

ORDINARY COUNCIL MEETING

AGENDA

25 MAY 2016

at 4:00 PM

COPACC - Colac

Next Meeting:

22 June 2016

COPACC Meeting Rooms, Colac



Our Vision

A sustainable community with a vibrant future.

Our Mission

Council will work with our community and partners to provide:

- Innovative leadership, good governance and financial accountability
- Value for money, accessible and appropriately targeted services
- A strong advocacy and engagement approach to achieve a truly liveable community

Our Values

Council will achieve its Vision and Mission by acting with:

- Respect
- Integrity
- Goodwill
- Honesty
- Trust

Our Strategic Direction

The four pillars of our Council Plan indicate our key strategic direction for 2013-2017.

An underlying principle in the development of the Council Plan was to more effectively integrate service delivery.

Pillar 1: Good Governance

Pillar 2: A Planned Future

Pillar 3: A Place to Live and Grow

Pillar 4: A Healthy Community and Environment

Our Councillors

Cr Frank Buchanan (Mayor), Cr Brian Crook, Cr Michael Delahunty, Cr Stephen Hart, Cr Lyn Russell, Cr Chris Smith, Cr Terry Woodcroft (Deputy Mayor).



Ordinary Meeting of Council

Welcome

Welcome to this Meeting of the Colac Otway Shire Council

Council Meetings are an important way to ensure that your democratically elected representatives are working for you in a fair and transparent way. They also allow the public to be involved in the decision making process of Council

About this meeting

There are a few things to know about tonight's meeting. The agenda itemizes all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening.

Each report is written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. Council will consider the report and either accept the recommendation or make amendments to it. All decisions of Council are adopted if they receive a majority vote from the Councillors present at the meeting.

In accordance with Local Law 4, agenda items will be considered as follows:

- The item is introduced by the Mayor and Councillors are invited to ask questions of relevant officers
- A mover and a seconder of a motion is called for and if there is any Councillor who wishes to oppose the motion.
- The mover will then be invited to speak to the motion, followed by the seconder and then, if required, the Councillor who opposed the motion.
- Remaining Councillors will be given the opportunity to speak for or against the motion.
- If any Councillor speaks against the motion, the mover will be given the right of reply.
- There will be no further discussion of the item once the vote has been declared.

Public Question Time

Provision is made at the beginning of the meeting for general question time from members of the public. Matters relating to routine Council works should be taken up with Council's Customer Assist Staff.

Up to thirty minutes may be provided for Question Time. This is at the discretion of the Mayor.

Residents are encouraged to lodge questions in advance so that a more complete response can be given.

Questions can be submitted in writing up until 5.00pm on the Monday prior to each Council meeting. There is also provision for questions to be asked from the gallery. If you would like to ask a question during Question Time, it would be appreciated if you could please fill in the blue "Public Question Time – Council Meetings" form located in the meeting rooms and hand to the COPACC Duty Supervisor.

Questions relating to a topic on the agenda may be taken on notice and responded to after the meeting. Responses to questions taken on notice will be tabled at the following meeting and included in the minutes of that meeting.

Hearing of Submissions

Any person who has made a written submission on an item and requested that she or he be heard in support of that written submission pursuant to section 223 of the *Local Government Act 1989* will be entitled to address Council.

When the relevant item is listed for discussion, the Mayor/Chairperson will call your name and ask you to address the Council. The length of time available to each speaker is five minutes.

Recording of Meetings

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.

COLAC-OTWAY SHIRE COUNCIL MEETING

25 MAY 2016

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COLAC OTWAY SHIRE COUNCIL ORDINARY MEETING OF COUNCIL

NOTICE is hereby given that the next **ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in COPACC - Colac on 25 May 2016 at 4.00pm.

1. 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. APOLOGIES

3. DECLARATION OF INTEREST

Pursuant to Sections 77, 78 and 79 of the Local Government Act 1989, direct and indirect conflict of interest must be declared prior to debate on specific items within the agenda; or in writing to the Chief Executive Officer before the meeting. Declaration of indirect interests must also include the classification of the interest (in circumstances where a Councillor has made a Declaration in writing, the classification of the interest must still be declared at the meeting), ie:

- a) direct financial interest
- b) indirect interest by close association
- c) indirect interest that is an indirect financial interest
- d) indirect interest because of conflicting duties
- e) indirect interest because of receipt of an applicable gift
- f) indirect interest as a consequence of becoming an interested party
- g) indirect interest as a result of impact on residential amenity
- h) conflicting personal 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.

Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

4. WELCOME & ACKNOWLEDGEMENT OF COUNTRY

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

Colac Otway Shire encourages community input and participation in Council decisions. Council meetings provide an opportunity for the community to ask Council questions, either verbally at the meeting or in writing.

Please note that Council may not be able to answer some questions at the meeting. These will be answered later.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

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.

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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. PETITIONS/JOINT LETTERS (if required)

8. CONFIRMATION OF MINUTES

As per Governance Local Law No 4, clause 34:

- **Ordinary Council Meeting held on the 27/04/16.**

Recommendation

That Council:

Confirm the above minutes.

34. Objection to Confirmation of Minutes

- (1) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Except where sub-clause (1) applies, no vote shall be recorded against a motion to adopt the minutes.

OM162505-1 WYE RIVER SURF LIFE SAVING CLUB BUNK HOUSE LEASE RENEWAL

AUTHOR:	Jade Thomas	ENDORSED:	Ingrid Bishop
DEPARTMENT:	Infrastructure & Leisure Services	FILE REF:	11/96012

Purpose

The purpose of this report is to seek Council’s endorsement to commence with the statutory procedures to enter into a Lease between Council and the Wye River Surf Life Saving Club (SLSC) to occupy the Bunk House. The property is owned by Council and is located at 10 McLellan Court, Wye River.

Locality Map



Declaration of Interests

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

Background

The Wye River Surf Life Saving Club (SLSC) currently has a 10 year Licence that is due to expire on 30 September 2016. The Wye River SLSC funded and constructed the building approximately sixteen (16) years ago and continues to maintain the building and grounds. The property is used by the SLSC to provide accommodation for patrol members. The current rent is \$10 per annum. The facility is available for hire throughout the year and is advertised on the Wye River SLSC website.

Council Plan / Other Strategies / Policy

This Lease Agreement has been prepared in accordance with Councils Property and Leasing 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

Council approached the Wye River SLSC to seek the clubs intention to renew the current agreement and terms. The club requested a 30 year term with all other terms remaining the same as the existing Licence.

There are three areas to consider:

- a) The rent amount
- b) The term
- c) Type of agreement

A Lease Agreement is offered instead of a Licence due to a Council resolution from 27 August 2007 that requests Council to enter into a Lease with the Wye River SLSC.

The terms of this Lease have been prepared in accordance to the Council Property Leasing Policy. The Lessee qualifies as a group 2 tenant for this facility.

A rent amount has been determined based on clause 4.2 of the leasing policy - 'This group will pay a rental based upon a percentage of the asset value of the facility and receives a substantial discount or subsidy from a fair market rental.'

A commercial rent valuation was conducted on 8 March 2016 that presented a rental value of \$1,300 per annum and includes the building and improvements. The leasehold value of the land only is \$2,750 per annum due to the existing building improvement having a detrimental impact on the rental value of the property.

Officer's considered this valuation and after assessment and consultation with the Lessee the agreed rent amount is \$130 per annum excluding GST.

The facility is hired out to sporting clubs and schools throughout the year to generate an income to support the operation of the SLSC and facilities.

The SLSC has requested a 30 year term, however according to Council's Leasing Policy the preferred term of agreement is three (3) years where the rental levels are less than the commercial market rental or not classified as a retail premises. In respect to Wye River SLSC constructing and funding the building, ongoing maintenance and improvements to the facility, a term of 10 years is proposed in recognition of this. The SLSC have agreed to this term.

Proposal

A new agreement has been negotiated and agreed in principal between the Wye River SLSC and Council. The terms are as follows:

Agreement Type	Lease
Rent	\$130 per annum (excl GST)
Term	10 Years
Option	Nil
Utilities	100% Lessee
Rates & Fees	100% Lessee
Maintenance	100% Lessee

The establishment of this Lease must follow the statutory procedures required by the provisions of the *Local Government Act 1989*. Council is required to advertise the proposal and consider submissions for a period of six (6) weeks.

Financial and Other Resource Implications

Administrative costs associated with the preparation of the Lease and costs associated with advertising have been absorbed into the relevant operational budget.

Risk Management & Compliance Issues

Risk has been mitigated by terms included in the Lease where Wye River SLSC indemnifies Council against loss. This Lease has been prepared in accordance with Council's Property Leasing Policy and the provisions of the *Local Government Act 1989* will be followed to ensure that Council fulfils its statutory obligations.

Environmental and Climate Change Considerations

There are no considerations applicable at this point in time.

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 'consult' and 'inform'. Council has engaged in negotiations with the Wye River SLSC to reach an agreement with the proposed agreement terms.

Public notice of Council's intention to enter into this Lease will be advertised in accordance with section 223 of the *Local Government Act 1989* and Council's Community Engagement Policy. The policy allows six weeks for submissions to be lodged. Persons may be heard in support of their submission should they indicate so.

Implementation

Public notification of Council's intention to enter into this Lease will be advertised immediately upon resolution by Council.

Conclusion

The Wye River SLSC and Council have agreed on the terms outlined in this report. A Lease renewal is recommended in support of the Wye River SLSC and the service it provides to the community.

Attachments

Nil

Recommendation

That Council:

1. ***Commences the statutory procedure under section 190 of the Local Government Act 1989 (the 'Act') by advertising for six (6) weeks, Council's Notice of Intention to Lease 10 McLellan Court, Wye River to the Wye River Surf Life Saving Club on the following terms;***

Agreement Type	Lease
Rent	\$130 per annum (excl GST)
Term	10 Years
Option	Nil
Utilities	100% Lease
Rates & Fees	100% Lease
Maintenance	100% Lease

2. ***Gives seven (7) days' notice by placing a six (6) week public notice in the local print media of its intention to consider any submissions received at a Council Meeting. Formal advice of the time and place of the meeting will be provided to those parties wanting to be heard in support of their submissions.***
3. ***Enters into a new Lease with the Wye River Surf Life Saving Club and authorises the Chief Executive Officer or their delegate, on behalf of Council to execute the new Lease accordingly.***

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**OM162505-2 COLAC LIBRARY ANNEXE CLOSURE UPDATE**

|             |                                   |           |               |
|-------------|-----------------------------------|-----------|---------------|
| AUTHOR:     | Ian Seuren                        | ENDORSED: | Ingrid Bishop |
| DEPARTMENT: | Infrastructure & Leisure Services | FILE REF: | F15/951       |

**Purpose**

To provide an update on the implementation of the resolution regarding the closure of the Colac Library Annexe.

