



Southern Grampians
SHIRE COUNCIL

Council Meeting Minutes

Council Meeting
10 November 2021

Held in MJ Hynes Auditorium,
5 Market Place, Hamilton
at 5:30pm.

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The Meeting opened at 5.30pm

1. Present

Councillors

Cr Bruach Colliton, Mayor
Cr David Robertson, Deputy Mayor
Cr Mary-Ann Brown
Cr Albert Calvano
Cr Helen Henry
Cr Greg McAdam
Cr Katrina Rainsford

Officers

Mr Tony Doyle, Interim Chief Executive Officer
Ms Evelyn Arnold, Director Community and Corporate Services
Ms Marg Scanlon, Director Infrastructure
Mr Andrew Goodsell, Director Planning and Development

2. Welcome and Acknowledgement of Country

The Mayor, Cr Colliton read the acknowledgement of country -

“Our meeting is being held on the traditional lands of the Gunditjmara, Tjap Wurrung and Bunganditj people.

I would like to pay my respects to their Elders, past and present, and the Elders from other communities who may be here today.”

Please note: All Council meetings will be audio recorded, and may be livestreamed to Council's social media platform, with the exception of matters identified as confidential items in the Agenda.

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

Other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be allowed without the permission of Council.

3. Prayer

Cr Calvano led the meeting in a prayer.

Almighty god, we humbly beseech thee to vouchsafe thy blessing upon this council.

Direct and prosper its deliberations to the advancement of thy glory and the true welfare of the people of the Southern Grampians shire.

4. Apologies

Nil

5. Confirmation of Minutes

RECOMMENDATION

That the Minutes of the Council Meeting held on 13 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 27 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 29 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Statutory Meeting held on 3 November 2021 be confirmed as a correct record of business transacted.

COUNCIL RESOLUTION

MOVED: Cr Rainsford

SECONDED: Cr Robertson

That the Minutes of the Council Meeting held on 13 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 27 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 29 October 2021 be confirmed as a correct record of business transacted.

That the Minutes of the Statutory Meeting held on 3 November 2021 be confirmed as a correct record of business transacted.

CARRIED

6. Declaration of Interest

None declared

7. Questions on Notice

Questions from the public must be submitted prior to the commencement of Council Meetings.

All questions must be submitted through completion of the Public Question Time form, and be forwarded to the Chief Executive Officer at 111 Brown Street, Hamilton. All questions must be received by no later than 5pm on the Monday before the Council Meeting.

Questions must:

1. Not pre-empt debate on any matter listed on the agenda of the Council Meeting at which the question is asked
2. Not refer to matters designated as confidential under the *Local Government Act 2020*.
3. Be clear and unambiguous and not contain argument on the subject.
4. Not be derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public, nor relate to a matter beyond the power of Council.

If the member of the public is in attendance at the Council Meeting the Mayor will read the question aloud and provide a response. If a question cannot be answered at the meeting, a written response will be prepared and forwarded to the person raising the question.

Residents do not need to attend the meeting for a question to be answered. If they do not attend the meeting a written response will be provided.

There were no Questions on Notice listed on tonight's agenda.

8. Public Deputations

Requests to make a Public Deputation to Council must be submitted prior to the commencement of the Council Meeting.

Anyone wishing to make a deputation to Council must complete the Request to Make a Deputation form and forward it to the Chief Executive Officer at 111 Brown Street, Hamilton by no later than 5pm on the Monday before the Council Meeting.

Speaking time is limited to 3 minutes per person. Organisations may be represented at the deputation to Council by not more than 4 representatives. The names of the representatives to attend must be advised in writing to the Chief Executive Officer and 1 of the representatives to attend must be nominated as the principal spokesperson for the deputation.

Deputations wishing to make a written submission to the Council must a copy either electronically or hard copy of the submission to the Chief Executive Officer prior to the Council Meeting. One copy will be made available to the local media representative, if requested.

All members of the public addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates. If a member of the public fails to do this the Chairperson can remove them from the Chambers. All members of the public must also comply with Council's Council Meetings policy in relation to meeting procedures and public participation at meetings.

There were no Public Deputations listed on tonight's agenda.

9. Informal Meetings of Councillors

The Southern Grampians Shire Council Governance Rules require that records of Informal Meetings of Councillors that meet the following criteria:

If there is a meeting of Councillors that:

- a) took place for the purpose of discussing the business of Council or briefing Councillors;
- b) is attended by at least one member of Council staff; and
- c) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting;

be tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

An Informal Meeting of Councillors record was kept for:

- Briefing Session – 13 October 2021
- Industry Visit and Briefing Session – 20 October 2021
- Briefing Session – 27 October 2021

This agenda was prepared on 3 November 2021. Any Informal Meeting of Councillors between that date and the date of tonight's Meeting will appear in the agenda for the next Ordinary Meeting of Council.

RECOMMENDATION

That the record of the Informal Meeting of Councillors be noted and incorporated in the Minutes of this Meeting.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr McAdam

That the record of the Informal Meeting of Councillors be noted and incorporated in the Minutes of this Meeting.

CARRIED

Southern Grampians Shire Council
Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	13 October 2021
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr Bruach Colliton, Mayor Cr David Robertson, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Helen Henry Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Evelyn Arnold, Director Community and Corporate Services Marg Scanlon, Director Infrastructure Andrew Goodsell, Director Planning and Development Tahlia Homes, Human Resources Coordinator Brett Holmes, Manager Works Kylie McIntyre, Acting Team Leader Aerodrome, Waste and Sustainability Belinda Johnson, Manager Finance
External Presenters:	Tony Kerr, ArcBlue

The Informal Meeting commenced at 2:00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Matters Raised by Councillors and Council Meeting Items	Nil
2	Sexual Harassment Policy	Nil
3	Long Term Plant Hire	Nil

4	Waste Options	Nil
5	Procurement Policy	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council
 Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Site Visit and Briefing Session
Date:	20 October 2021
Location:	Hamilton Transfer Station and MJ Hynes Auditorium
Councillors in Attendance:	Cr Bruach Colliton, Mayor Cr David Robertson, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Helen Henry Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Evelyn Arnold, Director Community and Corporate Services Marg Scanlon, Director Infrastructure Andrew Goodsell, Director Planning and Development Kylie McIntyre, Acting Team Leader Aerodrome, Waste and Sustainability Belinda Johnson, Manager Finance Susannah Milne, Manager Community and Leisure Services Alison Quade, Acting Manager Community Relations

The Informal Meeting commenced at 1:00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Hamilton Transfer Station Site Visit	Nil
2	Long Term Financial Plan	Nil
3	Confidential Item	Nil
4	Freeza Grant Application	Nil

The Informal Meeting concluded at 4:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	27 October 2021
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr Bruach Colliton, Mayor Cr David Robertson, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Helen Henry Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Evelyn Arnold, Director Community and Corporate Services Marg Scanlon, Director Infrastructure Andrew Goodsell, Director Planning and Development Kylie McIntyre, Acting Team Leader Aerodrome, Waste and Sustainability Belinda Johnson, Manager Finance Susannah Milne, Manager Community and Leisure Services Alison Quade, Acting Manager Community Relations
External Presenters:	Murray Wilson, WIM Resources Michael Davies, WIM Resources Michael Winternitz, WIM Resources

The Informal Meeting commenced at 11:00am.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor and CEO Meeting	Nil

2	Matters Raised by Councillors	Nil
3	Tender – Small Town Strategy	Nil
4	WIM Resources	Nil
5	Tender – Bridge Maintenance and Repairs Contract	Nil
6	Contract Variation – Hamilton Port Fairy Road Widening	Nil
7	Showbiz Cinema Proposal	Nil
8	Ansett Museum	Nil
9	Regional Tourism Partnerships	Nil

The Informal Meeting concluded at 5:00pm.

