



Submissions Committee Meeting Agenda

8 April 2025 at 3pm

COPACC Meeting Rooms 1 and 2

COLAC OTWAY SHIRE SUBMISSIONS COMMITTEE MEETING

Tuesday 8 April 2025

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COLAC OTWAY SHIRE SUBMISSIONS COMMITTEE MEETING

NOTICE is hereby given that the next **SUBMISSIONS COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Tuesday 8 April 2025 at 3:00 PM.

AGENDA

1 DECLARATION OF OPENING

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 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and emerging.

RECORDING AND PUBLICATION OF MEETINGS

Please note: All Submissions Committee meetings live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Submissions Committee meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Submissions Committee meeting, the live stream recording will be accessible on Council's website. Recordings are also taken to facilitate the preparation of the minutes of open Submissions Committee meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

This meeting will be livestreamed to the public via Council's You Tube channel (search Colac Otway Shire Council at www.youtube.com).

The sole purpose of this Submissions Committee meeting is to hear persons who indicated they wish to speak in support of their written submissions to the:

- "Notice of Intention to Declare a Public Highway (Stanway Drive extension over freehold property)".

3 MEETING ADMINISTRATION

3.1 Present

3.2 Apologies

3.3 Confirmation of Minutes

RECOMMENDATION

That the Submissions Committee confirm the minutes of the Submissions Committee meeting held on 11 March 2025.

3.4 Declarations of Interest

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

4 VERBAL SUBMISSIONS

The Mayor is to read out the names of the people who have confirmed they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A limit of 5 minutes will apply.

Item: 5.1

Notice of Intention to Declare a Public Highway (Stanway Drive extension over freehold property)

OFFICER	David Butterfield
GENERAL MANAGER	Andrew Tenni Doug McNeill
DIVISION	Corporate Services Infrastructure and Operations
ATTACHMENTS	1. Road Corridor Management - Declaration of Public Highway between Iluka Avenue and Stanway Drive Wye [5.1.1 - 2 pages]

1. PURPOSE

To hear verbal submissions from Submitters in relation to the Notice of Intention to Declare a Road to be a Public Highway (extension of Stanway Drive. “The subject road”)

Whilst the process of declaring a road to be a public highway does not formally require a public consultation process, Council has provided the community with an opportunity to make submissions to enable an informed decision to be made.

2. EXECUTIVE SUMMARY

Council has been made aware that the owner of the Subject Land may interfere with the constructed road on the Subject Land or otherwise obstruct public access to it. It is likely that the constructed road is already a public highway at common law but a declaration by Council would put its status beyond doubt.

Council has the power under section 204(1) of the *Local Government Act 1989* (Act) to consider declaring the road as a ‘public highway’ and as a road to be open to public traffic to ensure ongoing public access to such road.

If Council resolves to declare the constructed road to be a public highway under section 204(1) of the Act, it will become a ‘public road’ under section 17(1)(c) of the *Road Management Act 2004* (RMA) and must be included on Council’s Register of Public Roads in accordance with s 17(2) of the RMA. This declaration will provide certainty around the status of the ongoing public access to this existing road.

On the 28 August 2024 Council resolved to initiate a process to provide public notice of its intention to declare the subject road a public highway.

3. RECOMMENDATION

That the Submissions Committee:

1. ***Acknowledges and notes the verbal comments made in support of written submissions.***
2. ***Thanks the submitters for their contribution to the submission process.***
3. ***Having heard all persons wishing to speak to their submissions, recommends that Council consider all submissions at a future Council meeting.***

4. KEY INFORMATION

The constructed road within the Subject Land is shown on the plan below (in the area shaded blue) at Figure A.

(Figure A: Map of Stanway Drive, Wye River)



It is:

1. part of the land contained in certificate of title volume 10677 folio 083;
2. part of Lot 6 on title plan no. TP810967X; and
3. physically constructed as a road and connects Stanway Drive to Iluka Avenue.

Council has formed the view that the constructed road is likely already a “Public Highway” at common law. To put the status beyond any doubt, Council is required to resolve to declare it to be a public highway under the Act. This will ensure that it remains publicly accessible, on the basis that it is a ‘road’ under the Act and a ‘road’ and a ‘public road’ for the purposes of the RMA.

In recognition of the long-established use of the constructed road by vehicular traffic it is considered that the constructed road is reasonably required for public use. The proposal to declare it a public highway would secure its ongoing use by the public and provide certainty for Council's future management of the constructed road.