**Declaration of Interests**

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

**Background**

At its December 2015 meeting, Council resolved to close the Colac Library Annexe in accordance with the following resolution:

***That Council:***

1. ***Notes the 2015 Colac Library Annexe report.***
2. ***Notes the receipt of 17 submissions, including one petition, during the public comment period open from the 2 October, 2015 to 13 November, 2015.***
3. ***Discontinues the provision of the Library Annexe facility from 1 July 2016.***
4. ***Undertakes the following:***
  - (a) ***Recommended outlays prior to 30 June 2016:***
    - ***Improved signage at the CLLC***
    - ***Contribution to furnishing a reading room at the CLLC***
    - ***Central Returns Chute and installation of ‘smart technology’ at Rae Street Offices***
    - ***Bus Shelter and signage at Queen Street Stop***
    - ***Placement of plaque on the exterior of the old library building.***
  - (b) ***Actions from 1 July 2016 (no additional cost to Council):***
    - ***Relocation of computers from the Annexe to the CLLC***
    - ***Relocation of the newspaper rack from the Annexe to COPACC***

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**(c) Consideration for 2016/17 Budget process:**

- **Wi-Fi at COPACC**
5. **Notes that any savings from the closure of the Library Annexe be captured as savings as part of the 2016-2017 Budget and that these savings will not be distributed in any predetermined way.**
  6. **Writes to the Corangamite Regional Library Corporation, Colac Secondary College and the Joint Committee of the CLLC advising them of Council's decision to close the Colac Library Annexe from 1 July 2016 and the proposed actions with respect to enhancements.**
  7. **Council will make a separate decision about the use of the Library Annexe space in response to a future Council report dealt with in an open Council meeting. This will be a collective decision of Councillors not Council Management. Until that occurs, the Chief Executive Officer is to ensure that the space currently occupied by the Library Annexe is not used as office accommodation for Council staff.**

In addition, at its February 2016 meeting Council resolved to:

1. **Support the use of the building space currently occupied by the Library Annexe as temporary office accommodation for the Victorian Electoral Commission specifically for the conduct of the 2016 Local Government Elections.**
2. **In agreeing to allow the Victorian Electoral Commission to temporarily use the Library Annexe space for conducting the 2016 Local Government election, Council notes that the Council Chief Executive officer must still comply with the requirement in resolution OM151612-2 to:**
  - a) **Bring a report to Council to be dealt with in open Council meeting regarding the future use of the Library Annexe space, and**
  - b) **Until that occurs, to ensure that the space currently occupied by the Library Annexe is not used as office accommodation for Council staff.**

**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**

The implementation of the Council resolution regarding the closure of the Colac Library Annexe is progressing well in accordance with the stipulated timelines. Attachment 1 provides an update on the implementation of the required actions. The implementation of the actions adheres to Council's determination and encompasses the consultation with the

key stakeholders. It also represents value for money and a logical approach to achieving the required outcomes.

A key issue is the location of a bus stop at the Colac Community Library and Learning Centre (CCLLC). There is currently no designated bus stop at the facility. In consultation with the Colac Secondary College, Public Transport Victoria, the CCLLC Committee, CRLC and the bus service provider, it was determined that use of the existing bus interchange would be the best option to provide for a new bus stop. The reason for this is that there is existing infrastructure in place, designated pedestrian pathways and this option provides a safer option for users.

In respect to the installation of 'smart technology' at the Rae Street returns chute, there was a strong recommendation from the Corangamite Regional Library Corporation (CRLC) and Colac library staff not to install smart technology at this time due to the cost and the small number of books that are returned to this location. It is proposed to monitor the volume of returns at this location for a period of six months to enable a full cost benefit analysis to be undertaken prior to committing to the expenditure.

### **Proposal**

That Council notes the progress of the implementation of the resolution to close the Colac Library Annexe.

### **Financial and Other Resource Implications**

A number of the actions within the resolution required funds to implement. Funds have been sourced through existing operational budgets and cost savings identified through the 2015-16 mid-year budget review. Officers, in partnership with other key stakeholders, have found a number of cost effective and logical solutions to implement the Council resolution.

### **Risk Management & Compliance Issues**

Risks and associated mitigation strategies have been considered in the implementation of the required actions. In particular, it was determined that the use of the bus interchange at the CCLLC was a much safer and more suitable location for a bus stop than other proposed locations. This is due to existing pathways and crossings as well as identified line of sight issues for entry/exit to the existing car park.

### **Environmental and Climate Change Considerations**

Not applicable.

### **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 has been to inform and consult.

Officers have undertaken consultation with the key stakeholders including the Colac Secondary College, CCLLC Committee, Corangamite Regional Library Corporation (CRLC) and Public Transport Victoria.

**Implementation**

The implementation of the actions associated with the Council resolution to close the Colac Library Annexe is progressing to schedule.

**Conclusion**

The implementation of the required actions considers the consultation undertaken with the key stakeholders. The implementation of the Council resolution regarding the closure of the Colac Library Annexe is progressing in accordance with the stipulated timelines.

**Attachments**

1. Colac Library Annexe Closure - Implementation of Council Resolution

**Recommendation*****That Council:***

- 1. Notes the items which were to be implemented as per the resolution of Council's Ordinary Meeting, 15 December 2015 are completed or in progress.***
- 2. Notes that the existing facility signage will be relocated to provide improved signage for the CLLC.***
- 3. Notes that the existing bus interchange at the CLLC will be utilised as the town bus service stop for this facility.***
- 4. Notes that the returns chute will be relocated to the Rae Street Council office however the 'smart technology' will not be installed at this time pending the outcome of a six month review period.***

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Attachment 1: Colac Library Annexe Closure – Implementation of Council resolution

| ACTION | STATUS | COMMENT |
|--|-------------|---|
| Recommended outlays prior to 30 June 2016 | | |
| Improved signage at the CCLLC | In progress | <p>Preference of Colac Secondary College and Colac Community Library and Learning Centre (CCLLC) Committee is to relocate existing signage to:</p> <ul style="list-style-type: none"> ▪ Push back closer to building. ▪ Raise height above vegetation. ▪ Face on angle to the road towards Queen St north. <p>Existing signage states “Colac Community Library and Learning Centre” but has “Library” enlarged, which is consistent with the recommendation from the Colac Library Annexe Service Review 2015.</p> |
| Contribution to furnishing a reading room at the CCLLC | Completed | Furniture ordered and received. |
| Central Returns Chute and installation of ‘smart technology’ at Rae Street Offices | In progress | <p>Chute to be installed at Rae Street Offices in June 2016. Quote received for smart technology – \$16,600 + \$1300 p.a. Strong recommendation from Corangamite Regional Library Corporation (CRLC) and Colac library staff not to install smart technology due to cost and the small number of books that are returned to this location. Situation will be monitored for 6 months before committing to installation of smart technology.</p> |
| Bus Shelter and signage at Queen Street Stop | In progress | <p>Preference for Colac Secondary College and CCLLC Committee is to use the existing bus interchange (Bus Bay 2). This would be a safer option and would use existing infrastructure. Walking distance would be similar as a bus stop on Queen Street.</p> <p>Christians Buslines have been consulted and believe this option is suitable. Public Transport Victoria supports the proposal and will arrange installation of ground tactiles and bus stop pole/flag.</p> |
| Placement of plaque on the exterior of the old library building. | Completed | Completed in December 2015. |
| Actions from 1 July 2016 | | |

| | | |
|--|-------------|--|
| Relocation of computers from the Annexe to the CCLLC. | In progress | To be completed by CRLC on 1 July 2016. |
| Relocation of the newspaper rack from the Annexe to COPACC. | In progress | To be completed by CRLC, in partnership with COPACC, on 1 July 2016. |
| Consideration as part of 2016/17 budget process | | |
| Wi-Fi at COPACC. | In progress | Wi Fi has been installed and is currently undergoing testing. |
| Other actions | | |
| Writes to the Corangamite Regional Library Corporation, Colac Secondary College and the Joint Committee of the CCLLC advising them of Council's decision to close the Colac Library Annexe from 1 July 2016 and the proposed actions with respect to enhancements. | Completed | Correspondence sent to relevant stakeholders. |
| Council will make a separate decision about the use of the Library Annexe space in response to a future Council report dealt with in an open Council meeting. This will be a collective decision of Councillors not Council Management. Until that occurs, the Chief Executive Officer is to ensure that the space currently occupied by the Library Annexe is not used as office accommodation for Council staff. | Ongoing | <p>At its February 2016 meeting, Council resolved to support the use of the building space currently occupied by the Library Annexe as temporary office accommodation for the Victorian Electoral Commission specifically for the conduct of the 2016 Local Government Elections.</p> <p>In agreeing to allow the Victorian Electoral Commission to temporarily use the Library Annexe space for conducting the 2016 Local Government election, Council notes that the Council Chief Executive officer must still comply with the requirement in resolution OM151612-2 to:</p> <ul style="list-style-type: none"> • Bring a report to Council to be dealt with in open Council meeting regarding the future use of the Library Annexe space; and • Until that occurs, to ensure that the space currently occupied by the Library Annexe is not used as office accommodation for Council staff. |

OM162505-3 CONTRACT 1603 - DEBT RECOVERY SERVICES (MAV CONTRACT DR8410-2015)

| | | | |
|-------------|--------------------|-----------|------------|
| AUTHOR: | Andrew Kavanagh | ENDORSED: | Mark Lyons |
| DEPARTMENT: | Corporate Services | FILE REF: | F16/1276 |

Purpose

Tenders have been received for Contract 1603 – Debt Recovery Services which requires Council approval to award the contract.

