

Strathbogie Shire Council

Extraordinary Council Meeting Minutes/Decisions

February 28, 2023

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

Tuesday, February 28, 2022, at 6.00pm

Meeting held virtually and livestreamed on Council's website:

<https://www.strathbogie.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

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1. Welcome
2. Acknowledgement of Traditional Land Owners
3. Apologies / Leave of Absence
 - Cr Paul Murray (Hughes Creek Ward) – Deputy Mayor
 - Cr Reg Dickinson (Lake Nagambie Ward)
4. Disclosure of Conflicts of Interest
 - Cr Hourigan declared an interest in Item 6.1 (Mid-Year Budget Review) as her company leases the caravan park from Council.
5. Notice of Rescission
6. Notices of Motion
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	CONFIDENTIAL APPENDICES	
	<p><i>APPENDICES DEEMED CONFIDENTIAL IN ACCORDANCE WITH SECTION 66(2)(A) AND PART 1, CLAUSE 3 OF THE LOCAL GOVERNMENT ACT 2020</i></p> <p><i>(g) private commercial information, being information provided by a business, commercial or financial undertaking that -</i></p> <p><i>(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage</i></p>	
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5. NOTICE OF RESCISSION

5.1 Notice of Recission – Items from the 21 February 2023 Ordinary Council Meeting:

9.3.1 Mid-Year Budget Review 2022/23

9.4.1 Contract Variation – Contract No. 20-21-65: Harrys Creek and Bonnie Doon Roads Intersection Realignment

9.4.3 Tender for Contract No. 22/23-33: Provision of Flood Damaged Rectification Sealed Road Works (Patching) – with Optional Panel of Suppliers Provisions

9.4.4 Tender for Contract No. 22/23-34: Provision of Flood Damaged Rectification Un-Sealed Road Works with Optional Panel of Suppliers Provisions

Executive Summary

On 22 February 2023, the Chief Executive Officer received a Notice of Rescission Form for four items that were considered by Council at its 21 February 2023 Ordinary Council meeting.

The Notice of Rescission was lodged under Governance Rule 57, Division 1.9 of the Strathbogie Shire Council Governance Rules.

The requirements of Governance Rule 57 in relation have been met as the items had not been acted upon as per Governance Sub Rule 57.4.

Accordingly, the Notice of Rescission was circulated by the Chief Executive Officer via email on 22 February 2023.

In addition, and consistent with the Governance Rules, the Mayor, Cr Laura Binks called for an Extraordinary Meeting of Council to be held on Tuesday 28 February 2023 to consider the Notice of Rescission and various Notices of Motion lodged by Councillors Laura Binks, Sally Hayes-Burke and Chris Raeburn.

A Notice of Rescission may be moved by any Councillor present but may not be amended.

The following Notices of Motion cannot be dealt with unless the Notice Rescission is carried. As such, if the rescission motion is lost, officers will give effect to the resolutions made at the 21 February 2023 Council meeting in relation to items 9.3.1, 9.4.1, 9.4.3 and 9.4.4.

Furthermore, in accordance with the Governance Rules, if the Rescission Motion is lost, a similar motion may not be put before Council for at least three months from the date it was last lost unless Council resolves that it be re-listed at a future meeting.

If the Notice of Rescission is carried, then the subsequent Notices of Motion can be considered.

5.1 Notice of Recission – Items from the 21 February 2023 Ordinary Council Meeting (cont.)

The Notice of Rescission:

We, Councillors Laura Binks (Mayor), Chris Raeburn and Sally Hayes-Burke wish to lodge the following Notice of Rescission under Governance Rule 57.

We write to provide notice of our request for you to place this rescission motion on four items considered at the Ordinary Council Meeting of 21 February 2023 as per clause 57 under the Strathbogie Shire Council Governance Rules.

The motions which we seek to rescind relate to items 9.3.1, 9.4.1, 9.4.3 and 9.4.4 (as identified above) from the Ordinary Council meeting Agenda of 21 February 2023 is:

That Council note the Mid-Year Review financial statements for the period ending 30 June 2023 and that we refer the matter to the Audit and Risk Committee and review the mid-year financial statements at our next Council meeting.

Item 9.4.1 That Council defer the report and receive a further report from officers.

Item 9.4.3 That Council defer the report and receive a further report from officers.

Item 9.4.4 That Council defer the report and receive a further report from officers.

