

**Colac Otway
SHIRE**

MINUTES

**MEETING OF SPECIAL COUNCIL
OF THE
COLAC-OTWAY SHIRE
COUNCIL**

11 SEPTEMBER 2013

at 1:30 PM

COPACC Meeting Rooms

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings. Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission. Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

_COLAC-OTWAY SHIRE SPECIAL COUNCIL MEETING

11 SEPTEMBER 2013

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MINUTES of the MEETING OF SPECIAL COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL held at the COPACC Meeting Rooms on 11 September 2013 at 1.30 pm.

1. OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2. PRESENT

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

Rob Small, Chief Executive Officer
Rick Morrow, Acting General Manager, Corporate and Community Services
Adam Lehmann, Acting General Manager, Infrastructure and Services
Doug McNeill, Acting General Manager, Sustainable Planning and Development
Brett Exelby, Manager Finance and Customer Service
Rhonda Deigan, Executive Officer

3. APOLOGIES

Jack Green, Colin Hayman

4. MAYORAL STATEMENT

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

Colac Otway Shire encourages community input and participation in Council decisions. Council meetings provide an opportunity for the community to ask Council questions, either verbally at the meeting or in writing. As this is a Special Council Meeting, all questions asked must relate to the agenda.

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

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

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Thank you. Now 30 minutes is allowed for question time. Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question. This is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting (subject to attendance and time),
2. Questions from the floor.

5. QUESTION TIME

Nil

6. DECLARATION OF INTEREST

Cr Delahunty:	SC131109-2 Road Management Plan Review
Nature of Disclosure:	Indirect
Type of Indirect Interest:	78B
Nature of Interest:	Prepared a report containing opinion with regard to the road subject to submission

OFFICERS' REPORTS

Corporate and Community Services

SC131109-1 CERTIFICATION OF 2012/13 FINANCIAL STATEMENTS

Infrastructure and Services

SC131109-2 ROAD MANAGEMENT PLAN REVIEW

Rob Small
Chief Executive Officer

SC131109-1

CERTIFICATION OF 2012/13 FINANCIAL STATEMENTS

AUTHOR:	Brett Exelby	ENDORSED:	Colin Hayman
DEPARTMENT:	Corporate & Community Services	FILE REF:	11/96311

Purpose

To propose that Council gives in-principle approval to the Financial Statements, Standard Statements and Performance Statement for the year ended 30 June 2013 and authorises two Councillors to certify them.

Declaration of Interests

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

BackgroundAnnual Report

Section 131(7) and (8) of the *Local Government Act 1989*;

- "(7) *The Council must not submit the standard statements or the financial statements to its auditor or the Minister unless it has passed a resolution giving its approval in principle to the standard statements and the financial statements.*
- (8) *The Council must authorise 2 Councillors to certify the standard statements and the financial statements in their final form after any changes recommended or agreed to by the auditor have been made.*"

Performance Statement

Section 132(6) and (7) of the *Local Government Act 1989*;

- "(6) *The Council must not submit the statement to its auditor or the Minister unless the Council has passed a resolution giving its approval in-principle to the statement.*
- (7) *The Council must authorise 2 Councillors to approve the statement in its final form after any changes recommended or agreed to by the auditor have been made.*"

Council's Audit Committee considered the Draft 2012/2013 Financial Statements, 2012/2013 Standard Statements and 2012/2013 Performance Statements for review and feedback at their meeting held on 4 September 2013.

The recommendation from the Audit Committee was to recommend to Council that the amended 2012/2013 Financial Statements, the Standard Statements and the Performance Statement be adopted.

The recommendation to the Audit Committee also included that Councillors Stephen Hart and Michael Delahunty sign the statements on Council's behalf.

Council Plan / Other Strategies / Policy**Good Governance**

means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

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

Issues / Options

As the Statements are still subject to review and amendment by the Auditor-General's office, any amendments will be incorporated into the final statements.

Proposal

The Statements were reviewed by Council's Auditors during their visit in the week ending 16 August 2013 and were reviewed by the Audit Committee on 4 September 2013.

A copy of the Statements has been provided to Councillors.

It is recommended that Council certify the Statements 'In-Principle'.

Financial and Other Resource Implications

The Statements need to be certified by Council to ensure the Financial Statements are forwarded to the Minister by the statutory deadline of 30 September 2013 as part of Council's Annual Report.

Risk Management & Compliance Issues

Details of the relevant sections of the *Local Government Act* are included under the background to this report.

Environmental and Climate Change Considerations

Not applicable.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The Financial Statements have undergone extensive review by staff, the External Auditor and the Audit Committee.

Implementation

The finalisation of the Financial Statements needs to be completed prior to the 30 September 2013.

Conclusion

It is recommended that Council certify the Statements 'In-Principle'.