Declaration of Interests

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

Background

The Municipal Association of Victoria (MAV) invited tenders for the provision of debt recovery services on behalf of participant councils in Victoria. Tenders were advertised on 14 November 2015 and closed on 4 December 2015. The request for tender sought the provision of a Standing Offer for a period of three (3) years commencing from 1 March 2016, with an option to extend the Standing Offer for two (2) additional periods of one (1) year.

A total of 11 tenders were received. Tenders were evaluated and assessed by a panel consisting of four members from some of the participating councils and the MAV.

Pricing for this tender is largely dictated by the Magistrates Court Scale of Costs and was not sufficiently different to impact on the results of the qualitative evaluation. (Note: The Magistrates Court Scale of Costs is set under the Magistrates' Court General Civil Procedure Rules 2010. It is the scale of costs and fees which may be claimed by between parties to an action or between lawyer and client.)

The MAV Tender Evaluation Panel made its recommendation based on the following qualitative criteria:

| Criteria | Weighting |
|--|------------------|
| Experience and Past Performance, including
- Experience / Past Performance
- Services Offered
- Delivery of Services / Services Management and Fulfilment | 75 |
| Corporate Responsibility | 10 |
| Contract Management and Implementation | 10 |
| Provider Regional Representation | 5 |

The Panel nominated the following preferred suppliers:

- AMPAC
- Australian Receivables Ltd
- Midstate Credit Collect Pty Ltd
- ML & C Collection Pty Ltd
- Recoveries & Reconstruction (Aust.) Pty Ltd

Council nominated its own Tender Evaluation Panel consisting of the following members:

- Revenue Coordinator
- Revenue Officer
- Contract Governance Coordinator

Council Plan / Other Strategies / Policy

Good Governance

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Our Goal:

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

Issues / Options

The options available to Council to establish arrangements for Debt Collection services is to either independently tender for the services or participate in a joint tender with the MAV or other suitable organisation.

Participation in MAV Tender DR8410 for Provision of Debt Recovery Services ensures Council's compliance with the *Local Government Act 1989* and ensures value for money outcomes are achieved.

Proposal

Council currently engages Australia Receivables Limited ("ARL") for the provision of debt recovery services. ARL was appointed under the previous MAV contract.

Council has been pleased with the performance of ARL. However, Council's Tender Evaluation Panel determined that it is desirable to keep Council's options open to consider other providers as its needs change over time (eg the ability to take advantage of new technology). It is desirable that Council not be locked under a long-term contract to a particular debt recovery company and the standing offer arrangement allows Council the ability to achieve this.

The MAV has advised that while the life of the contract is three years, with the option of two one-year extensions, Council is not obligated to retain the services of a single provider for the whole standing offer period. On this basis it is proposed that Council continue to use ARL under the new contract and also accept the other providers as part of a panel should Council wish to change providers as its needs and product offerings develop over time.

Financial and Other Resource Implications

Council's operating budgets allows for debt recovery services.

Risk Management & Compliance Issues

Nil

Environmental and Climate Change Considerations

Nil

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. The tender was advertised in the Herald Sun on 4 December 2015.

Implementation

The tender was advertised in the Herald Sun newspaper and on the Tenderlink website on 14 November 2015.

Conclusion

A recommendation is made to accept the tenders of the panel of providers nominated by MAV for the provision of debt recovery services for the term 1 June 2016 to 28 February 2019, with an option to extend for two additional periods of one year.

Attachments

Nil

Recommendation

That Council:

- 1. Awards Contract 1603 – Debt Recovery Services (MAV Tender DR8410) to the following providers at their tendered rates for the term 1 June 2016 to 28 February 2019, with an option to extend for two additional periods of one year:***
 - ***AMPAC***
 - ***Australian Receivables Ltd***
 - ***Midstate Credit Collect Pty Ltd***
 - ***ML & C Collection Pty Ltd***
 - ***Recoveries & Reconstruction (Aust.) Pty Ltd***

- 2. Delegates to the Chief Executive Officer authority to sign and/or place under Council seal contract documents following award of Contract 1603.***

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**OM162505-4 STRUCTURE OF RURAL COUNCILS VICTORIA**

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**Purpose**

The purpose of this report is to consider Councils support for a change in the governance structure of Rural Councils Victoria.

**Declaration of Interests**

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

**Background**

Rural Councils Victoria (RCV) is an unincorporated organisation which represents the interests of rural councils within Victoria and currently has 38 members. Colac Otway Shire is a member.

The RCV's work includes:

1. Providing opportunities for networking and professional development;
2. Activities directed at ensuring the sustainability of rural councils, and;
3. Activities to assist rural communities to remain sustainable.

This occurs via a number of mechanisms, including the:

1. Organisation of forums and conferences for member councils;
2. Engagement of consultants to undertake project work; and
3. Applying for Government grants, particularly through Regional Development Victoria.

Given that the RCV is not a separate legal entity, it conducts its business through a 'Secretariat'. This involves the Executive appointing a willing council member to essentially, act as its agent, providing administrative support and entering into contracts on its behalf.

**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**

Council can either opt to support or otherwise the change in governance structure. At least 50% of the current members of the unincorporated association must vote in favour for the change to take place.

**Proposal**

As the RCV is currently unincorporated, Council is, together with all other members councils, exposed to liability in respect of its operations.

To address this, and to enable the RCV to operate with greater independence and ease, it is proposed to incorporate to RCV as in incorporated association. It will be called 'Rural Councils Victoria Incorporated' and will operated in accordance with the draft Rules, attached to this report as 'Attachment A'.

The benefits of the RCV being incorporate include that it:

1. Is recognized as a separate legal entity, with protection from debts for members and perpetual succession;
2. Has the power to own and hold property, enter into contracts and otherwise act as any other legal entity would;
3. Cannot distribute profit to its members;
4. Must operate in accordance with a set of rules, including a statement of purpose – being the draft Rules attached to this report as 'Attachment A'; and
5. Is operated by a Committee of Management and a Secretary, which are responsible for ensuring that all legislative obligations are complied with, and purposes are being achieved.

The RCV fulfils a number of functions that are important to rural councils in Victoria. Perhaps the most importantly, it currently has responsibility for applying for Government grants, particularly through Regional Development Victoria, which are of benefit to rural councils.

It will be important that the RCV is incorporated to enable it to carry on those functions with greater independence and flexibility while still being subject to the views of its member councils.

It is not expected that the manner in which the RCV operates will be different from its current operations, although election to the Committee of Management will be based on slightly different zones, as set out in the draft rules attached to this report as 'Attachment A'.

#### **Financial and Other Resource Implications**

Council currently pays an annual subscription fee of \$3,000 and this is not anticipated to change in a material way as a result of the change in governance structure. Council would be free to make a determination around the benefits of membership on an annual basis and the change in structure would not diminish this.

#### **Risk Management & Compliance Issues**

As Council will, if in favour of this proposal, be participating in the formation and operation of a separate legal entity, it is required, in accordance with s193 of the Local Government Act 19189 (LG Act), to have regard to the risks involved and comply with s193 (5A) and (5B) of the LG Act.

Council is advised that:-

1. The total investment involved in Council's participation in the formation of Rural Councils Victoria Limited is \$0. Council will be required to continue paying membership fees, as fixed by the Committee from time to time, but will not be required to invest anything in respect of the incorporation; and
2. The total risk involved in Council's participation in the formation of Rural Councils Victoria Limited is \$0. Any liability for the activities of Rural Councils Victoria Limited will attach to it, not to the individual members.

So, the total investment and risk exposure will be \$0, meaning that Council is not required to take any further action in relation to this matter under s193(5C) of the LG Act.

#### **Environmental and Climate Change Considerations**

Not Applicable

#### **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.

#### **Implementation**

If the RCV continues to operate as an unincorporated association, there is a risk that its individual members, including Council, will be exposed to liability if the RCV fails to properly conduct its business. Furthermore, it

will be unable to enter into contractual arrangements on its own behalf – instead relying on the Secretariat council to do so.

It is therefore recommended that Council accepts the analysis of Council's investment and risk exposure and votes in favour of the RCV being incorporated on the basis of the draft Rules attached to this report as 'Attachment A'.

It is proposed that a vote of all current members will be held at the meeting of RCV to be held on 10 June, 2016. The vote will, if a majority are in favour, authorise Jim Nolan, Chief Executive Officer of Pyrenees Shire Council (the current Secretariat council), to apply to the Registrar of Incorporated Associations for the incorporation of RCV and approve the draft rules.

### **Conclusion**

It is recommended that Council support the change in governance structure proposed by Rural Councils Victoria as the change will allow the organisation to operate more effectively and will reduce the financial risk exposure to Council.

### **Attachments**

1. Rural Councils Incorporated Rules

### **Recommendation**

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

1. ***Notes that the proposed incorporation of Rural Councils Victoria does not involve an investment and/or risk exposure that exceeds the thresholds set out in s193(5C) of the Local Government Act 1989.***
2. ***Votes in favour of authorising Jim Nolan, Chief Executive Officer of Pyrenees Shire Council, to apply to the Registrar of Incorporated Associations for the incorporation of Rural Councils Victoria Incorporated.***
3. ***Approve the draft Rules attached to this report as 'Attachment A' as the Rules for the Rural Councils Victoria Incorporated; and***
4. ***Authorises Cr Russell (or proxy) to vote on Councils behalf on this matter, in accordance with this resolution, at the meeting of RCV to be held on 10 June 2016.***

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Associations Incorporation Reform Act 2012

**RURAL COUNCILS VICTORIA INCORPORATED
RULES**

Associations Incorporation Reform Regulations 2012

Part 3

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Model Rules for an Incorporated Association

Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the Associations Incorporation Reform Act 2012, these Rules are taken to constitute the terms of a contract between the Association and its members.

PART 1 — PRELIMINARY

1 Name

The name of the incorporated association is "Rural Councils Victoria Incorporated".

Note

Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.

2 Purposes

The purposes of the association are to—

- (1) heighten awareness and understanding of issues that impact on rural communities;
- (2) assist with building the capacity of rural councils to face challenges;
- (3) provide leadership on local governance;
- (4) develop and support rural councils; and
- (5) develop policy and advocate for rural councils.

3 Financial year

The financial year of the Association is each period of 12 months ending on 30 June.

