Ordinary Council Meeting
Tuesday, 22 November 2016

Moyne Shire - a safe, vibrant, liveable, and prosperous community
Contents
Declarations of Conflict of Interest.............................................................................. 5181
Confirmation of Minutes ............................................................................................ 5182
Public Participation..................................................................................................... 5182
1. Assemblies of Councillors .................................................................................... 5183
5. Planning Permit PL16/042.01 – 84 Regent Street, Port Fairy buildings and works to
   construct a dwelling (amendment to alter wording of condition 1 relating to setback) ....................................................................................................................................... 5184
6. Planning Permit PL16/095 – 1 Horne Street, Koroit - Use of land for Plant Nursery
   and Cafè (food and drink premises) and building and works for a building (shed),
   including reduced car parking to provide car parking off-site and display of a
   business identification sign ...................................................................................... 5185
2. Performance Report.................................................................................................. 5188
3. Macarthur Kindergarten........................................................................................... 5188
7. Planning Permit PL16/081 – 1131 Princes Highway, Killarney – use of existing
   building for a dwelling.............................................................................................. 5189
   to construct under cover outdoor area ...................................................................... 5191
9. Planning Permit PL10/194.02 – 1131 Princes Highway, Killarney amendment to
   permit to update red line area for licensed premises .............................................. 5193
4. Committees of Council ........................................................................................... 5194
10(a) Mayoral Report .................................................................................................. 5194
10(b) Councillors’ Report ........................................................................................... 5194
11. Councillor Notice of Motion – Cr Parker - Provision of Medical Services in Mortlake
    and Koroit ............................................................................................................... 5195
12. Councillor Notice of Motion – Cr Lockett - Acknowledgement of Traditional
    Owners at Council Meetings .................................................................................. 5195
13. Personal Explanations............................................................................................ 5195
14. Urgent Business...................................................................................................... 5195
15. CEO Activities Report ........................................................................................... 5195
    Compliance ............................................................................................................. 5197
17. Jamieson Medical Services – sublease of Jacaranda House, Koroit – Expiration
    and Possible New Tenure ...................................................................................... 5197
18. Contract MS817 – Construction of Waterfront Building, Port Fairy ..................... 5198
Minutes of the Ordinary Meeting of Moyne Shire Council
held 22 November 2016 at the Council Office, Jamieson Avenue,
Mortlake commencing 4.31pm

Recording of Council Meetings
The Mayor read the following statement:

Please note that today’s meeting is being audio recorded. This recording will be
made available to any member of the public on written request to the Council. The
record will be kept and be made available for a period of seven years. By
participating in and addressing those present at the meeting, you consent to any
information you disclose (including any personal information or sensitive information)
being recorded, and that recording being made available to any person who applies
to the Council and is granted access to the audio recording of the meeting.

Prayer

Almighty God, we humbly beseech your blessing on the Council, direct and prosper
its deliberations for the welfare of the people of the Moyne Shire. Amen.

Apologies
None.
Declarations of Conflict of Interest

Local Government Act 1989 Section 79 (2): A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest:

(a) by either:
   (i) Advising the Council or special committee at the meeting of the details required under paragraph (b) and (c) immediately before the matter is considered at the meeting; or
   (ii) Advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and

(b) Classifying the type of interest that has given rise to the conflict as either:
   (i) A direct interest: or
   (ii) An indirect interest and specifying the particular kind of indirect interest under Section 78, 78A, 78B, 78C, 78D or 78E; and

(c) Describing the nature of the interest; and

(d) If the Councillor or member advised the Chief Executive Officer of the details under paragraph (a) (ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.

Declarations made at this meeting

<table>
<thead>
<tr>
<th>Report #</th>
<th>Councillor’s name</th>
<th>Interest Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Planning Permit PL10/194.02 (update red line area for licensed premises)</td>
<td>Cr Wolfe</td>
<td>Indirect 78B Conflicting duties</td>
</tr>
</tbody>
</table>
Confirmation of Minutes

Cr Wolfe moved, Cr Parker seconded that

(a) the Minutes of the Ordinary Council Meeting held on Tuesday, 18 October 2016 be confirmed and

(b) the Minutes of the Special Council Meeting held on Tuesday, 8 November 2016 be confirmed.