10. Management Reports

10.1 Tender 31-21 Small Towns Strategy

Directorate: Andrew Goodsell, Director Planning and Development
Author: Andrew Goodsell, Director Planning and Development
Attachments: 1. Attachment A – Tender 31-21 Small Towns Strategy

Executive Summary

Council resolved in the budget setting process for the financial year 2021/22 (see Minutes of 23 June 2021) to fund and deliver a strategic review of all small towns across the Shire and consolidate previous strategic work. This was referred to both in discussions with Councillors and the wider community as the Small Towns Strategy (STS), a framework for future planning across the Shire's small towns. It would cover all aspects of strategic planning, policy, local urban design challenges and provide a re-set on small town priorities in the years ahead.

Noting that Council does not presently have a rural living strategy, a key component of STS is to provide an appropriate strategic framework on supply, demand and identified investigation areas. Underpinning this is supply and demand analysis for housing combined with high level constraints analysis.

It was foreshadowed that the budget range to deliver the project would be in the order of \$150,000-175,000 + GST due to the extent of work involved and range of specialists required (dwelling supply and demand, urban designers, planners, community engagement specialists, environmental consultants etc) and require a Council decision.

A STS achieves a range of outcomes. But in essence it synthesises all previous strategic work (urban design frameworks, structure plans, masterplans) undertaken in small towns, and enables communities to work with Council and confirm their priority projects in the short, medium and longer term.

Council tendered 31-21 from 17 September 2021 and closed on 12 October 2021. A briefing to Council was provided on 27 October 2021.

Tenders were publicly advertised on the Council portal E-Procure for the STS.

5 tender submissions were received and evaluated based on the following criteria:

- Price – 30%
- Value delivered – 20%
- Project Methodology – 20%
- Previous Experience – 20%
- Environmental Sustainability – 10%

The recommendation is to award Tender No 31-21 to tender 4 (Niche Planning Studio) for the GST inclusive price of \$190,000.

Discussion

The need for a Small Towns Strategy

A strong characteristic of Southern Grampians Shire is the range of settlements found within it, their geographical spread across the landscape, and the difference in scale between Hamilton (approx. 9,000 residents) and the next largest settlement, Coleraine at around 851 residents. Most settlements are far smaller.

Regardless of size or distance from Hamilton, each settlement requires clear planning policy within the planning scheme, an understanding of local needs and what can be delivered, and by whom and when. Over the years Council has delivered urban design frameworks, structure plans and masterplans – all seeking to address specific issues. This can, and in Southern Grampians Shire's case has produced a complex set of objectives and sought actions. Linking these back to funding and re-testing whether they remain ongoing goals of communities is an important opportunity, especially when linked to a clearer mapping of existing community infrastructure and facilities.

The notion that towns form part of a network with mutually supporting infrastructure, rather than compete for finite resources is integral to this work.

The STS can achieve a range of outcomes. But in essence it synthesises all previous strategic work (urban design frameworks, structure plans, masterplans) undertaken in small towns and enables communities to work with Council and confirm their priority projects in the short, medium and longer term. Whilst Clause 11 of the Scheme is currently silent on future planning on most settlements (ie only refers to Hamilton and Dunkeld), the goal will be to have clear statements for each settlement examined.

Settlement	Structure Plan	Urban Design Framework (UDF)	Community Plan
Balmoral		✓	✓
Branxholme		✓	✓
Byaduk		✓	
Cavendish		✓	✓
Coleraine			✓
Dunkeld	✓		
Glenthompson		✓	✓
Hamilton	✓		
Penshurst		✓	✓
Tarrington	✓	✓	✓
Wannon		✓	

Figure 1 – Local issues and goals are set out by a range of means across all towns within the Shire (source: SG2041 Issues Paper).

The need for a STS was also a direct response to the submissions by a range of progress associations in the budget process from Coleraine and Dunkeld.

The Strategy is identified for delivery in the adopted SG2041 – Community Vision Framework, and was a foreshadowed key project in the Rural Land Use Strategy (currently in formal exhibition process).

Which Towns will be examined in the STS?

Balmoral, Branxholme, Byaduk, Cavendish, Coleraine, Dunkeld, Glenthompson, Penshurst, Tarrington will be the main focus.

Wannon is more likely defined as a low density/rural living area (rather than township) and will be examined in that context. Similarly, because the outer edges of Hamilton comprise rural living zones and STS is intended to address rural living needs across the Shire, Hamilton will be subject to analysis in this more limited context as well.

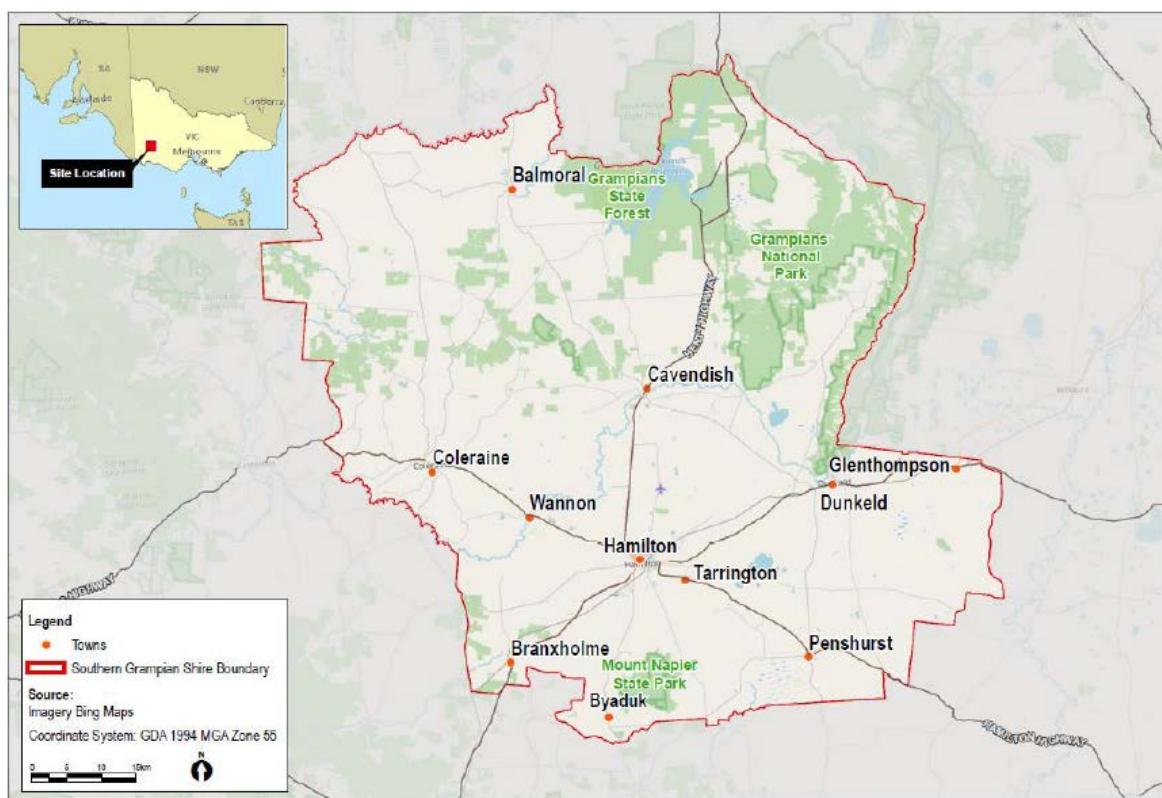


Figure 2 –The towns identified for consideration in STS are all identified here (source: SG2041 – Community Vision Framework)