4 Definitions

In these Rules—

absolute majority of the Committee, means a majority of the committee members currently holding office and entitled to vote at the time (as distinct from a majority of committee members present at a committee meeting);

associate member means a member referred to in rule 14(1);

CEO means the Chief Executive Officer of each member which is not an associate member;

Chairperson of a general meeting or committee meeting, means the person chairing the meeting as required under rule 46;

Chairperson appointment meeting means a meeting of all of the CEOs, in accordance with rule 54;

Committee means the Committee having management of the business of the Association;

committee meeting means a meeting of the Committee held in accordance with these Rules;

committee member means a member of the Committee elected or appointed under Division 3 of PART 5;

Council has the same meaning as it has in section 3(1) of the *Local Government Act 1989* (Vic);

Councillor means a person who hold the office of a member of each member which is not an associate member;

disciplinary appeal meeting means a meeting of the members of the Association convened under rule 23(3);

disciplinary meeting means a meeting of the Committee convened for the purposes of rule 22;

disciplinary subcommittee means the subcommittee appointed under rule 20;

Election Day has the same meaning as it has in section 3(1) of the *Local Government Act 1989* (Vic);

financial year means the 12 month period specified in rule 3;

general meeting means a general meeting of the members of the Association convened in accordance with PART 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;

member means a member of the Association;

member entitled to vote means a member who under rule 13(2) is entitled to vote at a general meeting;

special resolution means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;

Schedule means a schedule to these Rules;

the Act means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act;

the Registrar means the Registrar of Incorporated Associations.

PART 2 — POWERS OF ASSOCIATION

5 Powers of Association

(1) Subject to the Act, the Association has power to do all things incidental or

conducive to achieve its purposes.

- (2) Without limiting subrule (1), the Association may—
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on any terms and in any manner as it thinks fit;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf;
 - (g) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6 Not for profit organisation

- (1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subrule (1) does not prevent the Association from paying a member—
 - (a) reimbursement for expenses properly incurred by the member; or
 - (b) for goods or services provided by the member—

if this is done in good faith on terms no more favourable than if the member was not a member.

Note

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

PART 3 — MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1 — Membership

7 Minimum number of members

The Association must have at least 5 members

8 Who is eligible to be a member

- (1) Subject to subrule (2), only Councils located in the State of Victoria and listed in Schedule 1 are eligible for membership.

- (2) Any other person who is approved by the Committee (at its absolute discretion) in accordance with rule 63 is eligible for associate membership.

9 Application for membership

- (1) To apply to become a member or associate member of the Association, a person must submit a written application to a committee member stating that the person—
 - (a) wishes to become a member or associate member of the Association; and
 - (b) supports the purposes of the Association; and
 - (c) agrees to comply with these Rules.
- (2) The application—
 - (a) must be signed by the applicant; and
 - (b) may be accompanied by the joining fee (if any).

Note

The joining fee is the fee (if any) determined by the Association under rule 12(3).

10 Consideration of application

- (1) As soon as practicable after an application for membership is received, the Committee must decide by resolution whether to accept or reject the application.
- (2) The Committee must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) If the Committee rejects the application, it must return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.

11 New membership

- (1) If an application for membership is approved by the Committee—
 - (a) the resolution to accept the membership must be recorded in the minutes of the committee meeting; and
 - (b) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.
- (2) A person becomes a member of the Association and, subject to rule 13(2), is entitled to exercise his or her rights of membership from the date, whichever is the later, on which—
 - (a) the Committee approves the person's membership; or

- (b) the person pays the joining fee (if any).

12 Annual subscription and fee on joining

- (1) At each annual general meeting, the Association must determine—
 - (a) the amount of the annual subscription (if any) for the following financial year; and
 - (b) the date for payment of the annual subscription.
- (2) The Association may determine that a higher or lower annual subscription is payable by associate members.
- (3) The Association may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to—
 - (a) the full annual subscription; or
 - (b) a pro rata annual subscription based on the remaining part of the financial year; or
 - (c) a fixed amount determined from time to time by the Association.
- (4) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.

13 General rights of members

- (1) A member of the Association who is entitled to vote has the right—
 - (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
 - (b) to submit items of business for consideration at a general meeting; and
 - (c) to attend and be heard at general meetings; and
 - (d) to vote at a general meeting; and
 - (e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 75; and
 - (f) to inspect the register of members.
- (2) A member is entitled to vote if—
 - (a) the member is a member other than an associate member; and
 - (b) more than 10 business days have passed since he or she became a member of the Association; and
 - (c) the member's membership rights are not suspended for any reason.

14 Associate members

- (1) Associate members of the Association include any members who are not listed in Schedule 1 to these Rules.
- (2) An associate member must not vote but may have other rights as determined by the Committee or by resolution at a general meeting.

15 Rights not transferable

The rights of a member are not transferable and end when membership ceases.

16 Ceasing membership

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

17 Resigning as a member

- (1) A member may resign by notice in writing given to the Association.

Note

Rule 74(3) sets out how notice may be given to the association. It includes by post or by handing the notice to a member of the committee.

- (2) A member is taken to have resigned if—
 - (a) the member's annual subscription is more than 12 months in arrears; or
 - (b) where no annual subscription is payable—
 - (i) the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
 - (ii) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

18 Register of members

- (1) The Secretary must keep and maintain a register of members that includes—
 - (a) for each current member—
 - (i) the member's name;
 - (ii) the address for notice last given by the member;
 - (iii) the date of becoming a member;
 - (iv) if the member is an associate member, a note to that effect;
 - (v) any other information determined by the Committee; and

- (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

Note

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

Division 2 — Disciplinary action

19 Grounds for taking disciplinary action

The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member—

- (1) has failed to comply with these Rules; or
- (2) refuses to support the purposes of the Association; or
- (3) has engaged in conduct prejudicial to the Association.

20 Disciplinary subcommittee

- (1) If the Committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Committee must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.
- (2) The members of the disciplinary subcommittee—
 - (a) may be Committee members, members of the Association or anyone else; but
 - (b) must not be biased against, or in favour of, the member concerned.

21 Notice to member

- (1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
 - (a) stating that the Association proposes to take disciplinary action against the member; and
 - (b) stating the grounds for the proposed disciplinary action; and
 - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the **disciplinary meeting**); and
 - (d) advising the member that he or she may do one or both of the following—
 - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;

- (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
 - (e) setting out the member's appeal rights under rule 23.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

22 Decision of subcommittee

- (1) At the disciplinary meeting, the disciplinary subcommittee must—
- (a) give the member an opportunity to be heard; and
 - (b) consider any written statement submitted by the member.
- (2) After complying with subrule (1), the disciplinary subcommittee may—
- (a) take no further action against the member; or
 - (b) subject to subrule (3)—
 - (i) reprimand the member; or
 - (ii) suspend the membership rights of the member for a specified period; or
 - (iii) expel the member from the Association.
- (3) The disciplinary subcommittee may not fine the member.
- (4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

23 Appeal rights

- (1) A person whose membership rights have been suspended or who has been expelled from the Association under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
- (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
 - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under subrule (2), a disciplinary appeal meeting must be convened by the Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (4) Notice of the disciplinary appeal meeting must be given to each member of the Association who is entitled to vote as soon as practicable and must—

- (a) specify the date, time and place of the meeting; and
- (b) state—
 - (i) the name of the person against whom the disciplinary action has been taken; and
 - (ii) the grounds for taking that action; and
 - (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

24 Conduct of disciplinary appeal meeting

- (1) At a disciplinary appeal meeting—
 - (a) no business other than the question of the appeal may be conducted; and
 - (b) the Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
 - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with subrule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

Division 3 — Grievance procedure

25 Application

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
 - (a) a member and another member;
 - (b) a member and the Committee;
 - (c) a member and the Association.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

26 Parties must attempt to resolve the dispute

The parties to a dispute must attempt to resolve the dispute between themselves

within 14 days of the dispute coming to the attention of each party.

27 Appointment of mediator

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 26, the parties must within 10 days—
 - (a) notify the Committee of the dispute; and
 - (b) agree to or request the appointment of a mediator; and
 - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
 - (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement—
 - (i) if the dispute is between a member and another member—a person appointed by the Committee; or
 - (ii) if the dispute is between a member and the Committee or the Association—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Committee may be a member or former member of the Association but in any case must not be a person who—
 - (a) has a personal interest in the dispute; or
 - (b) is biased in favour of or against any party.

28 Mediation process

- (1) The mediator to the dispute, in conducting the mediation, must—
 - (a) give each party every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

29 Failure to resolve dispute by mediation

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 4 — GENERAL MEETINGS OF THE ASSOCIATION

30 Annual general meetings

- (1) The Committee must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.
- (2) Despite subrule (1), the Association may hold its first annual general meeting at any time within 18 months after its incorporation.
- (3) The Committee may determine the date, time and place of the annual general meeting.
- (4) The ordinary business of the annual general meeting is as follows—
 - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
 - (b) to receive and consider—
 - (i) the annual report of the Committee on the activities of the Association during the preceding financial year; and
 - (ii) the financial statements of the Association for the preceding financial year submitted by the Committee in accordance with PART 7 of the Act;
 - (c) to elect the members of the Committee;
 - (d) to confirm or vary the amounts (if any) of the annual subscription and joining fee.
- (5) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

31 Special general meetings

- (1) Any general meeting of the Association, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Committee may convene a special general meeting whenever it thinks fit, but must do so at least once a year.
- (3) No business other than that set out in the notice under rule 33 may be conducted at the meeting.

Note

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 33 and the majority of members at the meeting agree.

32 Special general meeting held at request of members

- (1) The Committee must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 10% of the total number of

members.

- (2) A request for a special general meeting must—
 - (a) be in writing; and
 - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
 - (c) include the names and signatures of the members requesting the meeting; and
 - (d) be given to the Secretary.
- (3) If the Committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under subrule (3)—
 - (a) must be held within 3 months after the date on which the original request was made; and
 - (b) may only consider the business stated in that request.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

33 Notice of general meetings

- (1) The Secretary (or, in the case of a special general meeting convened under rule 32(3), the members convening the meeting) must give to each member of the Association—
 - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must—
 - (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if a special resolution is to be proposed—
 - (i) state in full the proposed resolution; and
 - (ii) state the intention to propose the resolution as a special resolution; and
 - (d) comply with rule 34(7).

- (3) This rule does not apply to a disciplinary appeal meeting.