The Notice of Motion, accompanied by the Officer reports on the agenda of 21 February 2023 as background information, we wish to be placed on the agenda are:

1. *That Council note and endorse the Mid-Year Review financial statements for the period ending 30 June 2023.*
2. *That Council:*
 1. *Accept the variation of \$113,995.20 increasing the value of Contract No 20-21-65 Harrys Creek & Bonnie Doon Roads Intersection Realignment, to \$537,200.14 to cover additional works required to complete the work, and*
 2. *Authorise responsible council officers to accept further variations up to the value of \$110,000.00 to cover any possible additional works required to complete the project, and*
 3. *Note that the additional budget allocations can be accommodated within the 2022/23 Capital works budget.*
3. *That Council:*
 1. *Awards the tender for Contract No 22/23-32 – Provision of Flood Damaged Rectification Sealed road works (patching) to Country Wide Asphalt Pty Ltd of Wodonga for lump sum price of \$354,108.00 including GST;*
 2. *Awards the Tender as Panel of Suppliers option to: Country Wide Asphalt Pty Ltd and Cleaves Earthmoving and Drainage Pty Ltd;*

5.1 Notice of Recission – Items from the 21 February 2023 Ordinary Council Meeting (cont.)

3. *Authorises officers to advise the unsuccessful tenderers; and 4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.*
4. *That Council:*
 1. *Awards the tender for Contract No 22/23-34 – Provision of Flood Damaged Rectification Un-Sealed road works as a panel contract, awarding contracts to the following contractors for a combined maximum value of \$1,900,000 inclusive of GST, as follows: Country Wide Asphalt Pty Ltd of Wodonga, Extons Pty Ltd of Benalla, HP Hire (Vic) Pty Ltd of Euroa, Kipping DIRTWORX Pty Ltd of Euroa, and Seven Creeks Excavations Pty Ltd of Euroa;*
 2. *Authorises the Chief Executive Officer Award individual contracts to members of the panel to a maximum value of \$500,000, including GST, with the maximum value of all of the packages to be not greater than \$1,900,000, inclusive of GST;*
 3. *Authorises officers to advise the unsuccessful tenderers; and*
 4. *Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.*

Signed:

Councillor



Councillor



Councillor



Date:

22/02/23

5.1 Notice of Recission – Items from the 21 February 2023 Ordinary Council Meeting (cont.)

MOVED: COUNCILLOR HAYES-BURKE
SECONDED: COUNCILLOR RAEBURN

That Council:

1. **Rescind the following resolutions made in relation to Items 9.3.1, 9.4.1, 9.4.3 and 9.4.4 at its 21 February 2023 Ordinary Council meeting:**

Item 9.3.1

That Council note the Mid-Year Review financial statements for the period ending 30 June 2023 and that we refer the matter to the Audit and Risk Committee and review the mid-year financial statements at our next Council meeting.

Item 9.4.1

That Council defer the report and receive a further report form officers.

Item 9.4.3

That Council defer the report and receive a further report form officers.

Item 9.4.4

That Council defer the report and receive a further report form officers.

2. **That the following Notice of Motions, accompanied by the Officer reports on the agenda of 21 February 2023 as background information placed on this Agenda, be considered separately and in turn under Item 6 of this Agenda:**

1. **That Council note and endorse the Mid-Year Review financial statements for the period ending 30 June 2023.**

2. **That Council:**

- 2.1. **Accept the variation of \$113,995.20 increasing the value of Contract No 20-21-65 Harrys Creek & Bonnie Doon Roads Intersection Realignment, to \$537,200.14 to cover additional works required to complete the work, and**
- 2.2. **Authorise responsible council officers to accept further variations up to the value of \$110,000.00 to cover any possible additional works required to complete the project, and**
- 2.3. **Note that the additional budget allocations can be accommodated within the 2022/23 Capital works budget.**

3. **That Council:**

- 3.1 **Awards the tender for Contract No 22/23-32 – Provision of Flood Damaged Rectification Sealed road works (patching) to Country Wide Asphalt Pty Ltd of Wodonga for lump sum price of \$354,108.00 including GST;**

5.1 Notice of Rescission – Items from the 21 February 2023 Ordinary Council Meeting (cont.)

MOTION (cont.)

3.2 Awards the Tender as Panel of Suppliers option to: Country Wide Asphalt Pty Ltd and Cleaves Earthmoving and Drainage Pty Ltd;

3.3 Authorises officers to advise the unsuccessful tenderers; and 4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.