Attachments

Nil

Recommendation(s)***That Council:***

- 1. Adopts the 2012/2013 Financial Statements 'In-Principle' in accordance with Section 131(7) Local Government Act 1989.***
- 2. Adopts the 2012/2013 Standard Statements 'In-Principle' in accordance with Section 131(7) Local Government Act 1989.***
- 3. Adopts the 2012/2013 Performance Statement 'In-Principle' in accordance with Section 132(6) Local Government Act 1989.***
- 4. Pursuant to Section 131(8) and Section 132(7) of the Local Government Act 1989, Council authorises Councillors Stephen Hart and Michael Delahunty to certify the 2012/2013 Statements in their final form after any changes recommended or agreed to, by the auditors, have been made.***

During the debate on this item, Cr Smith was requested three times by the Mayor to withdraw and apologise for a comment he made with respect to "poor financial management". Having refused to do so, Cr Smith was then requested to leave the Chambers for the duration of that item. Cr Smith refused to leave the Chambers and remained in the meeting.

CARRIED 6 : 1

DIVISION called by Cr Stephen Hart

For the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Michael Delahunty, Cr Frank Buchanan

Against the Motion: Cr Chris Smith

SC131109-2

ROAD MANAGEMENT PLAN REVIEW

AUTHOR:	Adam Lehmann	ENDORSED:	Neil Allen
DEPARTMENT:	Infrastructure & Services	FILE REF:	11/95398

Purpose

The purpose of this report is to hear submissions under section 223 of the *Local Government Act 1989* in relation to the review of Council's Road Management Plan as previously reported to Council at its meeting of 22 May 2013.

Declaration of Interests

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

Background

Council at its meeting of 22 May 2013 resolved:

Recommendation(s)***That Council:***

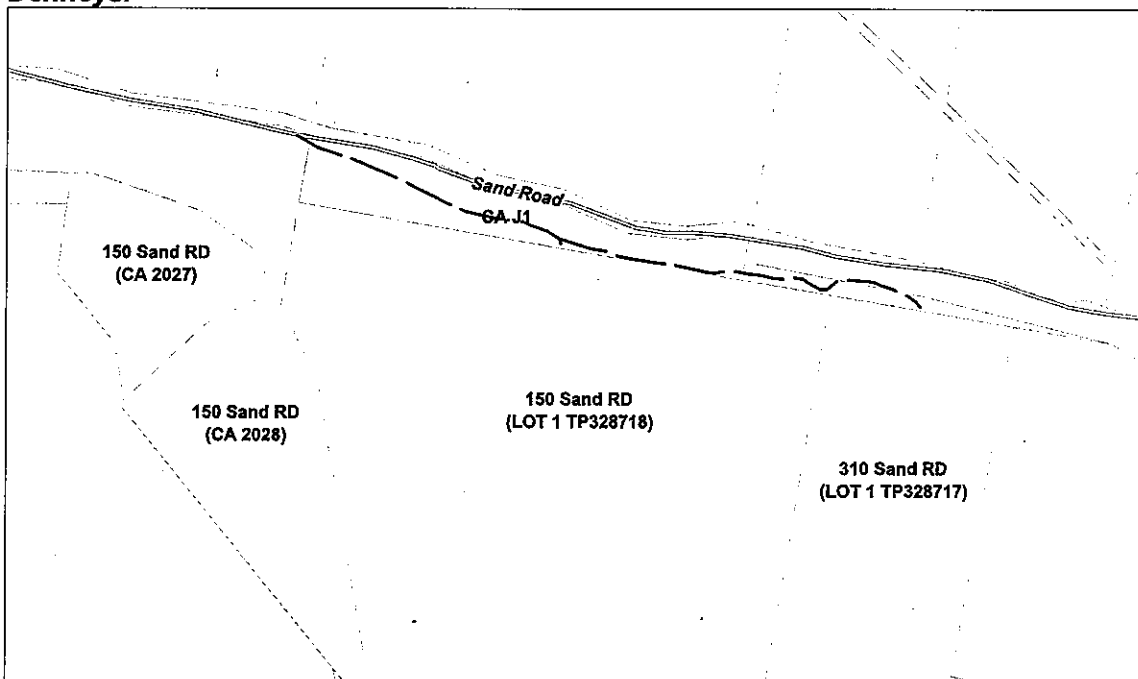
1. ***Advertises its intention to review its Road Management Plan in the Victoria Government Gazette and locally circulating newspapers for a period of 6 weeks, stating the following:***
 - a. ***The review is to consider the appropriateness and effectiveness of Council's priorities in relation to the inspection, maintenance and repair of the roads covered by its Road Management Plan.***
 - b. ***The review will apply to all the roads and classes of roads to which Council's Road Management Plan applies.***
 - c. ***A copy of the current Road Management Plan may be inspected at either of Council's Customer Service Centre's located in Colac and Apollo Bay, or a copy may be obtained by downloading it from Council's website.***
 - d. ***Any person may make a submission in regard to the proposed review of the Road Management Plan to Council in accordance with section 223 of the Local Government Act 1989, must do so in writing, addressed to the Council by 5 July 2013.***
2. ***Notes that during this process, further reports that outline the results and feedback of the community consultation will be presented to Council for consideration to ensure the requirements of the Road Management Act 2004 and the Road Management (General) Regulations 2005 are complied with.***

3. ***Notes that at the completion of the review process a final report will be presented to Council meeting on 28 August 2013, recommending adoption of the Road Management Plan.***

Council will need to hear any submissions prior to further considering the proposal. By way of background, Council received a submission in response to the current review of the Road Management Plan. The submission received relates to the inclusion of an access track which provides practical access to separate parcels addressed as 150 Sand Road, Glenaire. At present this property does not have legal access as it does not have abuttal to Sand Road which is included on Council's Public Road Register.