Note

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

34 Delegates

- (1) A member must appoint a Councillor or employee of that Council as his or her delegate to vote and speak on its behalf at a general meeting.
- (2) Appointment of a delegate must be notified to the Committee at least 24 hours before a general meeting.
- (3) A delegate, once appointed, will remain as the delegate until a member appoints a new delegate and notifies the Committee of that appointment.
- (4) A member may appoint another Councillor or employee of that Council as an alternate delegate to vote and speak on its behalf at a general meeting.
- (5) The appointment of an alternate delegate must be in writing and signed by the CEO member making the appointment.
- (6) The member appointing the alternate delegate may give specific directions as to how the alternate delegate is to vote on his or her behalf, otherwise the alternate delegate may vote on behalf of the member in any matter as he or she sees fit.
- (7) If the Committee has approved a form for the appointment of an alternate delegate, the member may use any other form that clearly identifies the person appointed as the member's alternate delegate and that has been signed by the member.
- (8) Notice of a general meeting given to a member under rule 33 must—
 - (a) state that the member may appoint another member as an alternate delegate for the meeting; and
 - (b) include a copy of any form that the Committee has approved for the appointment of an alternate delegate.
- (9) A form appointing an alternate delegate must be given to the Chairperson of the meeting before or at the commencement of the meeting.
- (10) A form appointing an alternate delegate sent by post or electronically is of no effect unless it is received by the Association no later than 24 hours before the commencement of the meeting.
- (11) Notice of appointment of an alternative delegate does not affect the continued appointment of the delegate originally notified to the Committee.

35 Use of technology

- (1) A member not physically present at a general meeting may not participate in the meeting by the use of technology.

36 Quorum at general meetings

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence (physically, by delegate or alternate delegate of over 50% of the members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
 - (a) in the case of a meeting convened by, or at the request of, members under rule 32—the meeting must be dissolved;

Note

If a meeting convened by, or at the request of, members is dissolved under this subrule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 32.

- (b) in any other case—
 - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
 - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (c) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

37 Adjournment of general meeting

- (1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned—
 - (a) if there is insufficient time to deal with the business at hand; or
 - (b) to give the members more time to consider an item of business.

Example

The members may wish to have more time to examine the financial statements submitted by the Committee at an annual general meeting.

- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the

meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 33.

38 Voting at general meeting

- (1) On any question arising at a general meeting—
 - (a) subject to subrule (3), each member who is entitled to vote has one vote; and
 - (b) members may vote by their delegates or by alternate delegate; and
 - (c) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 24.

39 Special resolutions

A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by alternate delegate) vote in favour of the resolution.

Note

In addition to certain matters specified in the Act, a special resolution is required—

- (a) to remove a committee member from office ;
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

40 Determining whether resolution carried

- (1) Subject to subrule (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—
 - (a) carried; or
 - (b) carried unanimously; or
 - (c) carried by a particular majority; or
 - (d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—

- (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
 - (b) the Chairperson must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

41 Minutes of general meeting

- (1) The Committee must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
- (a) the names of the members attending the meeting; and
 - (b) alternate delegate forms given to the Chairperson of the meeting under rule 34(8); and
 - (c) the financial statements submitted to the members in accordance with rule 30(4)(b)(ii); and
 - (d) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
 - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART 5 — COMMITTEE

Division 1 — Powers of Committee

42 Role and powers

- (1) The business of the Association must be managed by or under the direction of a Committee.
- (2) The Committee may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.
- (3) The Committee may—
- (a) appoint and remove staff; and

- (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

43 Delegation

- (1) The Committee may delegate to a member of the Committee, a subcommittee or staff, any of its powers and functions other than—
 - (a) this power of delegation; or
 - (b) a duty imposed on the Committee by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (3) The Committee may, in writing, revoke a delegation wholly or in part.

Division 2 — Composition of Committee and duties of members

44 Composition of Committee

The Committee consists of—

- (1) a Chairperson; and
- (2) a Deputy Chairperson; and
- (3) a Secretary; and
- (4) a Treasurer; and
- (5) ordinary committee members elected under rule 52.

45 General Duties

- (1) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act.
- (2) The Committee is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Committee comply with these Rules.
- (3) Committee members must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Committee members must exercise their powers and discharge their duties—
 - (a) in good faith in the best interests of the Association; and
 - (b) for a proper purpose.
- (5) Committee members and former committee members must not make improper use of—

- (a) their position; or
- (b) information acquired by virtue of holding their position—

so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

Note

See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.

- (6) In addition to any duties imposed by these Rules, a committee member must perform any other duties imposed from time to time by resolution at a general meeting.

46 Chairperson

- (1) Subject to subrule (2), the Chairperson or, in the Chairperson's absence, the Deputy Chairperson is the Chairperson for any general meetings and for any committee meetings.
- (2) If the Chairperson and the Deputy Chairperson are both absent, or are unable to preside, the Chairperson of the meeting must be—
 - (a) in the case of a general meeting—a member elected by the other members present; or
 - (b) in the case of a committee meeting—a committee member elected by the other committee members present.

47 Deputy Chairperson

- (1) The Deputy Chairperson must:
 - (a) act as the Chairperson for any meeting from which the Chairperson is absent; and
 - (b) assist the Chairperson in furthering the purpose of the Association.

Example

The Deputy Chairperson might accompany the Chairperson when attending stakeholder meetings with Ministers or others responsible for furthering the interests of the members.

48 Secretary

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

Example

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

- (2) The Secretary must—
 - (a) maintain the register of members in accordance with rule 18; and

- (b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in rule 70(3), all books, documents and securities of the Association in accordance with rules 72 and 75; and
 - (c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
 - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

49 Treasurer

- (1) The Treasurer must—
- (a) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association; and
 - (b) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt; and
 - (c) make any payments authorised by the Committee or by a general meeting of the Association from the Association's funds; and
 - (d) ensure cheques are signed by at least 2 committee members.
- (2) The Treasurer must—
- (a) ensure that the financial records of the Association are kept in accordance with the Act; and
 - (b) coordinate the preparation of the financial statements of the Association and their certification by the Committee prior to their submission to the annual general meeting of the Association.
- (3) The Treasurer must ensure that at least one other committee member has access to the accounts and financial records of the Association.

Division 3 — Election of Committee members and tenure of office

50 Committee member composition and term

- (1) The Committee is to be made up of:
- (a) six CEOs ('**CEO member**'); and
 - (b) six Councillors ('**Councillor member**').
- (2) A CEO member holds office from the date of their election, to the date upon which the election of the next CEO members is completed, in accordance with rule 52.

- (3) A Councillor member holds office until they cease to be a Councillor or until the date upon which the election of the next Councillors members is completed, in accordance with rule 51, whichever is earlier.
- (4) For the time between each Election Day and the appointment of new Councillor members, in accordance with rule 52, the Committee is made up of only the CEO members and those Councillor members who remain eligible under rule 49(3).

51 Committee members based upon region

- (1) One CEO member and one Councillor member will be elected from each of the six Municipal Association of Victoria Regions ('**Regions**') listed in Schedule 2 by the Councils in that Region, in accordance with the process set out in rule 52.
- (2) The CEO member and Councillor member appointed by each Region must hold their relevant position at a Council which is listed in the same Region.

52 Committee member elections

- (1) Within 10 weeks after each Election Day, the Committee must call for members listed in Schedule 1 to nominate eligible persons for election as CEO and Councillor members.
- (2) Each member may only nominate CEOs and Councillors who hold an office of that member.
- (3) On the date 10 business days after the date on which nominations are called for in accordance with subrule (1), the time during which members may nominate persons for election as CEO and Councillor members closes.
- (4) If, after the nominations close, there is only one CEO and one Councillor nominated for a Region, those persons are elected to the relevant position on the Committee.
- (5) If the number of CEOs and/or Councillors nominated for a particular Region is greater than one, a ballot must be conducted for that Region, in accordance with rule 53.

53 Ballot

- (1) If a ballot is required for the election for a CEO Member or a Councillor member position in a particular Region, the Committee, within 3 business days of nominations closing, must send to each of the members listed under that Region, a ballot paper.
- (2) The ballot paper must list each of the nominated persons for the relevant Committee position in that Region.
- (3) Each member provided with a ballot paper must within 10 business days, mark it, indicating the single person for whom they wish to vote, and return the ballot paper to the Association.
- (4) Ballot papers that do not comply with subrule (3) are not to be counted.

- (5) Each ballot paper on which the name of a candidate has been marked counts as one vote for that candidate.
- (6) The Committee must declare elected the candidate who received the most votes.
- (7) If the returning officer is unable to declare the result of an election under subrule (6) because 2 or more candidates received the same number of votes, the Committee must decide by lot which of them is to be declared elected.

Examples

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

54 Chairperson appointment meeting

- (1) Within one month of the completion of the election of Committee members, a Chairperson appointment meeting must be held.
- (2) At the Committee appointment meeting separate elections must be held for each of the following positions—
 - (a) Chairperson; and
 - (b) Deputy Chairperson; and
 - (c) Secretary; and
 - (d) Treasurer.
- (3) Only Councillor members may be elected as Chairperson or Deputy Chairperson.
- (4) Only CEO members may be elected as Secretary.
- (5) If only one member is nominated for the position, that person is elected to the position.
- (6) If more than one member is nominated, a vote must be held, in accordance with this rule.
- (7) The vote is to be conducted by a show of hands of all the committee members present at the meeting, each of whom is entitled to one vote.
- (8) The committee member for whom the most votes are cast will be elected to the relevant position.
- (9) If the vote does not produce a result of an election under subrule (8) because 2 or more candidates received the same number of votes, it will be decided by lot which of them is to be declared elected.

Examples

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

55 Vacation of office

- (1) A committee member may resign from the Committee by written notice addressed to the Committee.
- (2) A person ceases to be a committee member if he or she—
 - (a) ceases to be a CEO or Councillor of a member of the Association; or
 - (b) fails to attend 3 consecutive committee meetings (other than special or urgent committee meetings) without leave of absence under rule 66; or
 - (c) otherwise ceases to be a committee member by operation of section 78 of the Act.

Note

A Committee member may not hold the office of secretary if they do not reside in Australia.

56 Filling casual vacancies

- (1) The Committee may appoint an eligible person under rule 50 to fill a position on the Committee that has become vacant under rule 55.
- (2) If the position of Chairperson, Deputy Chairperson Secretary or Treasurer becomes vacant, the Committee must appoint a member to the position within 14 days after the vacancy arises.
- (3) Rule 50 applies to any committee member appointed by the Committee under subrule (1) or (2).
- (4) The Committee may continue to act despite any vacancy in its membership.