4. That Council:

4.1 Awards the tender for Contract No 22/23-34 – Provision of Flood Damaged Rectification Un-Sealed road works as a panel contract, awarding contracts to the following contractors for a combined maximum value of \$1,900,000 inclusive of GST, as follows: Country Wide Asphalt Pty Ltd of Wodonga, Extons Pty Ltd of Benalla, HP Hire (Vic) Pty Ltd of Euroa, Kipping DIRTWORX Pty Ltd of Euroa, and Seven Creeks Excavations Pty Ltd of Euroa;

4.2 Authorises the Chief Executive Officer Award individual contracts to members of the panel to a maximum value of \$500,000, including GST, with the maximum value of all of the packages to be not greater than \$1,900,000, inclusive of GST;

4.3 Authorises officers to advise the unsuccessful tenderers;

4.4 Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.

EM-05-22/23 CARRIED

Cr Hourigan called for a division

For the Motion to Rescind

Cr Hourigan

Cr Andrews

Cr Raeburn

Cr Hayes-Burke

Cr Binks

Against the Motion to Rescind

6. NOTICES OF MOTION

Executive Summary

The Chief Executive Officer received a Notice of Motions from Mayor Binks, Cr Raeburn and Cr Hayes Burke that complies with the requirements of Governance Rule 35.

The Notice of Motion has been divided into items under this section to allow each item and Recommendation as per the Notice of Motion to be considered individually and in turn under Items 6.1 to 6.4. Confidential attachments relating to Items 6.2 – 6.4 are listed under Item 7 Confidential Items.

Notice Of Motion:

We, Councillors Laura Binks (Mayor), Chris Raeburn and Sally Hayes-Burke

Wish to lodge the following Notice of Motion under Governance Rule 35.

The notice of motions, accompanied by the Officer reports from the agenda of 21 February 2023 as background information, we wish to be placed on the agenda are:

Recommendation:

1. That Council note and endorse the Mid-Year Review financial statements for the period ending 30 June 2023.

Recommendation:

2. That Council:

1. Accept the variation of \$113,995.20 increasing the value of Contract No 20-21-65 Harrys Creek & Bonnie Doon Roads Intersection Realignment, to \$537,200.14 to cover additional works required to complete the work, and
2. Authorise responsible council officers to accept further variations up to the value of \$110,000.00 to cover any possible additional works required to complete the project, and
3. Note that the additional budget allocations can be accommodated within the 2022/23 Capital works budget.

Recommendation:

3. That Council:

1. Awards the tender for Contract No 22/23-32 – Provision of Flood Damaged Rectification Sealed road works (patching) to Country Wide Asphalt Pty Ltd of Wodonga for lump sum price of \$354,108.00 including GST;
2. Awards the Tender as Panel of Suppliers option to: Country Wide Asphalt Pty Ltd and Cleaves Earthmoving and Drainage Pty Ltd;
3. Authorises officers to advise the unsuccessful tenderers; and 4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.

Recommendation:

4. That Council:

1. Awards the tender for Contract No 22/23-34 – Provision of Flood Damaged Rectification Un-Sealed road works as a panel contract, awarding contracts to the following contractors for a combined maximum value of \$1,900,000 inclusive of GST, as follows: Country Wide Asphalt Pty Ltd of Wodonga, Extons Pty Ltd of Benalla, HP Hire (Vic) Pty Ltd of Euroa, Kipping DIRTWORX Pty Ltd of Euroa, and Seven Creeks Excavations Pty Ltd of Euroa;
2. Authorises the Chief Executive Officer Award individual contracts to members of the panel to a maximum value of \$500,000, including GST, with the maximum value of all of the packages to be not greater than \$1,900,000, inclusive of GST;
3. Authorises officers to advise the unsuccessful tenderers; and
4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.

Signed: Councillor



Councillor



Councillor



Date: 22/02/23

6.1 **Mid-Year Budget Review 2022/23**

Author: Chief Finance Officer

Responsible Director: Director People & Governance

EXECUTIVE SUMMARY

A mid-year budget review for the 2022-23 financial year has been undertaken as a means of tracking where the delivery of the budget and capital works program is at and also to better inform the development of the 2023-24 budget and revision of our 2022-23 to 2031-32 Long Term Financial Plan.

There are a number of significant factors at play that have impacted on the mid-year review; some positive and some negative. Overall, it is an increasingly tight and difficult financial environment that Council is operating in.

The cost of materials and services has increased significantly (a \$4.5 million impact), there are materials shortages that are impacting on project delivery and overall project costs, the labour market is very tight and it is difficult to find staff to fill vacancies (particularly in specialist positions) and interest rates have been rising beyond our expectations at the start of the financial year.