At its meeting on 28 August 2024, Council resolved to give public notice of its proposal to declare the road between Stanway Drive and Illuka Avenue, Wye River a Public Highway.

The public notice process has included:

1. Notice of Intention to Declare a Road to be a Public Highway was advertised in the Colac Herald and the Apollo Bay Newssheet on 17 January 2025. It was also advertised on Council's Website and in the "Wye River Newsletter". A copy of the Notice is attached to this report.
2. On 8 January 2025 Council wrote to all Wye River residents and surrounding Separation Creek properties providing a hard copy of the Notice of Intention to Declare a Public Highway and associated maps. Council also mailed out the notice to the rating mail address to capture property owners of rented properties and vacant landowners. Details of a "public consultation drop-in meeting" in Wye River was included in the correspondence delivered.
3. On 30 January 2025 a "public consultation drop-in meeting" was held at the Wye River General Store. Several residents attended the session.
4. The notice process concluded on Friday, 7 March 2025.

In response to the public notice, six submissions were received by Council from four submitters. The submissions contained three requests to be heard. Most of the submissions appear to be supportive of Council's intention. Some of the submissions contain requests relating to road safety and some contain historical information. One of the submissions is not supportive of Council's intention. All the submissions received have been provided to Councillors as a confidential attachment to this report.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

- a) priority is to be given to achieving the best outcomes for the municipal community, including future generations
- b) Council decisions are to be made, and actions taken in accordance with the relevant law

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Section 204(1) and (2) of the Local Government Act 1989

1 s 17(2) of the Road Management Act 1989

7(1)(c) of the Road Management Act 2004

207A (c) of the Local Government Act 2020

223 of the Local Government Act 2020

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

Not applicable.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Council has given public notice of its intention to declare the subject road a Public Highway. The Notice was advertised in the Colac Herald, Apollo Bay News, Wye River newsletter and on Council's website. The notice called for written submissions from interested parties.

Council wrote to all Wye River residents and surrounding Separation Creek properties providing a hard copy of the Notice of Intention to Declare a Public Highway and associated maps. Council also mailed out the notice to the rating mail address to capture property owners of rented properties and vacant landowners. Details of a "public consultation drop-in meeting" in Wye River was included in the correspondence delivered.

On 30 January 2025 a "public consultation drop-in meeting" was held at the Wye River General Store. Several residents attended the session

Public Transparency (s58 LGA 2020)

Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

- (b) Council information must be publicly available unless—
 - (i) the information is confidential by virtue of this Act or any other Act; or
 - (ii) public availability of the information would be contrary to the public interest;
- (c) Council information must be understandable and accessible to members of the municipal community;
- (d) public awareness of the availability of Council information must be facilitated.

Council is required to redact and withhold any information that would individually identify a landowner.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement.

Financial Management (s101 Local Government Act 2020)

The surveying and legal costs associated with this process will be borne by Council.

If Council declares the constructed road on the Subject Land to be a public highway, Council must record the road on its Register of Public Roads pursuant to section 17(2) of the RMA. Council will continue to be responsible for ongoing inspection and maintenance in accordance with its Road Management Plan.

Service Performance (s106 Local Government Act 2020)

Services should be accessible to the members of the municipal community for whom the services are intended.

Risk Assessment

Risk has been mitigated by Council undertaking the process of providing public notice of its intention to declare the road to be a public highway. The process calls for public submissions as to the proposal.

Communication/Implementation

All Submitters will be contacted and advised of the opportunity to present their submission at the Submissions meeting. Arrangements will be made so that submitters can talk to their respective submissions via a Teams Meeting link if necessary.

Human Rights Charter

The proposal engages the right not to be deprived of property, other than in accordance with law (see section 20 of the Charter of Human Rights and Responsibilities Act 2006).

Given that Council will be exercising its power under section 204(1) of the Act, in accordance with the requirements of the Act, officers do not consider that the Proposal represents an impermissible burden on that right.