Division 4 — Meetings of Committee

57 Meetings of Committee

- (1) The Committee must endeavour to meet once every month or with such other frequency as the Committee determines from time to time, provided that it meets at least 4 times in each year at the dates, times and places determined by the Committee.
- (2) The date, time and place of the first committee meeting must be determined by the members of the Committee as soon as practicable after the annual general meeting of the Association at which the members of the Committee were elected.
- (3) Special committee meetings may be convened by the Chairperson or by any 4 members of the Committee.

58 Notice of meetings

- (1) Notice of each committee meeting must be given to each committee member no later than 7 days before the date of the meeting.

- (2) Notice may be given of more than one committee meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

59 Urgent meetings

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 58 provided that as much notice as practicable is given to each committee member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Committee.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

60 Procedure and order of business

- (1) The procedure to be followed at a meeting of a Committee must be determined from time to time by the Committee.
- (2) The order of business may be determined by the members present at the meeting.

61 Use of technology

- (1) A committee member who is not physically present at a committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a committee member participating in a committee meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

62 Quorum

- (1) No business may be conducted at a Committee meeting unless a quorum is present.
- (2) The quorum for a committee meeting is the presence (in person or as allowed under rule 61) of a majority of the committee members holding office.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting—
 - (a) in the case of a special meeting—the meeting lapses;

- (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 58.

63 Voting

- (1) On any question arising at a committee meeting, each committee member present at the meeting has one vote.
- (2) A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) A committee member may appoint another person as a proxy to vote and speak on its behalf at a general meeting, provided that a committee member who is a:
 - (a) Councillor member may only appoint another Councillor of that member of the Association as a proxy; and
 - (b) CEO member may only appoint another employee of that member of the Association as a proxy.

64 Conflict of interest

- (1) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.
- (2) The member—
 - (a) must not be present while the matter is being considered at the meeting; and
 - (b) must not vote on the matter.

Note

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest—
 - (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or
 - (b) that the member has in common with all, or a substantial proportion of, the members of the Association.

65 Minutes of meeting

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following—
 - (a) the names of the members in attendance at the meeting;
 - (b) the business considered at the meeting;
 - (c) any resolution on which a vote is taken and the result of the vote;
 - (d) any material personal interest disclosed under rule 64.

66 Leave of absence

- (1) The Committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.
- (2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

67 Committee Resolution Outside Meeting

- (1) Where an urgent matter arises for decision and cannot be the subject of a Special Committee meeting, the wording of the proposed resolution may be circulated to all committee members by email.
- (2) The resolution is made by a majority of the committee members replying to that email indicating that they are in favour of it.
- (3) Such a resolution must be ratified by votes in person at the next committee meeting.
- (4) This rule should not be relied upon except in cases of urgency, where the Chairperson forms the view that the matter cannot properly be left until the next committee meeting.

PART 6 — FINANCIAL MATTERS

68 Source of funds

The funds of the Association may be derived from joining fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

69 Management of funds

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.

- (2) Subject to any restrictions imposed by a general meeting of the Association, the Committee may approve expenditure on behalf of the Association.
- (3) The Committee may authorise the Secretary to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit without requiring approval from the Committee for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 committee members.
- (5) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt.
- (6) The Committee may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

70 Financial records

- (1) The Association must keep financial records that—
 - (a) correctly record and explain its transactions, financial position and performance; and
 - (b) enable financial statements to be prepared as required by the Act.
- (2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control—
 - (a) the financial records for the current financial year; and
 - (b) any other financial records as authorised by the Committee.

71 Financial statements

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (1), those requirements include—
 - (a) the preparation of the financial statements;
 - (b) if required, the review or auditing of the financial statements;
 - (c) the certification of the financial statements by the Committee;
 - (d) the submission of the financial statements to the annual general meeting of the Association;
 - (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

PART 7 — GENERAL MATTERS

72 Common seal

- (1) The Association may have a common seal.
- (2) If the Association has a common seal—
 - (a) the name of the Association must appear in legible characters on the common seal;
 - (b) a document may only be sealed with the common seal by the authority of the Committee and the sealing must be witnessed by the signatures of two committee members;
 - (c) the common seal must be kept in the custody of the Secretary.

73 Registered address

The registered address of the Association is—

- (1) the address determined from time to time by resolution of the Committee; or
- (2) if the Committee has not determined an address to be the registered address—
the postal address of the Secretary.

74 Notice requirements

- (1) Any notice required to be given to a member or a committee member under these Rules may be given—
 - (a) by handing the notice to the delegate of a member personally; or
 - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
 - (c) by email or facsimile transmission to the delegate of the member.
- (2) Subrule (1) does not apply to notice given under rule 59.
- (3) Any notice required to be given to the Association or the Committee may be given—
 - (a) by handing the notice to a member of the Committee; or
 - (b) by sending the notice by post to the registered address; or
 - (c) by leaving the notice at the registered address; or
 - (d) if the Committee determines that it is appropriate in the circumstances—
 - (i) by email to the email address of the Association or the Secretary; or
 - (ii) by facsimile transmission to the facsimile number of the Association.

75 Custody and inspection of books and records

- (1) Members may on request inspect free of charge—
 - (a) the register of members;
 - (b) the minutes of general meetings;
 - (c) subject to subrule (2), the financial records, books, securities and any other relevant document of the Association, including minutes of Committee meetings.

Note

See note following rule 18 for details of access to the register of members.

- (2) The Committee may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- (3) The Committee must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to subrule (2), a member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this rule—

relevant documents means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following—

 - (a) its membership records;
 - (b) its financial statements;
 - (c) its financial records;
 - (d) records and documents relating to transactions, dealings, business or property of the Association.

76 Winding up and cancellation

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.

- (4) The body to which the surplus assets are to be given must be decided by special resolution.

77 Alteration of Rules

These Rules may only be altered by special resolution of a general meeting of the Association.

Note

An alteration of these Rules does not take effect unless or until it is approved by the Registrar. If these Rules (other than rule 1, 2 or 3) are altered, the Association is taken to have adopted its own rules, not the model rules.

Schedule 1 — Eligible Members

Alpine Shire Council
Ararat Rural City Council
Bass Coast Shire Council
Baw Baw Shire Council
Benalla Rural City Council
Buloke Shire Council
Campaspe Shire Council
Central Goldfields Shire Council
Colac Otway Shire Council
Corangamite Shire Council
East Gippsland Shire Council
Gannawarra Shire Council
Glenelg Shire Council
Golden Plains Shire Council
Hepburn Shire Council
Hindmarsh Shire Council
Indigo Shire Council
Loddon Shire Council
Macedon Ranges Shire Council
Mansfield Shire Council
Mitchell Shire Council
Moirra Shire Council
Moorabool Shire Council
Mount Alexander Shire Council
Moyne Shire Council
Murrindindi Shire Council
Northern Grampians Shire Council
Pyrenees Shire Council
Borough of Queenscliffe
South Gippsland Shire Council
Southern Grampians Shire Council
Strathbogie Shire Council
Surf Coast Shire Council
Swan Hill Rural City Council
Towong Shire Council

Wellington Shire Council
West Wimmera Shire Council
Yarriambiack Shire Council

Schedule 2 — Municipal Association of Victoria Regions

Rural south-west:

Ararat Rural City Council
Colac Otway Shire Council
Corangamite Shire Council
Glenelg Shire Council
Moyne Shire Council
Southern Grampians Shire Council

Rural north-central:

Campaspe Shire Council
Central Goldfields Shire Council
Gannawarra Shire Council
Loddon Shire Council
Macedon Ranges Shire Council
Mount Alexander Shire Council

Rural south-central:

Golden Plains Shire Council
Hepburn Shire Council
Moorabool Shire Council
Pyrenees Shire Council
Borough of Queenscliffe
Surf Coast Shire Council

Rural north-west:

Buloke Shire Council
Hindmarsh Shire Council
Northern Grampians Shire Council
Swan Hill Rural City Council
West Wimmera Shire Council
Yarriambiack Shire Council

Gippsland:

Bass Coast Shire Council
Baw Baw Shire Council
East Gippsland Shire Council
South Gippsland Shire Council
Wellington Shire Council

Rural north-east:

Alpine Shire Council
Benalla Rural City Council
Indigo Shire Council
Mansfield Shire Council
Mitchell Shire Council
Moira Shire Council
Murrindindi Shire Council
Strathbogie Shire Council
Towong Shire Council

OM162505-5 ASSEMBLY OF COUNCILLORS

| | | | |
|-------------|--------------------|-----------|------------|
| AUTHOR: | Alison Richardson | ENDORSED: | Jenny Wood |
| DEPARTMENT: | Corporate Services | FILE REF: | F15/9065 |

Introduction

The *Local Government Act 1989* (the Act) 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.

Definition

An “assembly of Councillors” is a defined term under section 3(1) of the *Local Government Act 1989*.

It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of a delegated authority and which is either of the following:

- A meeting of an advisory committee where at least one Councillor is present or
- A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

If a meeting fits either of these types, the procedures applying to an assembly of Councillors must be complied with, irrespective of any name or description given to the committee or meeting.

Advisory Committees

Section 3(1) of the Act defines an advisory committee to be 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 section 98.*

Councillor briefings

One type of meeting that is clearly an assembly of Councillors is the type of regular meeting, commonly referred to as a “Councillor Briefing” or similar name where Councillors and staff meet to discuss issues that are likely to come before Council for decision.

As part of decision making processes at Colac Otway, it is essential that Councillors are briefed on a range of issues which come before Council for consideration. As a means of providing this information, Assembly of Councillor briefings are conducted.

Assemblies are also attended by Council Officers, and sometimes other specific advisors, to provide Councillors with a detailed knowledge and understanding of issues under consideration to a level of detail that would inhibit timely decision-making, that would not be possible in an open council meeting or where decision-making related debate is governed by strict meeting procedures.

While these meetings have no authority to make Council decisions, they are generally assemblies of Councillors and subject to conflict of interest disclosures.