How STS fits into the strategic framework

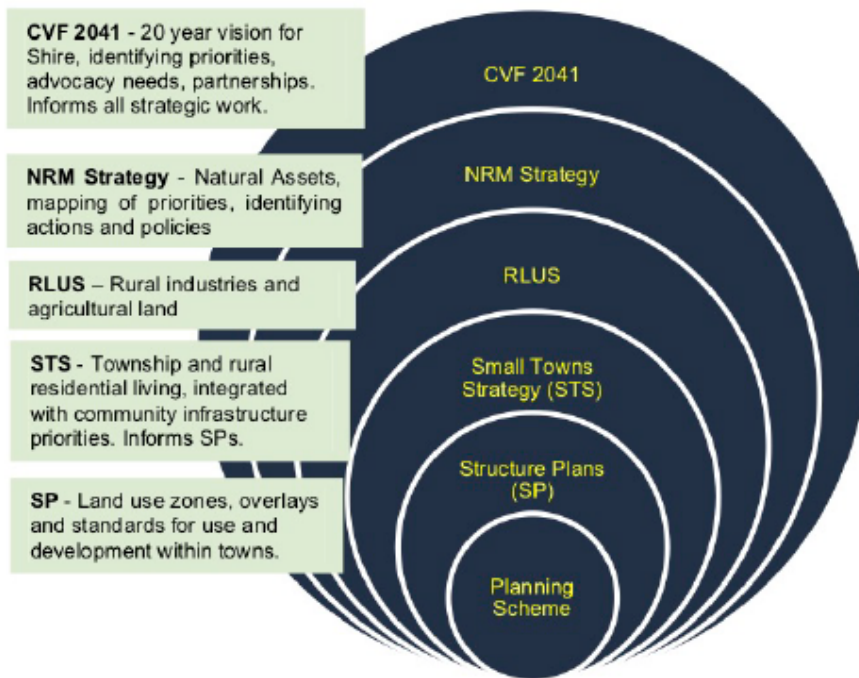


Figure 3 – STS is an integral element of Council’s strategic planning as set out in the draft Rural Land Use Strategy (on exhibition). Note: CVF is now referenced as SG.

Approach and principles to be applied to STS

There are two fundamental aspects to the delivery of STS. Firstly, there is the matter of approach and the role of Council in delivering services, infrastructure and support to communities. This is encapsulated in Figure 4 below.



Figure 4 – Council performs different roles for its community (source: SG2041)

Secondly, there are the principles that guide strategic planning and project prioritisation.

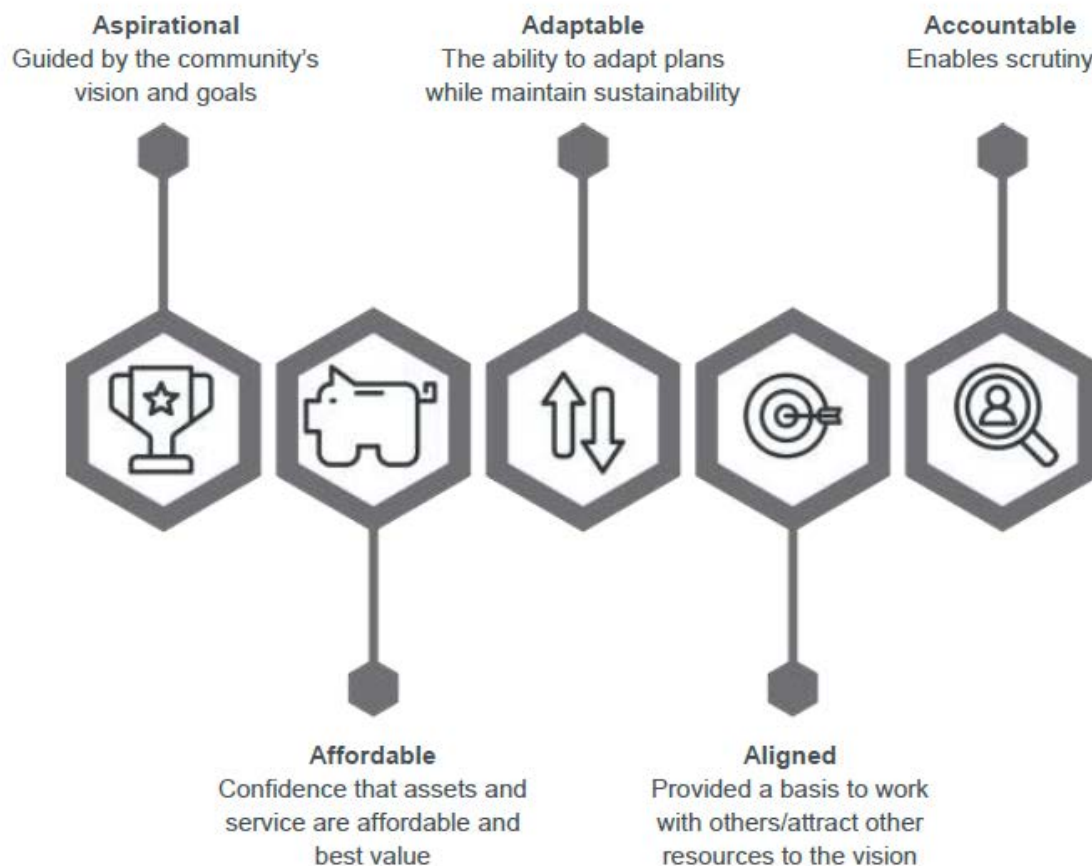


Figure 5 – Core principles to be applied to STS (source: SG2041)

Both aspects will underpin STS.

The Tender Process

Council were fortunate to secure a high quality of submissions for Tender 31-21 from consultants across the country. Key considerations included the following:

- Demonstrating a well-developed understanding that Council may have delivered a range of strategic work across decades but that it was quite likely to be only partially delivered, potentially contradictory, no longer relevant or not reflect what communities see as pressing issues today and tomorrow;
- That consultants must demonstrate skill at listening and collaborating, including co-design of both problem identification and solutions. These issues may vary widely in scale and cost to resolve;
- Show highly developed urban design skills to visualise problems identified on ground and develop ideas with locals;
- In a methodology sense, recognise that the 'heavy lifting' work for this project would not be in the information collection and gaps assessment but in the community stakeholder engagement. This would likely mean clear emphasis on engagement, time and resources to listen and collaborate with local residents;

- Provide a clear track record of planning in a regional setting with significant confidence that work developed could be implemented via DELWP and other agencies.