Motion carried 7:0

Public Participation

Members of the public attending the monthly Council Ordinary Meeting may address the meeting in respect of either:

a) any item listed in the business paper; or
b) any other matter relevant to the activities and projects of the Council.

Any person wishing to address the Council must submit details in writing of the nature of the issue / question they wish to raise by 12 noon on the Monday prior to the meeting day.

The public participation segment for each meeting will be held at the beginning of the Council meeting commencing at 4.30 pm.

Any matters raised at a public participation session will be considered by the Council at the subsequent Council meeting.

The matters will be considered after the confirmation of minutes of previous meetings and be considered in the order they were raised at the public participation session.

Public participation attendees

Ms Emily Clark & Aaron Williams
Report 5 – 84 Regent St, Port Fairy, ref planning amendment application.

Mr & Mrs Miller (applicant)
Mr Graham Woff (objector)
Report 6, Plant Nursery and cafe, 1 Horne Street, Koroit

Mrs Joan Williams – requesting update on status of the Falconer Report.
1. **Assemblies of Councillors**

**Report Summary:** The report details assemblies of Councillors that have taken place since the matter was last reported to Council in October 2016.

**Cr Parker moved, Cr Wolfe seconded** that Council receives and notes the records of the listed assemblies of Councillors covering the period 8 October 2016 to 11 November 2016.

**11 October 2016 - Planning permit site visit (PL16/120), Hurleys Lane, Mailors Flat**

- **Matters considered:** Planning permit PL16/120
- **Councillors present:** Cr Doukas, Cr Goodall, Cr Ryan, Cr Wolfe
- **Staff present:** Ms Grainger, Mr Neild
- **Conflict of Interest:** None declared.

**11 October 2016 - Planning permit site visit (PL16/017), Survey Lane, Killarney**

- **Matters considered:** Planning permit PL16/017
- **Councillors present:** Cr Doukas, Cr Goodall, Cr Ryan, Cr Wolfe
- **Staff present:** Ms Grainger, Mr Neild
- **Conflict of Interest:** None declared.

**8 November 2016 - Planning permit site visit (PL16/042.01), 84 Regent Street, Port Fairy**

- **Matters considered:** Planning permit PL16/042.01
- **Councillors present:** Cr Doukas, Cr Lockett, Cr Meade, Cr Parker, Cr Ryan, Cr Smith, Cr Wolfe
- **Staff present:** Mr Moles, Ms Grainger
- **Conflict of Interest:** None declared.

**Motion carried 7:0**

**Suspension of Standing Orders**

**Cr Wolfe moved, Cr Ryan seconded** that Standing Orders be suspended in order that items 5 and 6 be heard next.

**Motion carried 7:0**
5. Planning Permit PL16/042.01 – 84 Regent Street, Port Fairy
buildings and works to construct a dwelling (amendment to alter
wording of condition 1 relating to setback)

Report summary: This is an application to amend a planning permit. A permit was
granted in May 2016 to develop the land for a dwelling subject to conditions.

Cr Parker moved that Council having caused notice of Planning Application No.
PL16/042.01 to be given under Section 52 of the Planning and Environment Act
1987 and having considered all the matters required under Section 60 of the
Planning and Environment Act 1987 decides to issue a Notice of Decision to Refuse
Amended Planning Permit PL16/042.01 to delete Condition 1 (a) that requires the
façade of the dwelling, not the verandah, to be setback 3.0 metres from the front
boundary from the permit on the following grounds:

1. Deletion of Condition 1a fails to respond to the purpose and decision guidelines
   of Heritage Overlay - Schedule 49 resulting in a dwelling that does not respect
   the context of the area and streetscape through siting.

2. Deletion of Condition 1a fails to respond to the purpose and decision guidelines
   of Design and Development Overlay – Schedule 15, including the Port Fairy
   Design Guidelines Character 8 -Town Entrances with regards to setbacks. The
   setback to 1.5 metres does not allow the site to be landscaped to complement
   the streetscape.

The motion lapsed due to lack of seconder.