What records are to be kept

Section 80A of the Act requires that a record must be kept of an Assembly of Councillors which lists:

- the names of all Councillors and members of Council staff attending;
- the matters considered;
- conflict of interest disclosures made by a Councillor (if any are made); and
- whether a Councillor who has disclosed a conflict of interest leaves the assembly.

It is a requirement that the record of an assembly is to be reported to the next practicable ordinary meeting of Council and be incorporated in the minutes of that Council meeting.

Assemblies of Councillors

The following Assemblies of Councillors have been held:

- Assembly of Councillors - Pre-Ordinary Council Meeting briefing 27042016
- Assembly of Councillors -Councillor briefing 04052016
- Assembly of Councillors -Municipal Emergency Management Planning Committee 09052016
- Assembly of Councillors –Australia Day Advisory Committee 10052016
- Assembly of Councillors -Councillor briefing 11052016

Attachments

1. Assembly of Councillors - Pre Ordinary Council Meeting briefing - 27042016
2. Assembly of Councillors - Councillor briefing 04052016
3. Assembly of Councillors - Municipal Emergency Management Planning Committee - 09052016
4. Assembly of Councillors - Australia Day Advisory Committee 10052016
5. Assembly of Councillors - Councillor Briefing - 11052016

Recommendation

That Council:

Notes the Assembly of Councillors reports for:

- ***Assembly of Councillors - Pre-Ordinary Council Meeting briefing 27042016***
- ***Assembly of Councillors - Councillor briefing 04052016***
- ***Assembly of Councillors - Municipal Emergency Management Planning Committee 09052016***
- ***Assembly of Councillors – Australia Day Advisory Committee 10052016***
- ***Assembly of Councillors - Councillor briefing 11052016***

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**Councillor Pre-Ordinary Council Meeting Briefing**

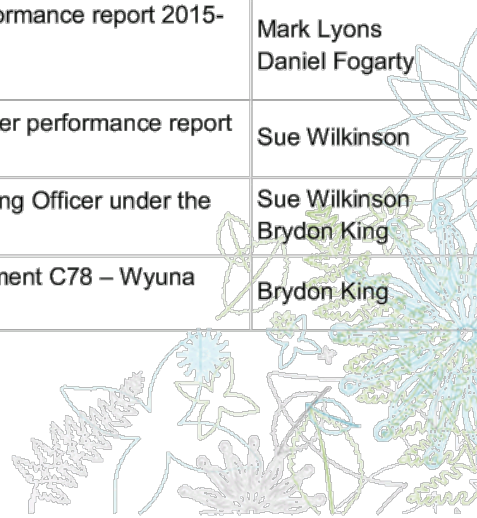
Apollo Bay Senior Citizens Centre

Wednesday 27 April 2016 2pm

**Assembly of Councillors**

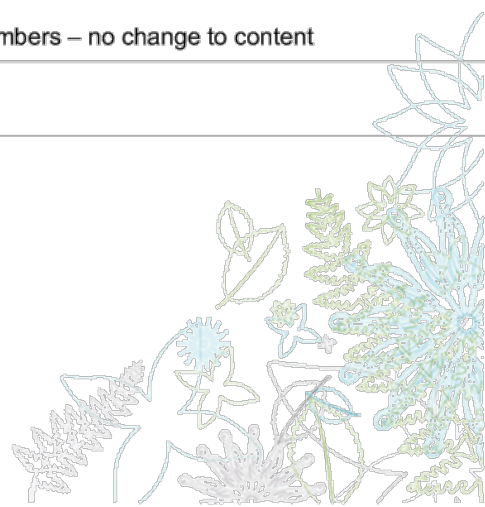
|                            |                                                                                                                                                                                                                                      |                                                                                                |                              |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|------------------------------|
| <b>INVITEES:</b>           |                                                                                                                                                                                                                                      |                                                                                                |                              |
| 1.                         | Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Brydon King, Sandra Wade                                                                                 |                                                                                                |                              |
| <b>ATTENDEES:</b>          |                                                                                                                                                                                                                                      |                                                                                                |                              |
| 2.                         | Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Sue Wilkinson, Ingrid Bishop, Brydon King, Mark Lyons, Sandra Wade, Jenny Wood, Alison Richardson, Doug McNeill, Tony White, Daniel Fogarty, Harry Timmermans, David Testa |                                                                                                |                              |
| <b>EXTERNAL ATTENDEES:</b> |                                                                                                                                                                                                                                      |                                                                                                |                              |
| Nil                        |                                                                                                                                                                                                                                      |                                                                                                |                              |
| 3.                         | <b>APOLOGIES:</b>                                                                                                                                                                                                                    |                                                                                                |                              |
| 4.                         | <b>ABSENT:</b><br>Cr Smith, Cr Delahunty                                                                                                                                                                                             |                                                                                                |                              |
| 5.                         | 2:09pm-2:11pm                                                                                                                                                                                                                        | Declaration of Interest                                                                        | NIL                          |
|                            | <b>Councillor</b>                                                                                                                                                                                                                    | <b>Item No.</b>                                                                                | <b>Reason</b>                |
| 6.                         | 2:11pm – 2:28pm                                                                                                                                                                                                                      | OM162704-1 – Draft Budget 2016/17                                                              | Mark Lyons<br>Daniel Fogarty |
| 7.                         | 2:28pm-2:31pm                                                                                                                                                                                                                        | OM162704-2 - Council Plan Review (including the strategic resource plan)                       | Mark Lyons                   |
| 8.                         | 2:31pm-2:37pm                                                                                                                                                                                                                        | OM162704-3 – Endorsement of draft Wye River & Separation Creek Resettlement Plan               | Sandra Wade                  |
| 9.                         | 2:38pm-2:42pm                                                                                                                                                                                                                        | OM162704-4 – Third quarter financial performance report 2015-16                                | Mark Lyons<br>Daniel Fogarty |
| 10.                        | 2:42pm-2:45pm                                                                                                                                                                                                                        | OM162704-5– Operational Plan third quarter performance report January-March 2016               | Sue Wilkinson                |
| 11.                        | 2:45pm-2:46pm                                                                                                                                                                                                                        | OM162704-6 – Authorisation of the Planning Officer under the Planning and Environment Act 1987 | Sue Wilkinson<br>Brydon King |
| 12.                        | 2:46pm-2:49pm                                                                                                                                                                                                                        | OM162704-7 – Planning Scheme Amendment C78 – Wyuna Estate extension                            | Brydon King                  |

Councillor pre- Ordinary Council Meeting Briefing – 27/04/2016





|                                                                                                           |               |                                                                                                                                                                                                                                                                    |               |
|-----------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 13.                                                                                                       | 2:49pm-2:57pm | OM162704-8 - PP49/2016-1 Buildings and works to expand abattoir and reduction in car parking (172 spaces) at 1 Tristania Drive, Colac East<br><br>OM162704-9- Amended development plan – Colac abattoir and food production plant at 1 Tristania Drive, Colac East | Brydon King   |
| 14.                                                                                                       | 2:57pm-2:58pm | OM162704-10 – Lake Colac Bowling Club Lease Renewal                                                                                                                                                                                                                | Ingrid Bishop |
| 15.                                                                                                       | 2:58pm-2:59pm | OM162704-11 – Draft Gellibrand Rex Norman Park Masterplan                                                                                                                                                                                                          | Ingrid Bishop |
| 16.                                                                                                       | 2:59pm-3:08pm | OM162704-12 – Youth Council Review                                                                                                                                                                                                                                 | Sue Wilkinson |
| 17.                                                                                                       | 3:08pm-3:09pm | OM162704-13– Minutes of the Old Beechy Rail Trail Committee                                                                                                                                                                                                        |               |
| 18.                                                                                                       | 3:09pm-3:14pm | IC162704-2 – Role of the Mayor                                                                                                                                                                                                                                     |               |
| 19.                                                                                                       | 3:15pm-3:17pm | IC162704-1 –Role of the CEO                                                                                                                                                                                                                                        |               |
| 20.                                                                                                       | 3:17pm-3:17pm | Confirmation of minutes                                                                                                                                                                                                                                            | Mark Lyons    |
| 21.                                                                                                       | 3:17pm-3:18pm | OM162704-15– Notice of motion to reinstate CEO Report to the monthly Council meeting                                                                                                                                                                               |               |
| 22.                                                                                                       | 3:18pm-3:26pm | OM162704-16– Notice of Motion to allow holiday rental rated properties to display brochures in Visitor Information Centres                                                                                                                                         | Brydon King   |
| 23.                                                                                                       | 3:26pm-3:28pm | IC162704-4 –Apollo Bay Harbour – Expression of Interest Process – Project Control Group nominations                                                                                                                                                                | Brydon King   |
| 24.                                                                                                       | 3:28pm-3:29pm | General business                                                                                                                                                                                                                                                   |               |
| Key topics:                                                                                               |               |                                                                                                                                                                                                                                                                    |               |
| <ul style="list-style-type: none"> <li>In-committee agenda item numbers – no change to content</li> </ul> |               |                                                                                                                                                                                                                                                                    |               |
| 25.                                                                                                       | 3:29pm –      | Briefing closed                                                                                                                                                                                                                                                    |               |