The impact of the October 2022 flood event cannot be overstated.

This has not only led to escalated staffing costs in after hours emergency costs (\$30,000), but it will also divert funds from our existing capital works program to ensure that roads, bridges and drains are repaired and upgraded to achieve better flood resilience.

While some of the repair costs will be covered by insurance and Government Grants – the latter for which we have already received \$1.5 million, the expected overall damage bill to buildings, roads and other Council infrastructure is in the tens of millions.

Having said that, the mid-year review has led to an adjustment of our financial year records of an improvement in the operating result of \$3,675,730. Cash reserves at the end of the year will be \$7.3 million, which means Council is able to achieve its goal of having at least \$5 million in cash and cash equivalents at any one time.

There is an overall decrease in capital expenditure by \$1,589,804 when compared to the adopted Budget. This is made up of:

- Capital projects carried forward from prior year - \$5,548,362 (add \$)
- New capital projects identified (grant funded) - \$420,456 (add \$)
- Market cost escalations on existing projects - \$1,275,098 (add \$)
- Savings on existing projects - \$1,003,541 (subtract \$)
- Projects identified as operational/maintenance - \$94,000 (subtract \$)
- Projects carried forward to future years - \$4,926,691 (subtract \$)
- Projects removed from adopted capital works program - \$2,809,855 (subtract \$).

6.1 Mid-Year Budget Review 2022/23 (cont.)

Overall, the 2022-23 financial year will end up with a positive operating result, however there are challenges ahead in terms of the significant adverse economic environment that Council is operating in, along with the increasing cumulative detriment of the rate capping environment which will impact on our ability to deliver a broad capital works program and other services into the future.

Unfortunately, the Audit and Risk Committee have not had an opportunity to be presented with the mid-year review due to timing, however they will be presented with the review for noting at its 3 March 2023 meeting.

The mid-year review, and associated financial statements, are presented to Council for noting.

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

That Council note and endorse the Mid-Year Review financial statements for the period ending 30 June 2023.

EM-06-22/23 CARRIED

6.2 **Contract Variation – Contract No. 20-21-65: Harrys Creek and Bonnie Doon Roads Intersection Realignment**

Author: Manager Projects Delivery, Senior Project Officer

Responsible Director: Director Sustainable Infrastructure

EXECUTIVE SUMMARY

Harrys Creek and Bonnie Doon Roads Intersection Realignment project formed part of Council's 2020/21 Capital Works Program which carried forward to 2021/22 and subsequently to 2022/23. The primary objective of the project is to improve road safety at the intersection.

At the April 2021 Council Meeting, Council approved to award Contract No 20/21-65 for Harrys Creek and Bonnie Doon Road Intersection Realignment to 'Wrights Earthmoving Pty Ltd', after emerging as the preferred tenderer following a competitive tender process. The lumpsum contract was awarded to the contractor for a total sum of \$352,516.30. As the execution of works delayed due to tree permit issues Council agreed to revise the Contract price to \$423,204.94. Budget allocation was adjusted to suit this amount in this financial year.

Contract works commenced in December 2022 and contractors proceeded to remove the existing road, there was a significant amount of soft ground treatment emerged as the works progressed. These latent conditions are due to natural springs that are located underneath the pavement area to be constructed. It is essential to perform proper treatment to build up the new road pavement to achieve expected durability thereby providing best value for the shire assets. In addition, the surrounding community requested additional bus bay to be construct through the project to facilitate school bus pick up at the intersection to ensure safety for children accessing the bus.

These latent conditions and additional requirements result in a cost increase of \$113,995.20 which is 26.94% increase on Contract value revised recently. The new Contract value of the project would be \$537,200.14 should this variation be approved.

Given the topography of the site, there is further possibility that more soft saturated ground will be discovered when the remaining work area is excavated for construction. This will yield potential variations amounting up to \$110,000.00 based on current expenditure to treat and complete the project as per the standards.

Note: All monetary values mentioned in this report are inclusive of GST.

