

Strathbogie Shire Council

Extraordinary Council Meeting Minutes/Decisions

April 11, 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, April 11, 2023, at 6pm

Meeting held at the Nagambie Lakes Regatta Centre 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
Tara Whitsed – Acting Executive Manager Communications and Engagement

Index

1. Welcome
2. Acknowledgement of Country
3. Apologies / Leave of Absence
Kristin Favalaro – Executive Manager Communications and Engagement
4. Disclosure of Conflicts of Interest
 - Councillor Raeburn declared a general conflict of interest under section 127 of the Local Government Act 2020 in Item 5.5.1 due to having previously lodged a personal submission to the Victorian Electoral Commission in relation to the electoral review
 - Councillor Hayes-Burke declared a general conflict of interest under section 127 of the Local Government Act 2020 in Item 5.5.1 due to having previously lodged two personal submissions to the Victorian Electoral Commission as a private citizen in relation to the electoral review
 - Councillor Hourigan declared a general conflict of interest under section 127 of the Local Government Act 2020 in Item 5.5.1 due to having previously lodged a personal submission to the Victorian Electoral Commission in relation to the electoral review
 - Councillor Dickinson declared a general conflict of interest under section 127 of the Local Government Act 2020 in Item 5.5.1 due to having previously lodged a private submission to the Victorian Electoral Commission in relation to the electoral review

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

That Standing Orders be suspended to allow for a question of Council to be asked by a member of the public under Governance Rule 83.

EM 10-22/23 CARRIED

Council Ref: DL: EM 01/2023

Can a firm commitment of substantial further funding from the Shire be given now for Kirwans Bridge because it is such a critical piece of infrastructure and I believe the Shire has a very clear legislated obligation to this heritage structure. I think the new Local Government Act 2020 also strengthens this responsibility and by allocating funds in a transparent way it will be a clear signal as to how the Shire values the Bridge but it will also be a very clear demonstration to the Community that the Shire is committed to reopening the Bridge. It will also strengthen the Shires position to advocate to Governments, Heritage Victoria and others for support and funding assistance. It would be indefensible to be asking for support and funding from others without clearly demonstrating your own commitment.

Response by CEO

Thank you for your question, Darren.

In response, Council is very aware of the importance of Kirwans Bridge to this community and the broader community.

We understand the impact of the bridge's closure on the Kirwans Bridge community. In terms of considering the allocation of funding, Council will be considering this matter at tonight's meeting.

Furthermore, Council has indicated that it values the bridge through the establishment on the Community Panel to identify the long-term options for this bridge. We also allocated funding to secure the services of JJ Ryan to undertake the scoping works for the two options of the bridge, namely:

- A new replica bridge (with pedestrian and cycling access), or
- Extensive structural repairs and strengthening works to the existing bridge.

The work on the design and costing of these options is underway. Once this report has been received, Council will understand the quantum of funding required for the bridge.

MOVED: COUNCILLOR MURRAY
SECONDED: COUNCILLOR RAEBURN

That Standing Orders be resumed under Governance Sub-Rule 83.4.

EM 11-22/23 CARRIED

5. Officer Reports
 - 5.1 Strategic and Statutory
 - 5.2 Community
 - 5.3 Infrastructure
 - 5.4 Corporate
 - 5.5 Governance and Customer Service
 - 5.6 Executive

A member of the Kirwans Bridge community addressed Council in relation to Item 5.3.1

MOVED: COUNCILLOR HOURIGAN
SECONDED: COUNCILLOR MURRAY

That the meeting be adjourned for 15 minutes.

EM 12-22/23 CARRIED

6.49 pm: The meeting adjourned, and livestreaming of the meeting was paused.

MOVED: COUNCILLOR RAEBURN
SECONDED: COUNCILLOR HAYES-BURKE

That the meeting resume.

EM 13-22/23 CARRIED

7.05 pm: The meeting resumed, and livestreaming of the meeting recommenced.

Reports Index

5.	OFFICER REPORTS	
5.3	Infrastructure	
5.3.1	Contract Variation – Contract No. 22-23-01: Weir Road and Reedy Lake Road Upgrade – Nagambie	1
5.5	Governance and Customer Service	
5.5.1	Notice of Motion – Extraordinary Council Meeting Tuesday 11 April 2023 Submission to Electoral Representation Review Panel's Preliminary Report Lodged by Councillor Laura Binks (Mayor), Councillor Kristy Hourigan and Councillor Sally Hayes-Burke (<i>Notice of Motion Ref. No. 02/2023</i>)	5

5. OFFICER REPORTS

5.3 INFRASTRUCTURE

5.3.1 Contract Variation – Contract No. 22-23-01: Weir Road and Reedy Lake Road Upgrade – Nagambie

Author: Senior Project Officer - Project Delivery

Responsible Director: Acting Director Sustainable Infrastructure

EXECUTIVE SUMMARY

Weir Road and Reedy Lake Road Upgrade – Nagambie project formed part of Council's 2022/23 Capital Works Program.