Initial scoring is set out below for each of the tenderers:

Company Name	Qualitative Score(%)	Moderated Total Price	Quantitative Score(%)	Total Score
Tenderer 1	38.00%	\$186,744.00	26.99%	64.99%
Tenderer 2	49.67%	\$176,000.00	28.64%	78.31%
Tenderer 3	43.91%	\$195,000.00	25.85%	69.76%
Tenderer 4	50.59%	\$190,000.00	26.53%	77.12%
Tenderer 5	31.17%	\$168,000.00	30.00%	61.17%

Table 1 – Initial scoring

From the initial assessment, two consultants were shortlisted, being tenders 2 and 4. Tenderer 2 was the lower cost proposal and was marginally ahead on total score, however it was also noted that tenderer 4 scored high qualitatively than tenderer 2.

Each were then asked five qualitative questions. These were as follows:

Q1. One of the key aspects of STS is to identify local issues, challenges and opportunities faced in small towns. Given all the work completed over many years by Council (UDFs, Structure Plans, masterplans etc) talk us through why you think your approach is the most efficient way to consolidate this information (least cost, least time but comprehensive)?

Q2. Council staff have significant strategic and local knowledge of their communities. How does your proposed methodology leverage this resource? Explain.

Q3. Councillor support for STS will be critical. Explain how you intend to engage with Council based on the premise that they need to 'own' the process and strategy enabling a community-led process.

Q4. A key component of STS is providing clear strategic direction to Council/community on the role of small towns, having regard to assets and services. How would you address these issues in the engagement process, noting that Council manages a range of assets across the Shire (pools, halls, playgrounds etc) which requires innovative thinking, particularly rural communities faced with limited funding resources for both capital and ongoing operational/maintenance needs?

Q5. The tendering process invariably will see consultants from across Australia apply, with varying levels of local background of the planning scheme. What checks and balances do you have to ensure the work you undertake (if commissioned) will be capable of implementation under the Victorian planning system?

Whilst the cost for tender 4 exceeded that of tender 2 (by \$14,000), the qualitative response of tenderer 4 which showed a greater depth of understanding in the initial ratings was further evident in face to face (MS Teams) interviews. That tenderer had done quite similar recent work in regional Victoria with a neighbouring council and it looked directly applicable to Southern Grampians Shire. The critical issue here was the need to establish a clear vision and pathway for both Council and the community to deliver projects. However, as pointed out by tender 4 consultants 'we [also] need to be clear on sense of place, pace of change,

liveability and not try and solve everyone's issues. That would be a task beyond any stakeholder.'

To be successful, STS must be seen as a community project, with Councillors involved in workshopping the solutions. The role for Council staff and the consultants alike is to explain the scenarios available based on ideas generated, the costs, opportunities and challenges with each idea. In this context, the tender seeks true co-design and problem solving. Tender 4 clearly explained their process.

Finally, because STS will be a reference document in the planning scheme and will drive updated policy statements on the aspirations for each town, it relies on solid strategic planning foundations. Tenderer 4 provided an experienced team that has independent thinkers but who also actively work with DELWP on the planning system itself. Tenderer 2 had a team with solid skills but could not score as highly with its reliance on Council staff for peer review.

Referee checks confirmed not only the capacity of tenderer 4 but the regard for which they were held by client councils, which extended beyond the projects initially commissioned to deliver. These reference checks indicated that the consultant has provided ongoing mentoring and technical support for often junior staff and taken on supplementary work the council itself had few resources to otherwise deliver.

On the basis of a detailed analysis, tenderer 4 is the preferred consultant. It is therefore the recommendation of the Tender Evaluation Panel that the tender submitted by Tenderer 4 for the GST inclusive price of \$190,000 be accepted.

Financial and Resource Implications

There are financial implications with progressing the tender, namely commissioning tenderer 4 to deliver STS. The cost of this is \$190,000 incl GST. This cost will need to be reflected in the 21/22 budget line, noting that the project will run around 12-14 months with a close to 50:50 split between financial years 21/22 and 22/23.

Any amendments that introduce new policy statements into the planning scheme will be subject to separate funding/budget allocations, however there is a strong likelihood that much of this can be delivered with internal staff resources (beyond Panel hearings and sitting fees).

Any anomalies identified by STS to existing zoning within Township boundaries will need to be separately scoped as to cost for resolution.

Noting that STS will likely identify investigation areas for rural living near some settlements, any rezoning proposed will be proponent driven (and resourced). Notwithstanding, STS will provide the supply and demand analysis and preliminary constraints assessment to provide much needed guidance on where private driven new development has some potential to gain support.

Legislation, Council Plan and Policy Impacts

The need to deliver STS is set out on page 12 of SG2041- Community Vision Framework. Council's 20 year strategy is a legislative requirement to be delivered under S88 of the *Local Government Act 2020*.

Objectives What we need to achieve	Strategies How it can be done	Timelines Now (<1 yr.) Short term (2-4 yrs.) Medium term (5-10yrs) Long term / Ongoing (>10yrs)	Who? Drive (D) Partner (P) Advocate (A)
Hamilton CBD Revitalisation	Hamilton Central Business Area Activation Master Plan	Short term / Ongoing	D, P & A
Clearer strategic plans for smaller settlements	Small Towns Strategy, informed by Community Infrastructure Framework	Short term / Ongoing	D
Consolidate/strengthen role as a regional leader in digital innovation	Include strong digital component in Economic Development Strategy	Short term / Medium term	D & P
Better integrated transport solutions	Re-examine network needs including 2017 rail strategy and update advocacy as appropriate	Short term / Ongoing	D, P & A
Council to deliver a strategic approach to Arts and Culture infrastructure, including progressing the new Hamilton Art Gallery	Implement Arts and Culture Strategic Plan with Hamilton Gallery Business Case adopted	Short term / Medium term	D, P & A
Council to be a leader in active transport	Develop and implement bike strategy in two parts: A Recreational B Commute	Strategy – Short term Implementation – Long term	D
To address and manage the effective and safe movement of all modes of traffic through Hamilton, including heavy vehicle movements	Complete design and deliver works to enable safe and effective traffic movement throughout Hamilton through re-direction of heavy vehicles outside of Lonsdale Street and dedicated or separated shared user paths for bike users.	Short term	D, P & A

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Figure 6 – STS is a specific project identified in the 20 year Council community vision.

Risk Management

There are no risks identified in delivering STS.

Environmental and Sustainability Considerations

As a cornerstone of STS is to identify local issues and opportunities as well as put a more strategic lens over existing and future infrastructure investment, there are significant environmental and sustainability outcomes that can be delivered.

Community Consultation and Communication

A detailed consultation plan is provided with tender 4. During the inception meeting, as is standard practice, further detail on how this engagement will occur will be rolled out will be undertaken.

Public notice was given of the tender in accordance with section 186 of the *Local Government Act 1989* and the tender process complied with Council's Procurement Policy.