Cr Wolfe moved, Cr Meade seconded that Council having not caused notice of
Planning Application No. PL16/042.01 to be given under Section 52 of the Planning
and Environment Act 1987 and having considered all the matters required under
Section 60 of the Planning and Environment Act 1987 decides to Grant an
Amendment to a Permit under the provisions of the Moyne Planning Scheme in
respect of the land known and described as Belfast Lot 2 PS 708484, 84 Regent
Street PORT FAIRY VIC 3284, for the building and works to construct a dwelling, to
delete the following condition from the permit:

Condition 1a): The façade of the dwelling, not the veranda, to be setback 2.0 metres
from the front boundary.

The following permit note should be included on the permit:

Pursuant to Section 74 of the Planning and Environment Act 1987, this permit was
amended to delete Condition 1a relating to setback.
Motion carried 6:1
For: Cr Doukas, Cr Lockett, Cr Meade, Cr Ryan, Cr Smith, Cr Wolfe
Against: Cr Parker

6. Planning Permit PL16/095 – 1 Horne Street, Koroit - Use of land for Plant Nursery and Café (food and drink premises) and building and works for a building (shed), including reduced car parking to provide car parking off-site and display of a business identification sign.

Report summary: This is a proposal for a plant nursery and café on land on the corner of Horne Street and Lake View Road, Koroit with associated car parking to be provided on the road reserve. The land is zoned General Residential 1 zone with a Significant Landscape Overlay Schedule 6 also applying.

Cr Ryan moved, Cr Lockett seconded, that Council having caused notice of Planning Application No. PL16/095 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of the Moyne Planning Scheme in respect of the land known and described as 1 Horne Street, Koroit, (Lot 1 on TP82065), for the use of land for plant nursery and cafe (restaurant) and building and works for an building (shed), including reduced car parking to provide car parking off-site and display of a business identification sign, in accordance with the endorsed plans, with the amended application received 12/09/2016, subject to the following conditions:

Amended Plans

1. Before the development and use starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) Relocation of bulk potting mix storage area into an enclosed shed that is located not less than 20 metres from the neighbouring property to the north and Horne Street.
b) Identification of designated potting area that is not less than 20 metres from proposed café and neighbouring property to the north.

c) Provision of storm water detention traps to reduce the possibility of potting mix entering the storm water drainage system from the bulk potting mix storage shed and potting area.

d) The distance between the café building and the northern boundary to be clearly dimensioned

Use and Development

2. The use and development hereby permitted must be carried out in accordance with the endorsed plans to the satisfaction of the responsible authority and must not be altered without the prior written consent of the responsible authority.

3. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

Hours of Operation

4. Unless otherwise agreed to in writing by the Responsible Authority, the uses approved by this permit must only operate during the following hours:

   - Café: Thursday to Monday: 10:30am to 4:30pm.
   - Plant Nursery: Monday to Sunday: 9:00am to 5:00pm

Car parking

5. Before the commencement of the uses approved by the permit, a minimum of six (6) 90-degree on-street unsealed car parking spaces to be suitably delineated, must be constructed to the satisfaction of the Responsible Authority.

6. Before the commencement of the uses approved by the permit, the area for customer car parking must be appropriately signed and contain a message to customers not to park on adjoining nature strip, to the satisfaction of the Responsible Authority.

Amenity

7. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the transport of materials, goods or commodities to or from the land, appearance of any building, works or materials, emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the presence of vermin.

8. Outdoor and security lighting must be designed, baffled and located to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.
External colours and materials

9. External colours of any buildings on the site shall be of muted colours that blend with the colours of the surrounding development and landscape, to the satisfaction of the Responsible Authority.

Storm water

10. All storm water from the development approved by this permit including new roof and hard stand areas must be contained on site, to the satisfaction of the Responsible Authority. In this regard, all storm water runoff must be retained on site to cater for a 1 in 100-year rain event. The storm water system may include above or below ground detention storage and must discharge at a rate to not exceed pre-development flows from the site.

Permit expiry (use and development)

11. This permit will expire in accordance with Section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
   a) The development is not started before two years from the date of issue.
   b) The development is not completed before four years from the date of issue.
   c) The use is not commenced before four years from the date of issue.

   In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date, where the development allowed by the permit has not yet started; or within twelve (12) months of the permit expiry date, where the development has lawfully started before the permit expires.