6.2 Contract Variation – Contract No. 20-21-65: Harrys Creek and Bonnie Doon Roads Intersection Realignment (cont.)

MOVED: COUNCILLOR RAEBURN
SECONDED: COUNCILLOR HAYES-BURKE

That Council:

- 1. Accept the variation of \$113,995.20 increasing the value of Contract No 20-21-65 Harrys Creek & Bonnie Doon Roads Intersection Realignment, to \$537,200.14 to cover additional works required to complete the work, and***
- 2. Authorise responsible council officers to accept further variations up to the value of \$110,000.00 to cover any possible additional works required to complete the project, and***
- 3. Note that the additional budget allocations can be accommodated within the 2022/23 Capital works budget.***

EM-07-22/23 CARRIED

6.3 Tender for Contract No. 22/23-33: Provision of Flood Damaged Rectification Sealed Road Works (patching) - with optional Panel of Suppliers provisions

Author: Manager Assets Planning

Responsible Director: Director Sustainable Infrastructure

EXECUTIVE SUMMARY

Council has undertaken a competitive tender process for the rectification of the flood damage to our sealed road network caused by the October 2022 flood event (AGRN 1037) as a component of the Flood Recovery Program to be funded through the National Disaster Funding Assistance (NDFA). The Department of Transport and Planning assesses submitted flood defects for funding approval on behalf of Emergency Management Victoria (EMV). Since the event, Council have had regular update meetings with the assessor and received provisional approval to commence immediate reconstruction works.

Council met the required compliance obligations under the Local Government Act 2020 and the Strathbogie Procurement Policy (2021) by undertaking formal public request for tender.

The tender was released on “Tendersearch” via the Council website on the 2 December 2022. The tender was advertised in Saturday’s The Age newspaper (state-wide reach) on the 3 December 2022, Shepparton News and Benalla Ensign, in the week following release. By the close of tenders at 4.00pm on 20 January 2023, two (2) submissions had been received.

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

That Council:

- 1. Awards the tender for Contract No 22/23-33 – Provision of Flood Damaged Rectification Sealed road works (patching) to Country Wide Asphalt Pty Ltd of Wodonga for lump sum price of \$354,108.00 including GST;***
- 2. Awards the Tender as Panel of Suppliers option to:
Country Wide Asphalt Pty Ltd and
Cleaves Earthmoving and Drainage Pty Ltd;***
- 3. Authorises officers to advise the unsuccessful tenderers; and***
- 4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogie Shire Council.***

EM-08-22/23 CARRIED

6.4 Tender for Contract No. 22/23-34: Provision of Flood Damaged Rectification Un-Sealed Road Works with optional Panel of Suppliers provisions

Author: Manager Assets Planning

Responsible Director: Director Sustainable Infrastructure

EXECUTIVE SUMMARY

Council has undertaken a competitive tender process for the rectification of the flood damage to our unsealed road network caused by the October 2022 flood event (AGRN 1037) as a component of the Flood Recovery Program to be funded through the National Disaster Funding Assistance (NDFA). The Department of Transport and Planning assesses submitted flood defects for funding approval on behalf of Emergency Management Victoria (EMV). Since the start, Council have had regular update meetings with the assessor and received provisional approval to commence immediate reconstruction works.

Council met the required compliance obligations under the Local Government Act 2020 and the Strathbogrie Procurement Policy (2021) by undertaking formal public request for tender.

The tender was released on “Tendersearch” via the Council website on the 2 December 2022. The tender was advertised in Saturday’s The Age newspaper (state-wide reach) on the 3 December 2022, Shepparton News and Benalla Ensign, in the week following release. By the close of tenders at 4.00pm on 20 January 2023, five (5) submissions had been received.

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

That Council:

- 1. Awards the tender for Contract No 22/23-34 – Provision of Flood Damaged Rectification Un-Sealed road works as a panel contract, awarding contracts to the following contractors for a combined maximum value of \$1,900,000 inclusive of GST, as follows:
Country Wide Asphalt Pty Ltd of Wodonga,
Extons Pty Ltd of Benalla,
HP Hire (Vic) Pty Ltd of Euroa,
Kipping DIRTWORX Pty Ltd of Euroa, and
Seven Creeks Excavations Pty Ltd of Euroa;***
- 2. Authorises the Chief Executive Officer Award individual contracts to members of the panel to a maximum value of \$500,000, including GST, with the maximum value of all of the packages to be not greater than \$1,900,000, inclusive of GST;***
- 3. Authorises officers to advise the unsuccessful tenderers; and***
- 4. Authorises the Chief Executive Officer to execute the Contract by signing and affixing with the Common Seal of Strathbogrie Shire Council.***

EM-09-22/23 CARRIED

7. CONFIDENTIAL BUSINESS

Nil

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.30 P.M.

Confirmed as being a true and accurate record of the Meeting

.....
Chair

.....
Date