Tenderers will be notified by the Procurements Officer of the decision made by Council at its meeting on 10 November 2021.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

The evaluation panel affirm that no direct or indirect interests need to be declared in relation to any matters in this Report:

- Andrew Goodsell – Director Planning and Development (chair & project lead)
- Marg Scanlon – Director of Infrastructure
- Daryl Adamson – Manager Shire Strategy and Regulation

RECOMMENDATION

That:

1. The tender received from tenderer 4 (Niche Planning Studio) for \$190,000 inclusive of GST be accepted;
2. The Contract documents be signed and sealed when prepared.

COUNCIL RESOLUTION

MOVED: Cr McAdam

SECONDED: Cr Brown

That:

1. **The tender received from tenderer 4 (Niche Planning Studio) for \$190,000 inclusive of GST be accepted;**
2. **The Contract documents be signed and sealed when prepared.**

CARRIED

10.2 Hamilton Cinema Management Proposal

Directorate: Andrew Goodsell, Director Planning and Development
Author: Amy Knight, Manager Cultural Arts
Attachments: None

Executive Summary

In 2008 Council assumed the operation of the Hamilton Cinema following the existing tenant's withdrawal from the lease agreement. Alternate operators were approached at the time, however, were ultimately unsuccessful. There have been numerous attempts to transfer the operation of the venue back to private operation over the years, however none have progressed to implementation.

Although a valued service to the community, significant restrictions on staff wages, as well as limitations on negotiation power with film distributors limit the viability of a Council operational model.

Council has maintained an intention to return operation of the Cinema to private operation at some point, and as such has continued conversations with Cinema operators within the region to gauge interest. Most recently, these discussions have seen a renewed interest in Hamilton.

This report recommends that Council progress a return of the operation of the Cinema to private operation, via a competitive tender process and upon agreed terms.

Discussion

In 2008 Council assumed the operation of the Hamilton Cinema following private operator Reganne Pty Ltd expressing their desire to cease the lease agreement. This agreement had been in operation for the previous 16 years. Following an unsuccessful expression of interest process, Council assumed and has continued operations since this time.

While Council's operation of the Cinema has been met with various successes, it remains outside of Council's core business. The Cinema is operated as a function of the Performing Arts Centre utilising both permanent and casual staff. While professionally run, the Cinema service is performed as an addition to staff's usual roles and responsibilities.

Modelling of the previous four years show an average annual operating cost to Council of \$80,000, which escalates in years impacted by COVID-19 (2019-20 – present). The most significant factors contributing to this total include its single screen operation (in which limits the ability to leverage new release screenings for day and date movies), and award rates for casual workers being significantly higher than those of private operations.

Consideration for the long-term operation of the Cinema, and ensuring the Cinema continues to provide an ongoing program of film entertainment for residents and visitors to the area, various options have been explored. Notwithstanding the variety of operational models adopted by regional Councils to provide a Cinema offering to their communities, the following two options were deemed the most desirable in order to continue to meet the Cinema's objectives and community expectations. These options being:

1. Facilitating a return to private operation under lease agreement and;
2. Retaining the Cinema under Council operation.

Further, in determining a preferred way forward, the Cinema's service objectives were considered. These service objectives are:

- To ensure the Cinema continues to provide an ongoing program of film entertainment for residents and visitors to the area;
- To be accessible and responsive to the needs of the community;
- To operate as a viable and financially sustainable facility which contributes to the local economy.

It is determined that private operation of a Cinema service for Hamilton would result in more economically viable model for the community in the long term, given current award rates of pay and greater freedoms in negotiation power with film distributors.

The cost and rate of pay for casual employees is set by Council's Enterprise Agreement, and results in notably higher rates of pay than those of a commercial operator. Salaries are by far the largest cost for any operator of a cinema. A private operator will also be more likely effective at gaining corporate sponsorship, as well as procuring items for food and drink sales (scale economy due to running other similar facilities).

Furthermore, a commercial operator has greater access and negotiation opportunities with film distributors as Village Roadshow, Disney etc. The offering of new release screenings is therefore significantly higher than our current single screen, single venue operation. Customers will potentially not have to wait to see a film locally several weeks/months after release in other regional cinemas.

Given the assessment of the service, it is recommended that Council progress a return of the Cinema operation to commercial operation via a competitive tender process and upon agreed terms.

Financial and Resource Implications

Council budgets annually for the operation of the Cinema, which is approximately \$80,000 per annum. The implications of COVID-19 on the operational budget since 2019-20 has seen a significant impact on this figure, raising the operational spend to over \$130,000. This is due to honoring staff wages during lockdowns and reduced seating capacity due to restrictions

Under a tender process, it is anticipated that the budgetary impact for Council would be significantly reduced under private operation. This would be via a ceiling for Council's financial support over the life of agreement (likely three-year term).

Legislation, Council Plan and Policy Impacts

The effective operation of a Cinema service in Hamilton meets the following Council Plan objectives and strategies:

1.2 Support and promote a healthy community;

1.2.1 Provide and advocate for accessible, inclusive and equitable Council services, facilities, activities and participation practices;

1.2.2 Support and encourage participation in arts and culture, education, leisure, recreation and sporting opportunities.

Risk Management

The risk to Council is that if the Cinema operational trend continues to escalate, Council may face well beyond a subsidy of greater than \$100,000 per annum over time if the facility is not privatised. Council objectively is not well positioned as a technical strength to run a cinema and the financial impacts pose substantial risk.

Mitigation of these risks can be handled via a ceiling of costs provided on Council financial support for the life of agreement.

Environmental and Sustainability Considerations

A tender process does not impact on Council's environmental impact.

Community Consultation and Communication

Public notice will be given of the tender in accordance with section 186 of the *Local Government Act 2020* and Council's Procurement Policy tender process complied with.

The Hamilton Film Group and other stakeholders has and will continue to be consulted throughout this process.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That:

1. Council resolves to undertake a public procurement process to seek interest in the private operation of the Hamilton Cinema;
2. Following the public tender process, a further procurement report will be presented to Council.

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr McAdam

That:

1. **Council resolves to undertake a public procurement process to seek interest in the private operation of the Hamilton Cinema;**
2. **Following the public tender process, a further procurement report will be presented to Council.**

CARRIED

10.3 Sexual Harassment Policy

Directorate: Evelyn Arnold, Director Community and Corporate Services
Author: Evelyn Arnold, Director Community and Corporate Services
Attachments: 2. Sexual Harassment Policy

Executive Summary

The Sexual Harassment Policy is a newly created policy and is attached for consideration and adoption.

Discussion

In December 2020, the Victorian Auditor General's Office (VAGO) commissioned an independent audit report for parliament on Sexual Harassment in Local Government.

A sector wide survey was also conducted, and responses were received by 9,939 Council employees and Councillors from across 75 Councils. These results were de-identified for privacy reasons but captured that 28% of respondents experienced Sexual Harassment.

Council has a responsibility to implement the recommendations as outlined in the VAGO audit report to help our organisation prevent sexual harassment, encourage reporting of sexual harassment, and increase the effectiveness of our responses to allegations of sexual harassment.

