

Strathbogie Shire Council

Extraordinary Council Meeting Minutes/Decisions, including Annual Statutory Meeting

November 8, 2022

Acknowledgement of Country

We acknowledge the traditional custodians of the lands on which we strive, the peoples of the rivers and the hills of the Strathbogie Shire region who walked these lands for generations.

We pay our respects to the elders of the past, and the speakers of the first words, who lived in harmony with this country.

We acknowledge the elders of the present, who seek to regain their culture, and to teach the elders of the future their law, their history and their language.

We pay our respects to them and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

We honour their spirit – and the memory, culture, art and science of the world's oldest living culture through 60,000 years.

Minutes/Decisions

Extraordinary Council Meeting, including Annual Statutory Meeting

Tuesday November 8, 2022 at 6pm

Meeting held at Euroa Community Conference Centre and livestreamed on Council's website:

<https://www.strathboogie.vic.gov.au/council/our-council/council-meetings-and-minutes/>

Council:

Cr Laura Binks (Mt Wombat Ward) – Mayor
Cr Paul Murray (Hughes Creek Ward) – Deputy Mayor
Cr David Andrews (Lake Nagambie Ward)
Cr Reg Dickinson (Lake Nagambie Ward)
Cr Sally Hayes-Burke (Seven Creeks Ward)
Cr Kristy Hourigan (Seven Creeks Ward)
Cr Chris Raeburn (Honeysuckle Creek Ward)

Officers:

Julie Salomon – Chief Executive Officer
Amanda Tingay – Director Community and Planning
Dawn Bray – Director People and Governance
Vlad Adamek – Director Sustainable Infrastructure
Kristin Favaloro – Executive Manager Communications and Engagement

Index

In accordance with Governance Rule 11 of Strathbogie Shire Council's Governance Rules, the Chief Executive Officer presided over proceedings until the election of the Mayor was concluded.

1. Welcome
2. Acknowledgement of Country
3. Apologies / Leave of Absence
4. Disclosure of Conflicts of Interest
5. *Annual Statutory Meeting*
 - 5.1 Report of Outgoing Mayor
 - 5.2 Determination of Mayoral Term
 - 5.3 Provision of a Mayoral Motor Vehicle
 - 5.4 Election of Mayor
 - 5.5 Response by Elected Mayor
 - 5.6 Determination of the establishment of the Office of Deputy Mayor
 - 5.7 Election of Deputy Mayor
 - 5.8 Response by Elected Deputy Mayor
6. *Extraordinary Council Meeting*
 - Officer Reports
 - 6.1 Infrastructure

Reports Index

5.	ANNUAL STATUTORY MEETING	
5.1	Report of Outgoing Mayor	1
5.2	Determination of Mayoral Term	1
5.3	Provision of a Mayoral Motor Vehicle	2
5.4	Election of Mayor	3
5.5	Response by Elected Mayor	4
5.6	Determination of the establishment of the Office of Deputy Mayor	4
5.7	Election of Deputy Mayor	5
5.8	Response by Elected Deputy Mayor	5
6.	EXTRAORDINARY COUNCIL MEETING	
	Officer Reports	
6.1	Infrastructure	
6.1.1	Suspension of the Road Management Plan and the Tree Management Plan	6

5. ANNUAL STATUTORY MEETING

5.1 Report by Outgoing Mayor

The outgoing Mayor, Councillor Laura Binks, addressed the meeting (refer Attachment 1).

5.2 Determination of Mayoral Term

Sections 25 and 26 of the *Local Government Act 2020* (the Act) require that Councillors must elect a Councillor to be Mayor of the Council. A Mayor is to be elected no later than one month after the date of a general election.

Under Section 26(3), the Council must resolve whether to elect a Mayor for a term of one (1) year or two (2) years prior to electing a Mayor.

Under section 26(4), if the Mayor is elected for a 1 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.

It has been practice at Strathbogie Shire to appoint a Mayor for one (1) year. It is considered prudent to retain this practice given the growing demands on the Mayoral role under the Act.

***MOVED: COUNCILLOR HOURIGAN
SECONDED: COUNCILLOR HAYES-BURKE***

That the term of appointment for the Mayor be one year.

EM-01-22/23 CARRIED

5.3 Provision of a Mayoral Motor Vehicle

Under clause 13 of the Council Expenses Policy Council may determine whether or not a motor vehicle is provided for use by the Mayor.