Signage

12. The location and details of the signage as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

13. The signage hereby permitted must be located wholly within the boundaries of the land.

14. All signage must be constructed and maintained to the satisfaction of the Responsible Authority.

15. The signs must not be illuminated by external or internal light except with the written consent of the Responsible Authority.

16. This permit, as it relates to signage, expires fifteen (15) years from the date of issue.

Motion carried 7:0
Resumption of Standing Orders

Cr Wolfe moved, Cr Ryan seconded that Standing Orders be resumed.
Motion carried 7:0

2. Performance Report

Report Summary: The purpose of this report is to inform the Council of the financial performance and position of the Council. It provides a snapshot of some key financial indicators and monitors performance against year-to-date (YTD) actuals.

Cr Lockett moved, Cr Meade seconded that Council receive the October 2016 Performance Report.
Motion carried 7:0

3. Macarthur Kindergarten

Report Summary: The Macarthur kindergarten has no 4-year-old enrolments for kindergarten in 2017.

Cr Ryan moved, Cr Smith seconded
a) That Council close the Macarthur 4-year-old Kindergarten service for 2017 and review the service once enrolments are known for 2018 (i.e. late in 2017).
b) That Council support the operation of a 3-year-old service in 2017 for Macarthur children operated at the Macarthur facility.
Motion carried 7:0

Suspension of Standing Orders

Cr Meade moved, Cr Parker seconded that Standing Orders be suspended in order that items 7, 8 and 9 be heard next.
Motion carried 7:0
7. Planning Permit PL16/081 – 1131 Princes Highway, Killarney – use of existing building for a dwelling

Report summary: This is an application for use only. It seeks to use a building formerly used as a café on the site to now be used for a dwelling. A planning permit is required for the use on the basis that ‘existing use rights’ that would have existed for the use of the building as a dwelling have expired as the building was used for a café for the last 7 years.

Cr Smith moved, Cr Meade seconded that Council having not caused notice of Planning Application No. PL16/081 to be given under Section 52 of the Planning and Environment Act 1987 and or the planning scheme and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Permit under the provisions of the Moyne Planning Scheme in respect of the land known and described as 1131 Princes Highway, Killarney (Lot 1 TP831269F) for the use of existing building for a dwelling in accordance with the endorsed plans, subject to the following conditions:

Endorsed Plans

1. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Prior to Occupation of the dwelling:

2. Unless otherwise approved in writing by the Responsible Authority, prior to the occupation of the dwelling/commencement of use, the dwelling must be provided with:
   a) Access to the dwelling via an all-weather road with dimensions adequate to accommodate emergency vehicles.
   b) Connection to a reticulated sewerage system or if not available, the on-site treatment and retention of waste water in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
   c) Connection to a reticulated potable water supply or an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
   d) Connection to a reticulated electricity supply or an alternative energy source. all to the satisfaction of the responsible authority.
Permit Expiry

3. This permit will expire if:
   i) The use does not commence within two (2) years of the issued date of the permit

   In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

**Motion carried 7:0**
8. Planning Permit PL15/291 – 1131 Princes Highway, Killarney – buildings and works to construct under cover outdoor area

Report summary: This is an application for buildings and works to the cellar door at the site to increase seating capacity to 45 patrons and provide greater area for food preparation.

Cr Meade moved, Cr Parker seconded that Council having not caused notice of Planning Application No. PL15/291 to be given under Section 52 of the Planning and Environment Act 1987 and or the planning scheme and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Permit under the provisions of the Moyne Planning Scheme in respect of the land known and described as 1131 Princes Highway, Killarney (Lot1 TP831269F), for the building and works to construct additions and alterations to the cellar door sales area in accordance with the endorsed plans, subject to the following conditions.

1. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

2. The external finishes of the development must be constructed in muted, non-reflective materials, tones and colours that blend in with the existing buildings and the area, to the satisfaction of the responsible authority.

3. All stormwater must be contained on site, to the satisfaction of the responsible authority.

4. All waste water must be treated and retained on-site in accordance with State Environment Protection Policy SEPP (Waters of Victoria) under the Environment Protection Act 1970. In this regard, an application must be made to the Moyne Shire Council for the installation of a Septic Tank System to treat and dispose of effluent on site, to the satisfaction of the responsible authority.

5. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:

   a) The development is not started before 2 years from the date of issue.

   b) The development is not completed before 4 years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12...
months of the permit expiry date, where the development has lawfully started before the permit expires.

**Motion carried 6:1**

**For:** Cr Doukas, Cr Lockett, Cr Meade, Cr Parker, Cr Smith, Cr Wolfe  
**Against:** Cr Ryan
9. Planning Permit PL10/194.02 – 1131 Princes Highway, Killarney
amendment to permit to update red line area for licensed premises

5.36pm
Cr Wolfe declared a conflict of interest (Indirect interest, Section 78B
conflicting duties) in this item and left the chamber during discussion and
voting.

Report Summary: This is an application to update the red line, liquor licensed areas
on the Basalt Winery site. Clause 52.27 of the Scheme triggers the need for a
planning permit when the red line when the area of where liquor is to be served is
increased.

Cr Lockett moved, Cr Meade seconded that Council having not caused notice of
Amendment to Planning Permit Application No. PL10/194.02 to be given under
Section 52 of the Planning and Environment Act 1987 and or the planning scheme
and having considered all the matters required under Section 60 of the Planning and
Environment Act 1987 decides to Grant an Amendment to Planning Permit
PL10/194.02 under the provisions of the Moyne Planning Scheme in respect of the
land known and described as 1131 Princes Highway, Killarney (Lot1 TP831269F), to
remove the red line from the café building and extend the red line area on the cellar
doors building and place a note on the permit to effect the changes to the endorsed
plans as follows:

Note: Red Line Plans have been amended to remove the red line area on the café
and extend the red line area over the additions and alterations to the cellar door
building as approved by PL15/291.

Motion carried 5:1
For: Cr Doukas, Cr Lockett, Cr Meade, Cr Parker, Cr Smith
Against: Cr Ryan,

5.40pm Cr Wolfe returned to the Chamber.

Resumption of Standing Orders
Cr Parker moved, Cr Lockett seconded that Standing Orders be resumed.
Motion carried 7:0
4. Committees of Council

Report Summary: The report proposes a schedule of Committees of Council and Delegates to other organisations

Cr Parker moved, Cr Smith seconded

1. That Council appoint members to various Committees and Delegates to organisations as per the attached schedule, subject to amendments as considered appropriate by Council.

2. That Council proceed to advertise community representative positions on various Committees where appropriate and report details of nominations received to Council for consideration and appointment.

Motion carried 7:0

Items 5, 6, 7, 8 and 9 were considered earlier in the meeting.

10(a) Mayoral Report

The report provides information to Council in regard to the Mayor's meeting schedule, 8 October 2016 to Friday 11 November 2016.

Report noted with the exception of the following which is to be deleted from the list:

The Mayor did not attend Southern Rural Water Dinner on 25 October 2016.

10(b) Councillors’ Report

The report provides information to Council in regard to the Councillors’ meeting schedules, 8 October 2016 to Friday 11 November 2016.

Report noted.
11. Councillor Notice of Motion – Cr Parker - Provision of Medical Services in Mortlake and Koroit

Cr Parker moved, Cr Meade seconded that the CEO contact the convenor of the Mortlake G.P. Clinical Working Party (and the equivalent in Koroit) to offer assistance from Moyne Shire to retain G.P. services in Mortlake and Koroit.

Motion carried 7:0

12. Councillor Notice of Motion – Cr Lockett - Acknowledgement of Traditional Owners at Council Meetings

Cr Lockett moved, Cr Ryan seconded that the Moyne Shire Council authorise Cr Jordan Lockett to approach local indigenous communities and elders to seek input regarding the introduction of acknowledgement to traditional owners / custodians of the land at council meetings.

Motion carried 7:0

13. Personal Explanations

None detailed.

14. Urgent Business

None detailed.

15. CEO Activities Report

Report Noted.

6.10pm Cr Meade left the Chamber.
Suspension of Standing Orders
Cr Ryan moved, Cr Wolfe seconded that Standing Orders be suspended to allow Councillors time to break for refreshments.

Motion carried 6:0

6.11pm Cr Meade returned to the Chamber.

Resumption of Standing Orders
Cr Wolfe moved, Cr Smith seconded that Standing Orders be resumed.