The attached Sexual Harassment Policy outlines Council's commitment to creating and maintaining an organisation free from sexual harassment.

This policy reflects Council's legislative responsibility in meeting the requirements of the Sexual Harassment recommendations as outlined in the VAGO report, and our commitment to the community to create and sustain an environment where everyone is safe and protected from sexual harassment.

Council is committed to creating a culture of zero tolerance towards sexual harassment and recognises that preventing and responding to sexual harassment allegations is an organisation wide responsibility.

Financial and Resource Implications

There are no financial risks in relation to recommendations made in this report.

The resource implications of adopting the Sexual Harassment Policy are within existing adopted budget and are business as usual in terms of compliance.

Legislation, Council Plan and Policy Impacts

The policy aligns with Victorian Equal Opportunity and Human Rights Commission *Guideline: Preventing and responding to workplace Sexual Harassment* and complies with the *Equal Opportunities Act 2010*, the *Sexual Discrimination Act 1984*, *Occupational Health and Safety Act 2004* and the *Local Government Act 2020*.

This policy provides the opportunity for Council to improve their existing processes and practices and enhance the culture of zero tolerance towards sexual harassment for the Shire of Southern Grampians.

Risk Management

Council is responsible for ensuring that appropriate behaviour regarding sexual harassment is clearly defined, and expectations are accessible and understood by all persons associated with Council.

This policy guides our Councillors, employees and volunteers on how to behave with regard to sexual harassment in our organisation. All must agree to abide by Council's *Codes of Conduct*.

Environmental and Sustainability Considerations

There are no environmental or sustainability considerations in relation to this Policy.

Community Consultation and Communication

The Sexual Harassment Policy will be made available on Council's website.

Disclosure of Interests

All Council Officers in this report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council adopt the Sexual Harassment Policy.

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr Rainsford

That Council adopt the Sexual Harassment Policy.

CARRIED

10.4 Proposed Sale of Moodie Avenue

Directorate: Marg Scanlon, Director Infrastructure
Author: Tendai Mhasho, Property Officer
Attachments: None.

Executive Summary

On 14 April 2021, following a community engagement process, Council resolved to sell a vacant block of land in Moodie Avenue, now known as 14a Moodie Avenue, Hamilton.

Subsequent legal advice recommended that Council undertake this process again, as the sale of land should have been conducted under the process outlined in the *Local Government Act 1989*.

At the close of the public submission period on 1 February 2021, the following had been received;

- A petition signed by 60 people;
- 7 written submissions;
- A public deputation.

At the Council Meeting on 9 June 2021, Council resolved to give public notice of Council's intention to sell the vacant block located at Moodie Avenue, under section 189 of the *Local Government Act 1989* and invite public submissions for 28 days on the proposed sale of land under Section 223 of the *Local Government Act 1989*. Council also resolved to write to the submitters from the February 2021 process, acknowledging their original submission and advising them that this would be taken into consideration, or they could elect to make a further submission. At the close of the public submission period on Monday 19 July 2021, 8 written submissions had been received.

Submissions received as part of the first and public notice periods are all valid. Under Section 223 of the *Local Government Act 1989*, Council published a Notice in the Hamilton Spectator on Saturday 7 August 2021 notifying the public of an opportunity for submitters to be heard at a meeting of Council on 11 August 2021. A valuation report for this vacant block was also received from a registered valuer.

At the Council Meeting on 11 August 2021. Council resolved to defer a decision regarding the sale or retention of the property known as 14a Moodie Avenue Hamilton, and that a further report be provided to Council regarding the governance and management of this land.

It is recommended that:

1. Having given public notice of its intention to sell the vacant block in Moodie Avenue, Hamilton and having received a petition, submissions and public deputations, Council receives and acknowledges all the submissions and hearings received at the close of the public submission period;
2. Having received and considered a report regarding the governance and management of this land;
3. Council resolves to sell the vacant block now known as 14a Moodie Avenue, Hamilton;
4. Council authorises the Chief Executive Officer to appoint local estate agent(s) to sell the vacant block known as 14a Moodie Avenue, and to execute all the paperwork necessary for the sale and transfer of this block.

Discussion

In early 2017, neighbours in Moodie Avenue (neighbouring block) wrote a letter to Council stating that for a number of years they have been complaining about the gum trees on the vacant block next door to them in Moodie Avenue, Hamilton. Council has maintained this block for several years on the assumption that it was Council owned land.

A General Law search conducted by Melville Orton and Lewis Lawyers (MOL) confirmed that this parcel of land is privately owned. MOL advised Council that this land remained un-transferred out of Conveyance (05/09/1968) Book 709 No. 995, and that the registered proprietors are deceased. The Grants of Probate issued by the Supreme Court of Victoria provided legal authority to the Executors of the respective Estates.

The Legal Personal Representatives of the Estates visited the block and decided to donate it to Council. The Representatives were advised that if the land is transferred to Council, Council would likely declare it as surplus land to its requirements and may sell this parcel. The process of transferring this land to Council is now complete. Council's Asset Disposal Policy states that the sale of buildings and assets greater than \$150,000 must be approved by Council resolution.

Legal advice received in July 2021 confirmed that there is no reference to a recreation reserve in the conveyance. This search has been undertaken through the Registrar General's office in Melbourne since 2017.

The original plan of subdivision referred to the land as recreation reserve. The Law Agent in Melbourne found no evidence that the land was ever set aside as a reserve, nor was there any evidence found that an Agreement had been struck between the original land owners and subsequent purchasers of the lots which formed part of this subdivision.

In 2018, Land Victoria assigned provisional Volume 12013 Folio 835 to this land under the Transfer of Land Act and prepared title plan 966204G. This is because they found no evidence that the land is considered a reservation, otherwise they would have referred to this on the title plan.

In July 2020 Council's lawyers lodged with the Land Titles Office, a General Law Conversion application which was registered by the Land Titles Office in Certificate of Title Volume 12240 Folio 135.

As part of the 2017 formal searches, land ownership was included and the owners were confirmed. As the owners were deceased, the Legal Personal Representatives of the deceased, the "rightful owners", agreed to gift the land owned by them to Council. In accordance with s188 of the *Local Government Act 1989*, Council accepted the gift of this land from the Legal Personal Representatives.

This vacant property measures approximately 2,439m². According to the Southern Grampians Shire Planning Scheme, this land is zoned General Residential Zone 1 (GRZ1). The vacant block has now been allocated a new street number which is 14a Moodie Avenue.

The process to complete the sale of this block of land is presented below:

- Council to consider the petition, written submissions and public depositions received after the close of the public notice period;
- Council to consider a report regarding the governance and management of this land;

- Council to appoint a local estate agent(s) to sell the vacant block in Moodie Avenue;
- The Chief Executive Officer to execute all paperwork necessary for the sale and transfer of this vacant block.

The location of the land and some photographs of the block are presented below:

Site Plan showing the vacant block known as 14a Moodie Avenue



Location pictures of the vacant block at 14a Moodie Avenue



Financial and Resource Implications

The transfer of this property to Council results in it being Council's responsibility until sold. If retained by Council, Council would need to maintain the property through regular mowing and upkeep. Other likely costs include installation of some perimeter fences and the removal of a dilapidated post and wire fence which needs replacement, as well as clearance of dangerous trees. The cumulative costs of these items are approximately \$55,000 over the next 10 years (\$25,000 for trees and fences plus \$3,000pa for maintenance).

