of customer service excellence with on-site management and support from regional and head offices.

The proposed rent for the initial term of the lease is as per Table 2 below.

Table 2

Period	Rent (excluding GST)
Year 1	\$4,000
Year 2	\$4,120
Year 3	\$4,244
Year 4	\$4,371
Year 5	\$4,502
Year 6	\$4,637

The submission proposes a competitive pricing model and existing permanent residents would be able to remain onsite subject to meeting conditions including the paying of rent and their accommodation meeting essential safety measures, with the rent capped as per Council's resolution of 23 August 2023.

In its EOI Council sought proposals for a lease term of up to 21 years. The preferred lessee requested a lease term of 6 years plus three 5-year options. This provides certainty to the preferred lessee to undertake the required capital investment to the site.

The preferred lessee's submission included that the total amount of Council rates and the Fire Services Levy to not exceed \$5,000 per annum (excluding GST), indexed to CPI annually. The previous lease waived rates and therefore no rates income was received by Council. In considering this condition, it is important to note that the current total rateable value of the Lake Colac Holiday Park and including the Fire Services Levy, would be less than \$5,000 per annum.

5. CONSIDERATIONS

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

The overarching governance principles are:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- The ongoing financial viability of the Council is to be ensured.
- The transparency of Council decisions, actions and information is to be ensured.

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

Section 115 and 116 of the *Local Government Act 2020* provides local governments with the authority to lease land. Council has complied with Section 115 by previously undertaking a community consultation process seeking feedback from the community about its intention to lease the land. No submissions were received from the community.

The process undertaken is in accordance with Council's Lease and Licence Policy.

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

The proposed lease includes the requirement for the tenant to purchase 100% renewable energy from year four onwards.

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

Community engagement on the future lease of the Lake Colac Holiday Park was undertaken in 2022 when Council advertised its intention to lease the land and invited submissions from the community. No submissions were received.

Public Transparency (s58 LGA 2020)

Council has undertaken a public EOI process seeking submissions from interested parties. When executed, key terms of a lease will be included in Council's lease and licence register, which is on Council's website.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 2: Attract, retain and grow business in our Shire

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 4: Colac Otway Shire is a destination to visit

Financial Management (s101 Local Government Act 2020)

Council resolved to allocate \$500,000 towards capital upgrades at the Lake Colac Holiday Park at its 22 February 2023 meeting. The funds were sourced from the sale of 36-52 Bruce Street, Colac.

Should a lease be entered into, the lease will provide an annual financial return to Council. In addition, it would also result in capital investment by the lessee to at least match Council's contribution, in accordance with the resolution of Council at its 22 February 2023 meeting and the proposal by the preferred lessee.

Service Performance (s106 Local Government Act 2020)

Once a lease is entered into, Council will be required to actively manage the lease and the service requirements contained within.

Risk Assessment

Not applicable.

Communication/Implementation

Following Council's consideration of this matter, the outcome will be communicated via a range of mediums including direct discussions and correspondence with key stakeholders and via local media outlets.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Support the proposed key lease terms in order to finalise the lease for the Lake Colac Holiday Park.

This option is recommended by officers. The preferred lessee submitted a thorough proposal which will result in significant investment in the park, providing a good accommodation option for Colac into the future. The preferred lessee is a reputable organisation with significant experience in the provision of visitor accommodation, and it is expected that they will provide a quality service offering.

Option 2 – Not support the proposed key terms for the lease.

This option is not recommended as it would potentially lead to the closure of the Lake Colac Holiday Park. The park is currently contract managed by BelgraviaPRO up until the end of November 2023. If Council determined not to award a lease, it would need to determine the future of the park including who and how it would be managed, and how the investment required in the park would be secured.