Motion carried 7:0

6.19pm Closure of Open Meeting
Cr Wolfe moved, Cr Meade seconded that the meeting be closed to members of the public to discuss the items listed in the confidential agenda. The reason for the items being considered at meeting closed to the public – Local Government Act Section 89 2 (d) contractual matters and Section 89 2 (e) proposed developments.

Motion carried 7:0

6.53pm - Resumption of Open Meeting
Cr Wolfe moved, Cr Parker seconded that the Open Meeting be resumed.

Motion carried 7:0

6.53pm - Lifting of confidentiality of resolutions
Cr Wolfe moved, Cr Smith seconded that the confidentiality of resolutions numbered 16, 17 and 18 be lifted.

Motion carried 7:0

Reason for Report and Attachments being declared as Confidential – Local Government Act 1989, Section 89 2 (e) proposed developments.

Council issued Planning Permit PL12/179 on 21 September 2012. Since the issue of the permit a neighbour has lodged a complaint with Council regarding compliance with the permit particularly with stormwater drainage that is impacting on his land as a result of filling the land not in accordance with the endorsed development plans.

**Cr Parker moved, Cr Lockett seconded** that Council apply to VCAT for an enforcement order to seek compliance with PL12/179 - Use and Development of land for the purpose of a dwelling and garage, including part demolition of an existing outbuilding at 31C William Street, Port Fairy to resolve drainage issues associated with the development of the land due to unapproved filling of the land.

**Motion carried 7:0**

17. Jamieson Medical Services – sublease of Jacaranda House, Koroit – Expiration and Possible New Tenure

Reason for Report and Attachments being declared as Confidential – Local Government Act 1989, Section 89 2 (d) contractual matters.

The report addresses the expiring lease of part of the Jacaranda House building between Moyne Shire Council and Jamieson Medical Services and outlines options and statutory processes to secure a new tenure.

**Cr Lockett moved, Cr Parker seconded** that in respect of use of part of Jacaranda House Koroit, Council resolves to authorize the CEO to negotiate terms and conditions with Port Fairy Medical Clinic, Moyne Health Services and Department of Land Water and Planning to effect a short term tenure agreement with the Port Fairy Medical Clinic generally in accordance with their letter of offer, and that the Council be informed of the outcome following the agreement.

**Motion carried 7:0**
18. Contract MS817 – Construction of Waterfront Building, Port Fairy

Reason for Report and attachments being declared as Confidential - Local Government Act 1989, Section 89 2 (d) contractual matters.

Report Summary: The report follows Contract MS 817 Waterfront Building report and resolution of 13 September 2016, and addresses tendering and negotiation issues following that resolution, and seeks a further Council determination on the matter.

Cr Meade moved, Cr Wolfe seconded that Council:

1. Rescinds the resolution of 13 September 2016 being:
   “That Council:
   2. Accepts the tender from Fairbrother Construction Pty Ltd at a total cost of $2,885,981.00 excluding GST; and
   3. Prior to any notification of the formal acceptance of the tender from Fairbrother Construction Pty Ltd, or notification to unsuccessful tenderers, delegates authority to the Chief Executive Officer to, at his discretion, negotiate cost reductions with tenderer Fairbrother Construction Pty Ltd; and
   4. Agrees to fund the potential $355,000 budget shortfall through:
      - Cost savings of at least $105,000 (to be identified); and
      - Additional contribution from the Port of Port Fairy Reserve of up to $125,000; and
      - A matching contribution from Council’s surplus funds of up to $125,000.
   5. Makes and declares Confidential this Council resolution until after the Chief Executive Officer has completed negotiations and Fairbrother Construction Pty Ltd has been formally notified of acceptance of their tender.”


3. Accepts the tender from Fairbrother Construction Pty Ltd which includes Councils nominated cost savings at a total cost of $2,822,995.00 excluding GST, and

4. Agrees to fund the potential $293,000 budget shortfall through:
   a) Additional contribution from the Port of Port Fairy Reserve of up to $125,000; and
   b) A contribution from Council’s surplus funds of up to $168,000.

Motion carried 7:0
Meeting closed at 6.54pm

Confirmed this 20th December 2016.

Mayor