At the August 2022 Council Meeting, Council resolved to award Contract No 22/23-01 for Weir Road and Reedy Lake Road Upgrade – Nagambie to Seven Creeks Excavations Pty Ltd, after emerging as the successful tenderer following a competitive tender process. The lumpsum contract was awarded to the contractor for a total sum of \$738,070.

The project was scheduled to commence in October 2022; however, was delayed due to the incessant rains and following major flood event which resulted in the isolation of the Kirwan's Bridge community.

After informal discussions with Council, Officers took the opportunity to learn from this flood event and review the design of Weir Road and Reedy Lake Road to try and minimise the possibility of this road being impassable in any future flood. After further consultation, a revised design was completed with a recommendation to alter the pavement layers to lift sections of the road.

After negotiations with the existing Contractor, the altered design specifications would require the approval of a revised contract price (after negotiation) of \$1,822,870.08 (inclusive of GST) representing a \$1,084,800.08 or 147% increase to the original contract amount.

There are four courses of action that Council could take at this juncture:

- Option 1 – deliver the project as originally scoped using the existing contract, with construction commencing in April 2023 and continuing during winter where there are heightened risks of short and long term pavement failure due to inclement weather/cool conditions
- Option 2 – increase the design specifications to raise the road pavement height to above flood level and approve an exception to our Procurement Policy to vary the existing contract by more than 20%, with works commencing in April 2023 and continuing during winter where there are heightened risks of short and long term pavement failure due to inclement weather/cool conditions
- Option 3 - increase the design specifications to raise the road pavement height to above flood level and approve an exception to our Procurement Policy to vary the existing contract by more than 20%, with works commencing in September 2023 when weather conditions are more conducive to road construction

5.3.1 Contract Variation – Contract No. 22-23-01: Weir Road and Reedy Lake Road Upgrade – Nagambie (cont.)

- Option 4 – cancel the existing contract, pay compensation to the existing contractor (which may be the full contract price) and retender the project at the new specification levels, with construction commencing in late 2023.

Each of these four options have pros and cons; some with significant potential adverse impacts on Council and the community.

With the window for ideal weather for road building being over by the end of March, it is recommended to commence the works in September 2023 and be completed by December 2023. Delaying the commencement of works will overcome any further need for cost variations due to damage to works caused by inclement weather.

On balance, it is recommended that Option 3 – approving an exception to the Procurement Policy and approving a variation to the contract to allow for the improved design specification but delaying commencement to the project until September 2023 is considered the best course of action.

However, there is strong community sentiment and expectation that the road is sealed prior to the winter months. A meeting of the Kirwans Bridge Community Panel was held on 28 March 2023, during which feedback on the timing of this project was discussed, along with options for additional grading and watering of the road should the project be deferred until Spring.

Should Council decide to defer construction until September 2023, Council's Operations team will continue to monitor the condition of Weir Road and allocate resources to grading the road once a fortnight if required. The regularity of grading will be informed by regular inspections by Operations staff and will be dependent on weather conditions over the winter period.

There are two options to enable regular grading to occur; Option 1 is to take a grader out of rotation and allocate it solely to Weir Road, which would cost around \$2,830. Option 2 is to hire an additional grader to allocate to Weir Road at a cost of \$105,709 incl GST for a five (5) month period. It is considered that there would be an adverse impact on other communities given that taking an existing grader out of rotation would delay the scheduled grading program across the broader locality, therefore Option 2 is recommended as the preferred course of action. This additional budget allocation needs to be made as part of the additional funding package for this project.

It is recognised that this is a difficult decision to make given the complexity of issues and competing interests, however it is considered that taking a longer term, sustainable view of the project will result in reduced interruptions and safety impacts for the community, along with better long term value for money outcomes for Council.

5.3.1 Contract Variation – Contract No. 22-23-01: Weir Road and Reedy Lake Road Upgrade – Nagambie (cont.)

MOVED: COUNCILLOR ANDREWS
SECONDED: COUNCILLOR DICKINSON

That Council:

- 1. Deliver the project as originally scoped using the existing contract, with construction commencing in September 2023 and concluding in December 2023, noting the cost escalation of \$154,994 to a total cost of \$929,964 inclusive of GST and 20% project contingency;**
- 2. Note that an additional operational expenditure allocation of \$105,709 inc GST is required to be made by Council as part of the project cost to hire a grader to be stationed at Weir Road to provide for fortnightly grading until the roadworks commence in the Spring in line with the request from local residents;**
- 3. Approve the carry forward of the budget allocated to this project in the 2022-23 financial year to the 2023-24 financial year, while providing an additional budget allocation within the 2023-24 capital works program to cover this variation; and**
- 4. Allocate \$820,000 for the future repairs and maintenance of Kirwans Bridge in the draft capital works budget for 2023-24.**