The alignment of the subject track is shown dashed on the locality plan below. The track itself is not constructed to any specific standard and traverses unreserved crown land. Council's response to this submission has been provided to Councillors as a separate memorandum and follows from legal advice received with respect to the matters raised in the submission.

The map below replaces the map included in the agenda for this meeting as the original map did not accurately represent the intent of the submission provided by the Denneys.



Council Plan / Other Strategies / Policy

A Planned Future

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

Our Goal:

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

The review of the Road Management Plan is in direct response to the requirements of both the *Road Management Act 2004* and the *Road Management (General) Regulations 2005*.

Sub-regulation (3)(b) requires that "each incoming Council must review its road management plan during the same period as it is preparing its Council Plan".

The *Road Management Act 2004* states the requirement to publicly notify of Council's intent to commence a review of the Road Management Plan within 6 months of a new Council.

Issues / Options

One submission was received through the process of public consultation. Subsequent to this, the individual in this case requested that they be heard in support of their submission. Council has previously circulated a memorandum which includes a copy of the submission received and Council's response to this issues raised. This also includes subsequent correspondence with respect to this matter.

Proposal

Prior to making a decision in relation to this matter, Council must hear any persons requesting to be heard in accordance with section 223 of the *Local Government Act 1989* (the 'Act'). Based on the submission received, a further report will be presented to Council with recommendations in relation to the review of the Road Management Plan.

Financial and Other Resource Implications

There are no specific resource or financial implications associated with the hearing of this submission.

Risk Management & Compliance Issues

Council in hearing this submission is complying with its statutory obligations under section 223 of the Act.

Environmental and Climate Change Considerations

No environmental considerations are applicable at this time.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be inform and consult. All persons providing a submission will be advised of Council's resolution with respect to the review and adoption of the Road Management Plan.

Implementation

The outcomes of the hearing and consideration of submissions will require a further report to be presented to Council prior to undertaking any further actions.

Conclusion

That Council hear any submitter(s) in relation to the revision of the Road Management Plan and that the Acting General Manager Infrastructure & Services provides a further report back to Council with recommendations at the next Ordinary Council Meeting.

Attachments

Nil

Cr Delahunty:	SC131109-2 Road Management Plan Review
Nature of Disclosure:	Indirect
Type of Indirect Interest:	78B
Nature of Interest:	Prepared a report containing opinion with regard to the road subject to submission

Having declared a conflict of interest in this item, Cr Delahunty left Council Chambers for the remainder of the meeting at 1.51pm.

Verbal Submission

1. Ros Denney - South Arm of Sand Road, Glenaire

Resolution

MOVED Cr Brian Crook seconded Cr Frank Buchanan

That Council:

1. ***Having received and noted the written and verbal submission, in accordance with section 223 of the Local Government Act 1989, in relation to the review of Council's Road Management Plan, refers the submission for further consideration to the 25 September Council meeting.***
2. ***Notes that a further report will be provided to Council at the next Ordinary Council Meeting in relation to placing the revised Road Management Plan on public exhibition for comment under section 223 of the Local Government Act 1989.***

AMENDMENT - MOVED Cr Chris Smith seconded Cr Terry Woodcroft:

That the following be added as point 3:

"Notes that the plan in the agenda is not in accordance with the submitter's request"

LOST 1 : 5

DIVISION called by Cr Chris Smith

For the Motion: Cr Chris Smith

Against the Motion: Cr Stephen Hart, Cr Brian Crook, Cr Lyn Russell, Cr Terry Woodcroft, Cr Frank Buchanan

MOVED Cr Brian Crook seconded Cr Frank Buchanan

That Council:

- 1. Having received and noted the written and verbal submission, in accordance with section 223 of the Local Government Act 1989, in relation to the review of Council's Road Management Plan, refers the submission for further consideration to the 25 September Council meeting.**
- 2. Notes that a further report will be provided to Council at the next Ordinary Council Meeting in relation to placing the revised Road Management Plan on public exhibition for comment under section 223 of the Local Government Act 1989.**

CARRIED 6 : 0

The Meeting Was Declared Closed at 2.26pm

CONFIRMED AND SIGNED at the meeting held on

.....*Lyn E Russell*.....**MAYOR**