Council has, in past years, determined that a vehicle would be provided for use by the Mayor and/or Councillors. The offer of the provision of a vehicle is at the discretion of the elected Mayor.

Council may also determine whether the Mayor sacrifices an amount for the additional cost of having full private use of the Mayoral vehicle.

In past years, the serving Mayor agreed to sacrifice an amount of \$200 per month from the Mayoral Allowance. The Council Expenses Policy identifies that this monthly contribution is currently paid by the Mayor.

It is recommended that the practice of the Mayoral contribution to the upkeep of the Mayoral vehicle continues. Further, it is considered appropriate that the contribution be indexed in accordance with the rate cap set by the State Government for the 2022/23 financial year of 1.75%, and be applied to index the vehicle contribution, which not been indexed since 2020. This would increase the contribution to \$235 per month.

MOVED: COUNCILLOR DICKINSON
SECONDED: COUNCILLOR ANDREWS

That Council:

- 1. Determine that a vehicle be made available for the Mayor with full private use.***
- 2. Determine the monthly contribution to the upkeep of that vehicle, to be deducted from the Mayor's allowance, be \$235 per calendar month.***

EM-02-22/23 CARRIED

5.4 Election of Mayor

Section 18 of the Act defines the role of the Mayor is to:

- (a) chair Council meetings; and
- (b) be the principal spokesperson for the Council; and
- (c) lead engagement with the municipal community on the development of the Council Plan; and
- (d) report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- (e) promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
- (f) assist Councillors to understand their role; and
- (g) take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
- (h) provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
- (i) perform civic and ceremonial duties on behalf of the Council.

The Mayor also has specific powers outline under section 19 of the Act:

- (a) to appoint a Councillor to be the chair of a delegated committee;
- (b) to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
- (c) to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

Under section 25(1) of the Act, a Mayor must be elected at a meeting that is open to the public. Any Councillor is eligible to be elected as Mayor.

Governance Rule 10 of the Governance Rules requires voting to be carried out by a show of hands.

Governance Sub Rule 11.1 states that any nominations for the office of Mayor must be in writing and in a form provided by the Chief Executive Officer and seconded by another Councillor.

Governance Sub Rule 11.2.1 states that if only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.

If there is more than one nomination the Councillors present at the meeting must vote for one of the candidates in accordance with Governance Sub Rule 11.2.2.

The Mayor must be elected by an absolute majority of the Councillors as per Governance Sub Rule 11.2.3; if an absolute majority of the Councillors cannot be achieved, Council may resolve to conduct a new election at a later specified time and date or may continue with an election in accordance with Governance Sub Rules 11.2.4 to 11.2.7.

One nomination for the Office of Mayor was received from Councillor Binks, which was seconded by Councillor Hourigan.

Councillor Binks accepted the nomination.

There being no further nominations, Councillor Laura Binks was duly elected Mayor for the 2022/2023 year.

The Mayor took the Chair

5.5 Response by Elected Mayor

In accordance with Rule 13 of the Governance Rules a ceremonial speech was made by the elected Mayor (refer Attachment 1).

5.6 Determination of the establishment of the Office of Deputy Mayor

Council may establish an office of Deputy Mayor under the Act and under Rule 12 of the Governance Rules.

If Council establishes this office, the Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if:

- (a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- (b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- (c) the office of Mayor is vacant.

If Council chooses not to appoint a Deputy Mayor, then an Acting Mayor can be appointed when the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting, the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness or the office of Mayor is vacant.

It is considered prudent to establish the Office of Deputy Mayor given the long-standing tradition of doing so at Strathbogie Shire and to provide clarity and consistency around roles and responsibilities should the Mayor be unavailable. It is also considered a more efficient means of dealing with Council business in the Mayor's absence.

MOVED: COUNCILLOR ANDREWS
SECONDED: COUNCILLOR HAYES-BURKE

That Council:

- 1. *Establish the Office of Deputy Mayor.***
- 2. *Confirm the term for the Deputy Mayor term be one year, to be consistent with the term of the Mayor.***

EM-03-22/23 CARRIED

5.7 Election of Deputy Mayor

Under Rule 12 of the Governance Rules any election for the office of Deputy Mayor is regulated by Rules 9-11 (inclusive) of this Chapter, as if the reference to the Chief Executive Officer is a reference to the Mayor; and Mayor is a reference to the Deputy Mayor (as the case may be).

Two nominations for the Office of Mayor were received.

The first nomination was received from Councillor Murray, and seconded by Councillor Hourigan.