**Councillor Briefing**

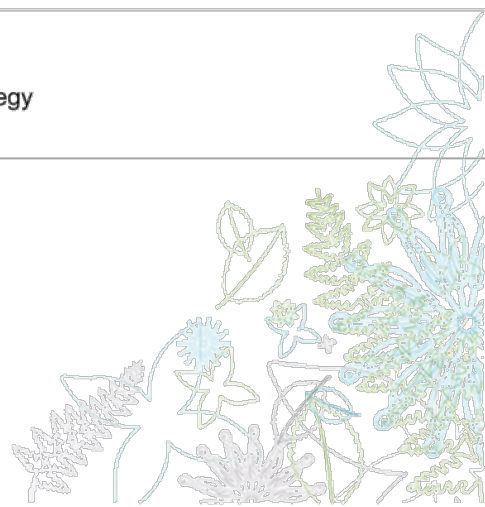
COPACC

Wednesday 4 May 2016

2pm

**Assembly of Councillors**

|                                                                                                                                                            |                                                                                                                                                                                                                                        |                                                                                    |                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------|
| 1.                                                                                                                                                         | <b>INVITEES:</b><br>Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Brydon King                                                                            |                                                                                    |                             |
| 2.                                                                                                                                                         | <b>ATTENDEES:</b><br>Cr Russell, Cr Hart, Cr Crook, Cr Woodcroft (arrived 3:10pm), Sue Wilkinson, Mark Lyons, Brydon King, Ingrid Bishop, Doug McNeill, Sandra Wade, Adam Lehmann, Ian Seuren<br><br><b>EXTERNAL ATTENDEES:</b><br>NIL |                                                                                    |                             |
| 3.                                                                                                                                                         | <b>APOLOGIES:</b><br>Cr Buchanan                                                                                                                                                                                                       |                                                                                    |                             |
| 4.                                                                                                                                                         | <b>ABSENT:</b><br>Cr Smith, Cr Delahunty                                                                                                                                                                                               |                                                                                    |                             |
| 5.                                                                                                                                                         | 2:04pm-2:04pm                                                                                                                                                                                                                          | <b>Declaration of Interest</b>                                                     | <b>NIL</b>                  |
| 6.                                                                                                                                                         | 2:04pm-2:35pm                                                                                                                                                                                                                          | Infrastructure Implications Arising from the Wye River & Separation Creek Bushfire | Sandra Wade<br>Doug McNeill |
| 7.                                                                                                                                                         | 2:35pm-2:55pm                                                                                                                                                                                                                          | Colac Library Annexe Closure - Implementation of Council Resolution                | Ian Seuren                  |
| 8.                                                                                                                                                         | 2:55pm-3:10pm                                                                                                                                                                                                                          | Proposed Local Government (Electoral) Regulations 2016                             | Mark Lyons                  |
| 9.                                                                                                                                                         | 3:10pm-4:35pm                                                                                                                                                                                                                          | COPACC Workshop                                                                    | Ingrid Bishop<br>Ian Seuren |
| 10.                                                                                                                                                        | 4:35pm-5:30pm                                                                                                                                                                                                                          | General business including:                                                        |                             |
| <ul style="list-style-type: none"> <li>• Bluewater</li> <li>• Planning Committee</li> <li>• Economic Development Strategy</li> <li>• Lake Colac</li> </ul> |                                                                                                                                                                                                                                        |                                                                                    |                             |





### 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: ..... 9.1.5.16.....

Time: ..... 9:00 ..... am/pm

Assembly Location: ..... State Gov' Offices in C&C .....  
(some e.g's. COPACC, Colac Otway Shire Offices, 2 - 6 Rae Street, Colac, Shire Offices - Nelson Street, Apollo Bay)

#### In Attendance:

Councillors: T. WOODROFF

Officer/s: S. ANDERSON D. WINKLE L. SHANHUN

Matter/s Discussed: Fire Management Planning

(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: N.A.

Officer/s: N.A.

Left meeting at: ..... 11:10 am.....

Completed by: STEWART ANDERSON

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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.

### Assembly Details:

Date: 10 May 2016  
Time: 12:30pm – 1:00pm

**Assembly Location:** COPACC MR2

### In Attendance:

Councillors: Cr Hart / Cr Woodcroft / Cr Buchanan / Cr Russell

Officer/s: Brydon King – GM Development & Community Services/ Ian Seuren – Manager Arts & Leisure/ Tony White – Manager, Economic Development and Events/ Hege Eier – Events Project Officer/ Chris Spalding – Administrator, Economic Development

Matter/s Discussed: Expression of Interest to Host Australia Day Awards

### Conflict of Interest Disclosures:

Councillors: No conflicts of interest declared

Officer/s: Not applicable

Left meeting at: at 1:00 pm

Completed by: Hege Eier – Events Project

Officer



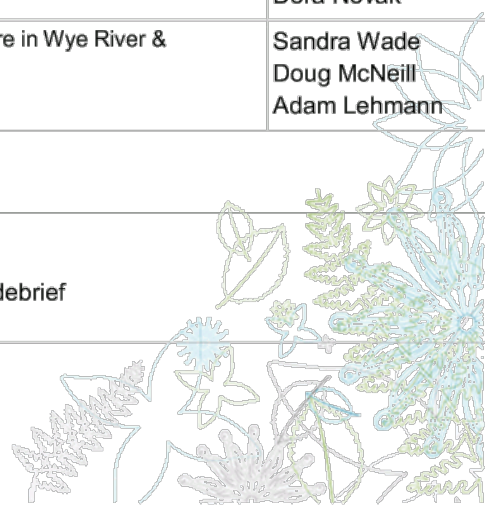
**Councillor Briefing**

COPACC

Wednesday 11 May 2016 2pm

**Assembly of Councillors**

|                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                  |                                                                                |                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------|
| 1.                                                                                                                                                                          | <b>INVITEES:</b><br>Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook, Cr Smith, Cr Delahunty, Sue Wilkinson, Mark Lyons, Ingrid Bishop, Brydon King                                                                                                                                                                      |                                                                                |                                               |
| 2.                                                                                                                                                                          | <b>ATTENDEES:</b><br>Cr Buchanan, Cr Woodcroft, Cr Russell, Cr Hart, Cr Crook (arrived 2:10pm), Cr Delahunty (arrived 4:00pm), Brydon King, Mark Lyons, Ian Seuren (Acting General Manager Infrastructure & Leisure Services), Stewart Anderson, Dora Novak, Sandra Wade, Doug McNeill, Adam Lehmann, Tony White, Daniel Fogarty |                                                                                |                                               |
|                                                                                                                                                                             | <b>EXTERNAL ATTENDEES:</b>                                                                                                                                                                                                                                                                                                       |                                                                                |                                               |
|                                                                                                                                                                             | <ul style="list-style-type: none"> <li>Wayne Stephens – Rural Financial Counselling Service</li> <li>Jo Beard - Mayor, Corangamite Shire</li> <li>Gary Pattison – Regional Manager, Rabobank</li> </ul>                                                                                                                          |                                                                                |                                               |
| 3.                                                                                                                                                                          | <b>APOLOGIES:</b><br>Ingrid Bishop, Sue Wilkinson                                                                                                                                                                                                                                                                                |                                                                                |                                               |
| 4.                                                                                                                                                                          | <b>ABSENT:</b><br>Cr Smith                                                                                                                                                                                                                                                                                                       |                                                                                |                                               |
| 5.                                                                                                                                                                          | 2:04pm-2:04pm                                                                                                                                                                                                                                                                                                                    | <b>Declaration of Interest</b>                                                 | <b>NIL</b>                                    |
| 6.                                                                                                                                                                          | 2:04pm – 2:15pm                                                                                                                                                                                                                                                                                                                  | Domestic Wastewater Management Plan Implementation                             | Brydon King                                   |
| 7.                                                                                                                                                                          | 2:15pm – 3:00pm                                                                                                                                                                                                                                                                                                                  | Environment Strategy & Environment Action Plan                                 | Brydon King<br>Stewart Anderson<br>Dora Novak |
| 8.                                                                                                                                                                          | 3:00pm – 3:30pm                                                                                                                                                                                                                                                                                                                  | Potential Advocacy For Improved infrastructure in Wye River & Separation Creek | Sandra Wade<br>Doug McNeill<br>Adam Lehmann   |
| 9.                                                                                                                                                                          | 3:30pm – 3:50pm                                                                                                                                                                                                                                                                                                                  | General business                                                               |                                               |
| <p>Key topics:</p> <ul style="list-style-type: none"> <li>Pennyroyal Hall</li> <li>Disability housing meeting &amp; debrief</li> <li>Positive community feedback</li> </ul> |                                                                                                                                                                                                                                                                                                                                  |                                                                                |                                               |

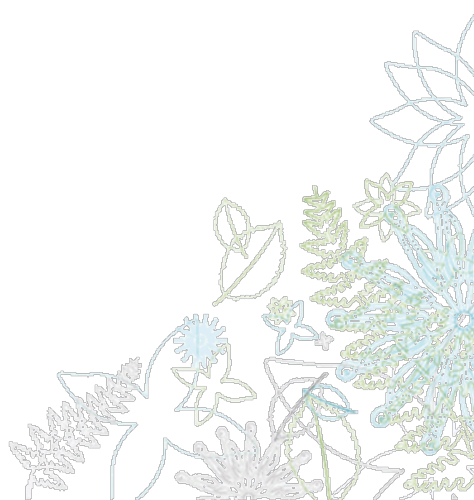


Councillor Briefing – 11/05/2016



|                                                                                         |                    |                       |                                                                             |
|-----------------------------------------------------------------------------------------|--------------------|-----------------------|-----------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Leasing policy</li> <li>• Bluewater</li> </ul> |                    |                       |                                                                             |
| 10.                                                                                     | 4:00pm –<br>5:00pm | Dairy Industry update | Wayne Stephens<br>Jo Beard<br>Gary Pattison<br>Tony White<br>Daniel Fogarty |

Councillor Briefing – 11/05/2016





**OM162505-6 STATE GOVERNMENT BUSHFIRE RELIEF FUNDING (CR MICHAEL DELAHUNTY)**

TAKE NOTICE that it is my intention to move at the Ordinary Council Meeting of the Colac Otway Shire to be held on 25 May 2016:

That Council:

*Request that the CEO write to the Victorian Treasurer Tim Pallis and Local Government Minister Natalie Hutchins, requesting permission for the CEO to make available the State Government Bushfire Relief funding to the Council 2016/17 budget, for allocation to projects related to developing the infrastructure and community resilience required to enhance the Shires ability to protect our communities and support the various interagencies capacity to respond to natural disasters.*

**Attachments**

Nil

**Recommendation:**

***That Council consider the contents of this Notice of Motion.***

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IN COMMITTEE

Recommendation

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 27 April 2016 | this matter deals with personnel matters; AND this matter may prejudice the Council or any person AND this matter deals with legal advice AND this matter includes a resolution to close the meeting to members of the public | Section 89 (2) (a) & (h) & (i) |
| Contract 1603 - Debt Recovery Services (MAV Contract DR8410-2015) | this matter deals with contractual matters | Section 89 (2) (d) |
| Wye River and Separation Creek Bushfire | this matter deals with a proposed development AND this matter may prejudice Council or any person | Section 89 (2) (e) & (h) |
| Consideration of Confidential Lease | this matter deals with contractual matters AND this matter may prejudice Council or any person | Section 89 (2) (d) & (h) |
| Confidential Contract Update | this matter deals with contractual matters | Section 89 (2) (d) |