This property is also used as a thoroughfare between Moodie Avenue and the Hamilton Golf Course, which is a risk management and public liability insurance issue.

Alternatively, as recommended, Council would bear the costs associated with the sale of this block i.e. costs of appointing a local estate agent(s), advertising costs and transfer of land. These costs would be offset by the receipt of the proceeds from the sale of this property.

Legislation, Council Plan and Policy Impacts

There is no strategic support for the retention of this property for the purposes of public open space due to its size, location and access. This property however, is suitably placed for sale and residential development.

Under Section 189 of the *Local Government Act 1989*, Council gave public notice of its intention to sell the vacant block in Moodie Avenue, Hamilton for a minimum of 28 days by a Notice published in the Hamilton Spectator and on Council's website on Saturday 19 June 2021. Under Section 223 of the *Local Government Act 1989*, Council invited public submissions on the proposal to sell this land. A petition, written submissions and public deputations were received from the public.

Under Section 189 of the *Local Government Act 1989*, Council obtained a recent valuation for the vacant block in Moodie Avenue.

Council Policy relating to this report is the Asset Disposal Policy.

Risk Management

The risk to Council is that if the lot remains unsold long-term, regular maintenance and upkeep will need to be undertaken. Council obtained a QRTA Risk Assessment Report for the trees located on this block.

Environmental and Sustainability Considerations

Council will have to maintain the lot through regular mowing and managing the trees so that there is no risk of damage to the neighbouring properties.

Community Consultation and Communication

A number of residents considered the option to form a Committee of Management and seeking Council to retain this property for public open space. Upon further consideration, these residents concluded this was not a sustainable option due to the ongoing commitment.

The Hamilton Golf Course was also approached and did not support taking any ongoing responsibilities for this property.

Under Section 223 of the *Local Government Act 1989*, Council advertised by giving public notice of its intention to sell the vacant block in Moodie Avenue for a minimum of 28 days by a Notice published in the Hamilton Spectator and on Council's website.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That:

1. Having given public notice of its intention to sell the vacant block in Moodie Avenue, Hamilton and having received a petition, submissions and public deputations, Council receives and acknowledges all the submissions and hearings received at the close of the public submission period;
2. Having received and considered a report regarding the governance and management of this land, Council resolves to sell the vacant block now known as 14a Moodie Avenue, Hamilton;
3. Council authorises the Chief Executive Officer to appoint local estate agent(s) to sell the vacant block known as 14a Moodie Avenue, Hamilton and to execute all the paperwork necessary for the sale and transfer of this block.

MOTION

MOVED: Cr Calvano

That:

1. **Having given public notice of its intention to sell the vacant block in Moodie Avenue, Hamilton and having received a petition, submissions and public deputations, Council receives and acknowledges all the submissions and hearings received at the close of the public submission period;**
2. **Having received and considered a report regarding the governance and management of this land, Council resolves not to sell the vacant block now known as 14a Moodie Avenue, Hamilton.**

MOTION lapsed for want of a SECONDER

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr McAdam

That:

1. Having given public notice of its intention to sell the vacant block in Moodie Avenue, Hamilton and having received a petition, submissions and public deputations, Council receives and acknowledges all the submissions and hearings received at the close of the public submission period;
2. Having received and considered a report regarding the governance and management of this land, Council resolves to sell the vacant block now known as 14a Moodie Avenue, Hamilton;
3. Council authorises the Chief Executive Officer to appoint local estate agent(s) to sell the vacant block known as 14a Moodie Avenue, Hamilton and to execute all the paperwork necessary for the sale and transfer of this block.

CARRIED

A division was called

DIVISION	
FOR	AGAINST
Cr Brown Cr Colliton Cr Henry Cr McAdam Cr Rainsford Cr Robertson	Cr Calvano

10.5 Proposed Sale of Penshurst Maternal Child Health Building

Directorate: Marg Scanlon, Director Infrastructure
Author: Marg Scanlon, Director Infrastructure
Attachments: None.

Executive Summary

Council property and assets located at 98 Watton Street Penshurst served as the former Penshurst Maternal Child Health Centre. This site is located at the rear of the Penshurst Memorial Hall, and the Penshurst Volcanoes Discovery Centre is located to the north, both of which are accessed via Martin Street, Penshurst.

This property is now considered to be surplus and redundant to the immediate needs of the Penshurst community in its current form. It is proposed that Council approve under s114(2)(a) of the *Local Government Act 2020*, to advertise, for a minimum of 4 weeks of Council's notice of intention to sell the former Penshurst Maternal Child Health building located at 98 Watton Street, Penshurst.

Council will undertake a community engagement process in accordance with its community engagement policy in accordance with s114(2)(b) of the *Local Government Act 2020*.

After the end of the notice period, officers will present another report to Council.

Discussion

The former Penshurst Maternal Child Health Centre comprises two titles (outlined in red in Image 1 below) is located at 98 Watton Street, Penshurst. Located to the east is the Penshurst Memorial Hall (located on the corner of Watton and Martin Streets). The Volcanoes Discovery Centre is indicated with yellow hashed lines in the Image 1 below.

Lot 1 is the lot proposed for sale and Lot 2 will be retained for continued access for the Volcanoes Discovery Centre.



Image 1: Penshurst Maternal Child Health Centre

In 2005, Council considered a proposal to sell this property, however subsequent advice confirmed that the septic system servicing the site is located on adjacent Council owned land. A tender process to lease the building was conducted at the time, however no submissions were received. Council subsequently considered an enquiry from Advance Peshurst at the June 2008 Briefing Session, for the possible use of the building by the Peshurst Newsletter Committee. The proposal put forward by Advance Peshurst indicated the possibility of other groups associated with Advance Peshurst using the building.

Council subsequently entered into an agreement with Advance Peshurst for an initial period of 12 months commencing on 1 October 2008. Council agreed to be responsible for the municipal rates and charges, water charges and any other taxes, or statutory charges levied on the property. Council also insured the building and maintained the outside surrounds and external building structure. Advance Peshurst was required to keep and maintain the interior of the premises in a clean and tidy condition at all times and pay the related costs.

Advance Peshurst now known as Peshurst Progress Association Inc has been leasing the former Peshurst Maternal Child Health building since then, until September 2020 when they cancelled the lease and returned the keys of the building to Council.

Since September 2020, Council has received enquiries from individuals and community groups wanting to lease the building. Council Officers have made it known to these interested parties that the building is quite dilapidated and does not meet the required standards to operate as a commercial business or public facility. Council has also received interest to purchase this building from Council in its current condition.

The 98 Watton Street property is approximately 783sqm and is located in the Township Zone according to the Southern Grampians Planning Scheme and comprises two property titles. A recent valuation assessment of this property is within the range of \$75,000 to \$130,000.

Financial and Resource Implications

Costs for the continued maintenance of the property surrounds is minimal as this only includes routine mowing. There are no building maintenance costs as all services are disconnected and no works have been undertaken on this building since 2020. There is no income as the property is vacant.