The second nomination was received from Councillor Raeburn, and seconded by Councillor Hayes-Burke.

Both Councillors accepted their nominations.

In putting the nominations to a vote in the order the nominations were received, the Mayor called for a vote for Councillor Murray.

Due to there being an absolute majority of votes for Councillor Murray, there was not a need to call for a vote for Councillor Raeburn.

Councillor Paul Murray was duly elected Deputy Mayor for the 2022/2023 year.

5.8 Response by Elected Deputy Mayor

In accordance with Rule 13 of the Governance Rules, a ceremonial speech was made by the elected Deputy Mayor.

6. **EXTRAORDINARY COUNCIL MEETING**

OFFICER REPORTS

6.1 **INFRASTRUCTURE**

6.1.1 **Suspension of the Road Management Plan and the Tree Management Plan**

Author: Waste and Environment Coordinator and Manager Asset Planning

Responsible Director: Director Sustainable Infrastructure

EXECUTIVE SUMMARY

The last three years La Nina activity has seen increased rain fall which in turn created a higher volume of maintenance activity on our roads and drainage network. This weather pattern has also seen periods of strong winds which have increased the number of tree failure, particularly along the Shire's rural road network.

The impacts on our road network and the urban and rural trees Council is responsible for have been further exacerbated during the October 2022 flood event.

This report is to inform Council and the community that due to sustained level of damage and ongoing rain and windy conditions, the Chief Executive Officer has enacted Clause 9 Force Majeure of the Road Management Plan and is recommending that the Council amend the existing Force Majeure clause in the Tree Management Plan to provide clearer explanation as to how it is enacted and how the standard of service reverts back to that outlined in the Plan, and then enact this amended clause to suspend service level compliance.

The enactment of these clauses will be reviewed by 30 January 2023, by which time officers will have completed a comprehensive assessment of the damage to Council's road network and community infrastructure. This assessment will inform the development of an action plan with associated timelines and budget required from State and Federal Government to rectify damage.

MOVED: COUNCILLOR RAEBURN

SECONDED: COUNCILLOR HAYES-BURKE

That Council, in response to the October 2022 flood event:

1. ***Note that the Chief Executive Officer has exercised the powers to enact Clause 9 Force Majeure effective 27 October 2022 which suspends service level compliance as detailed in the Strathbogie Shire Council Road Management Plan 2021;***

6.1.1 Suspension of the Road Management Plan and the Tree Management Plan (cont.)**RECOMMENDATION (cont.)**

- 2. Authorise officers to amend the Force Majeure clause on page 29 of the Tree Management Plan: Urban and Rural Strategies Force Majeure to read as follows:**

Force Majeure

Council will make every endeavour to meet all aspects of its Tree Management Plan: Urban and Rural Strategies (TMP). However, in the event of natural disasters and other events including, but not limited to, fires, floods, storms, droughts and the like, together with human factors, such as lack of Council staff or suitably qualified contractors, because of section 83 of the Victorian Wrongs Act 1958, as amended, Council reserves the right to suspend compliance with its TMP.

In the event that the Chief Executive Officer (CEO) of the Council has to, pursuant to section 83 of the above Act, consider the limited financial resources of the Council and its other conflicting priorities, meaning Council's TMP cannot be met, the CEO will write to Council's Officer in Charge of its TMP and inform them that some, or all, of the service levels, timeframes and response times are to be suspended.

Once the events beyond the control of Council have abated, or if the events have partly abated, Council's CEO will write to Council's Officer responsible for Council's TMP and inform them which parts of Council's TMP are to be reactivated including the required reactivation timeframes;

- 3. Enact the 'Force Majeure' clause in the Tree Management Plan: Urban and Rural Strategies effectively suspending service level inspections and compliance;**
- 4. Note that whilst the Force Majeure clauses remain enacted, officers will make every endeavour to meet all aspects of its Road Management and Tree Management Plans to ensure the safety of our community, and**
- 5. Note that the enactment of both of the above clauses will be reviewed 30 January 2023 and will receive a further report in the February 2023 Council meeting advising of the outcome of this review and if further enactment of these clauses is required.**

EM-04-22/23 CARRIED

The next monthly meeting of the Strathbogie Shire Council is scheduled to be held next Tuesday, November 15, 2022, at the Euroa Community Conference Centre, at 6pm.

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.25 P.M.

Confirmed as being a true and accurate record of the Meeting

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Chair

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Date