EM 14-22/23 ON BEING PUT, THE MOTION WAS LOST

Cr Hourigan called for a division

For the Motion

Cr Dickinson
Cr Hourigan
Cr Andrews

Against the Motion

Cr Raeburn
Cr Hayes-Burke
Cr Murray
Cr Binks

MOVED: COUNCILLOR RAEBURN
SECONDED: COUNCILLOR MURRAY

That Council:

- 1. Endorse the course of action of Option 3 – to increase the design specifications to raise the road pavement height to above flood level, approve an exception to our Procurement Policy to vary the existing contract by more than 20%, and works to commence in September 2023 when weather conditions are more conducive to road construction;**

5.3.1 Contract Variation – Contract No. 22-23-01: Weir Road and Reedy Lake Road Upgrade – Nagambie (cont.)

MOTION (cont.)

2. ***Approve the contract variation of \$1,084,800.08, increasing the overall value of Contract No 22-23-01 Weir Road and Reedy Lake Road Upgrade – Nagambie, to \$1,822,870.08 inclusive of GST;***
3. ***Approve the carry forward of the budget allocated to this project in the 2022-23 financial year to the 2023-24 financial year, while providing an additional budget allocation within the 2023-24 capital works program to cover this variation;***
4. ***Note that construction will commence September 2023 with an anticipated completion by December 2023 to minimise the risk of further project escalations;***
5. ***Note the exception to best practice in terms of variations under Council's Procurement Policy in the 2022-23 Annual Report; and***
6. ***Note that an additional operational expenditure allocation of \$105,709 inc GST is required to be made by Council as part of the project cost to hire a grader to be stationed at Weir Road to provide for fortnightly grading until the roadworks commence in the Spring in line with the request from local residents.***

EM 15-22/23 CARRIED

5.5 GOVERNANCE AND CUSTOMER SERVICE

5.5.1 Notice of Motion – Extraordinary Council Meeting Tuesday 11 April 2023 Submission to Electoral Representation Review Panel’s Preliminary Report Lodged by Councillor Laura Binks (Mayor), Councillor Kristy Hourigan and Councillor Sally Hayes-Burke (Notice of Motion Ref. No. 02/2023)

We, Mayor Laura Binks, Councillor Kristy Hourigan and Councillor Sally Hayes-Burke, wish to lodge the following Notice of Motion under Governance Rule 34.

The motion we wish to put to Council is:

That Council:

- 1 Note the Local council electoral structure review Preliminary Report Strathbogie Shire Council March 2023, prepared by the Electoral Representation Advisory Panel.
2. Make a submission to the Electoral Representation Advisory Panel in response to their Preliminary Report advocating for:
 - (a) an electoral structure that provides for 7 councillors, thereby minimising the need for the Mayor to use a casting vote to decide on matters given this is considered to be a poor governance outcome that has the potential to impact on efficient and representative decision making
 - (b) the adoption of a seven ward model, each with a single councillor as its representative, to ensure all communities of interest have a voice in their elected council and that the potential dominance of candidates from the larger townships is overcome.
3. Makes a request in submission for an opportunity for Mayor Binks to make a verbal presentation of their written submission to the Electoral Representation Advisory Panel’s online public hearing on 19 April 2023.

Signed: Mayor Laura Binks



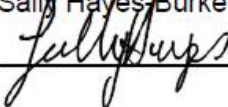
Councillor Kristy Hourigan

Councillor



Councillor Sally Hayes-Burke

Councillor



Date: 30/03/2023

5.5.1 Notice of Motion – Extraordinary Council Meeting Tuesday 11 April 2023
Submission to Electoral Representation Review Panel’s Preliminary Report
Lodged by Councillor Laura Binks (Mayor), Councillor Kristy Hourigan and
Councillor Sally Hayes-Burke (Notice of Motion Ref. No. 02/2023) (cont.)

MOVED: COUNCILLOR HAYES-BURKE
SECONDED: COUNCILLOR HOURIGAN

That Council:

1. ***Note the Local Council Electoral Structure Review Preliminary Report Strathbogie Shire Council March 2023, prepared by the Electoral Representation Advisory Panel.***
2. ***Make a submission to the Electoral Representation Advisory Panel in response to their Preliminary Report advocating for:***
 - (a) ***an electoral structure that provides for 7 councillors, thereby minimising the need for the Mayor to use a casting vote to decide on matters given this is considered to be a poor governance outcome that has the potential to impact on efficient and representative decision making***
 - (b) ***the adoption of a seven ward model, each with a single councillor as its representative, to ensure all communities of interest have a voice in their elected council and that the potential dominance of candidates from the larger townships is overcome.***
3. ***Request in the submission an opportunity for Mayor Binks to make a verbal presentation of their written submission to the Electoral Representation Advisory Panel’s online public hearing on 19 April 2023.***

EM 16-22/23 CARRIED

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.45 P.M.

Confirmed as being a true and accurate record of the Meeting

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Chair

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Date