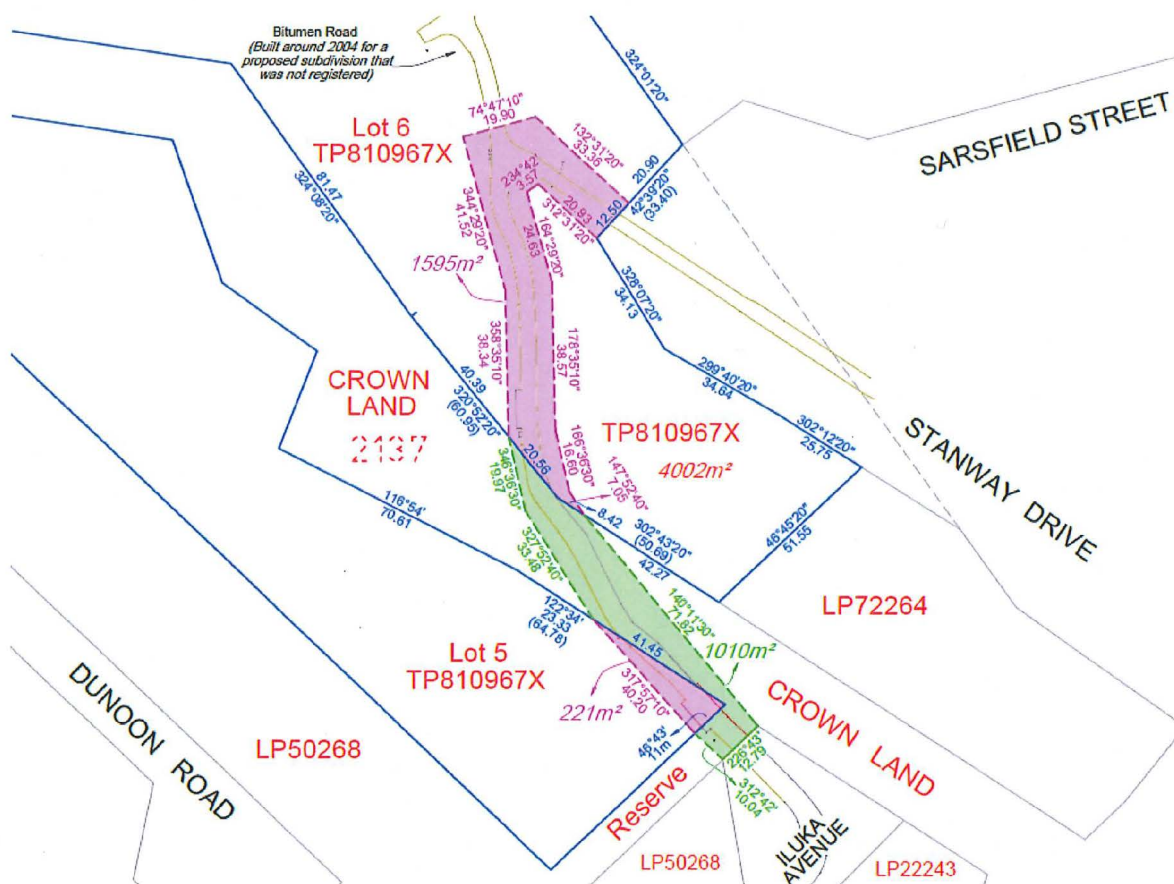
Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.



COLAC-OTWAY SHIRE COUNCIL
PROPOSAL TO DECLARE A ROAD TO BE A PUBLIC HIGHWAY
PUBLIC NOTICE INVITING SUBMISSIONS UNDER SECTION 223

Colac-Otway Shire Council (**Council**) gives notice under section 204(1) of the *Local Government Act 1989* (**Act**), that it proposes to declare that part of the land contained in certificate of title volume 10677 folio 083 and known as (part) 67 Karingal Drive, Wye River, Victoria 3234, as shown highlighted pink on the plan below, to be a public highway (**Proposal**).



Any person may make a submission in respect to the Proposal.

Any person wishing to make a submission under section 223 of the Act must do so in writing by Friday 7th March 2025.

All submissions will be considered in accordance with section 223 of the Act. Submissions should be addressed to the Chief Executive Officer, and can be hand delivered to Council's Municipal Offices at 2-6 Rae Street, Colac, Victoria 3250 or posted to the following address:

Anne Howard
Chief Executive Officer
Colac Otway Shire Council
PO Box 283
COLAC VIC 3250

Any person requesting to be heard in support of their submission is entitled to be heard before Council (or its committee established by Council for this purpose) or be represented by a person acting on their behalf, and will be notified of the time and date of the hearing.