Legislation, Council Plan and Policy Impacts

While the Maternal Child Health Centre services have not been provided from this property since 1996, a Hamilton based Maternal Child Health nurse regularly visits Peshurst clients.

The Volcanoes Discovery Centre programs and activities are managed well within their current facility and immediate surrounds and there is no demonstrated need for additional space. Continued access to the lots directly behind the Volcanoes Discovery Centre within the 98 Watton Street, Peshurst title is required.

There are no identified strategic needs within Council strategies or plans that support retention and/or redevelopment of 98 Watton Street, Peshurst and subsequently the proposal is to sell Lot 1 on the open market.

Risk Management

Retaining this building in its current form poses a risk due to the opportunity for vandalism and damage.

Environmental and Sustainability Considerations

98 Watton Street Penshurst is a redundant Council building. Sale of this property enables the opportunity for purchase and development.

Community Consultation and Communication

It is proposed that following Council's endorsement to this sale, Council will, under s114(2)(a) of the *Local Government Act 2020*, advertise, for a minimum of 4 weeks Council's notice of intention to sell the former Penshurst Maternal Child Health building located at 98 Watton Street, Penshurst.

Council will undertake a community engagement process in accordance with its community engagement policy in accordance with s114(2)(b) of the *Local Government Act 2020*.

After the end of the notice period, officers will present another report to Council.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council:

1. Approve under s114(2)(a) of the *Local Government Act 2020*, to advertise, for a minimum of 4 weeks Council's notice of intention to sell the former Penshurst Maternal Child Health building located at 98 Watton Street, Penshurst;
2. Undertake a community engagement process in accordance with its community engagement policy in accordance with s114(2)(b) of the *Local Government Act 2020*;
3. Note, after the end of the notice period, officers will present another report to Council.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr McAdam

That Council:

1. **Approve under s114(2)(a) of the *Local Government Act 2020*, to advertise, for a minimum of 4 weeks Council's notice of intention to sell the former Penshurst Maternal Child Health building located at 98 Watton Street, Penshurst;**
2. **Undertake a community engagement process in accordance with its community engagement policy in accordance with s114(2)(b) of the *Local Government Act 2020*;**
3. **Note, after the end of the notice period, officers will present another report to Council.**

CARRIED

10.6 Tender 23-21: Bridge Maintenance and Repairs

Directorate: Marg Scanlon, Director Shire Infrastructure
Author: Sudip Gautam, Project Engineer
Attachments: None

Executive Summary

In the 2021-2022 budget, four bridges, namely Green Creek Bridge on Glendinning Road, Vasey; Dundas River Bridge on Hyde Park Road, Cavendish; Mokanger Road Bridge, Cavendish and Twomeys Bridge Road Bridge, Yulecart were identified for corrosion treatment and minor maintenance with a proposed budget allocation of \$443,350.00 (excl. GST). Council will fund the project. The proposed maintenance works include corrosion treatment on girders and bracings, concrete spalling treatment, beaching, deck cleaning and clearing works.

Tender 23-21 was advertised on tender portal and closed on the 30 August 2021. Five submissions were received, and the Evaluation Panel have assessed the tenders in accordance with the procurement policy and completed evaluation.

It is recommended that Council award Tender 23-21 Bridge Maintenance and Repairs to McElligott Partners Pty Ltd with a total sum of \$399,606.00 (incl. GST).

Background

Proposed Bridge Maintenance and Repair works were identified as recommendation of Level 2 Bridge assessment conducted in June 2017.

The proposed works were tendered via Council's e-Tendering Portal with the following timelines:

- Tender Advertised: 6 August 2021
- Tender Closed: 30 August 2021.

Discussion

Council has received a good response to the advertised Tender.

Submitted tenders were evaluated as per Council's Procurement Policy. A snapshot of submission with evaluation score is presented below:



Southern Grampians Shire Council

Evaluation Results prior to removal of non-conforming submissions

Company Name	Qualitative Score(%)	Moderated Total Price	Quantitative Score(%)	Total Score	Comments
J & K Civil Maintenance	28.94%	\$123,420.00	50.00%	78.94%	<u>Non-Conforming</u> as the methodology specifically for lead removal and treatment are not according to DOT requirements.
Willmore Contractors	32.04%	\$135,967.00	45.39%	77.43%	<u>Non-Conforming</u> as the methodology specifically for lead removal and treatment are not according to DOT requirements.
Mattioli Bros PTY LTD	30.94%	\$893,735.00	6.90%	37.84%	
McElligott Partners Pty Ltd	34.54%	\$399,606.00	15.44%	49.98%	
AWS Services VIC Pty Ltd	32.88%	\$447,901.00	13.78%	46.66%	

Final Evaluation Results

Company Name	Qualitative Score(%)	Moderated Total Price	Quantitative Score(%)	Total Score
Mattioli Bros PTY LTD	30.94%	\$893,735.00	22.36%	53.30%
McElligott Partners Pty Ltd	34.54%	\$399,606.00	50.00%	84.54%
AWS Services VIC Pty Ltd	32.88%	\$447,901.00	44.61%	77.49%

The Willmore Contractors and J & K Civil Maintenance Contractors were non-conforming tenders, as they both did not meet the project specifications in accordance with the *Department of Transport Bridge Maintenance and Repair Manual, July 2018*.

Specifically, Willmore Contractors declined the opportunity to review their methodologies as they indicated they were not prepared to purchase/hire the necessary equipment to undertake the abrasive works. J & K Civil Maintenance Contractors do not have relevant experience for abrasive blasting. J and K Civil also proposed membrane painting which is not compliant with the DoT requirements.

Abrasive blasting and vacuum pumping which captures toxic particles requirements ensure OHS procedures including environment protection. Willmore was the only regional based tenderer, McElligott Partners is based in Laverton North. The evaluation panel recommends **McElligott Partners Pty Ltd.** to be awarded the contract with the tender price \$399,606.00 (inc. GST)

The preferred tenderer's tender amount is \$399,606.00 (Incl. GST), i.e. \$363,278.18 (excl. GST) and is within Council's proposed budget of \$443,350 (excl. GST).

There are two options for Council regarding this tender:

1. Award the tender to McElligott Partners Pty Ltd for the amount of \$ 399,606.00 (Incl. GST); or
2. Not award the contract.

It is recommended that Council proceed with Option 1.

Financial and Resource Implications

- The project is budgeted within Council's capital works programme for the financial year 2021/2022;
- Overall, the project will be within the budgeted amounts;
- Considering above, there are no financial implications on the Council.

Legislation, Council Plan and Policy Impacts

This report assists Council in meeting its obligations under the *Local Government Act 1989*.

This report also relates to the:

- 2021-2022 Southern Grampians Shire Council Budget;
- 2017-2021 Council Plan – 5.1.2 Ensure responsible, effective and efficient use of Council resources;
- Council's Procurement Policy and Guidelines.

Risk Management

What are the benefits/risks:

- Considering the Contract is a lump sum, the risks of price variation are reduced. There are sufficient available funds for any contingency.
- Waterway permit has been obtained for all bridges from Glenelg Hopkins Catchment Management Authority (GHCMA)

The above is being mitigated by having a robust project management practices and checklist before starting physical works.

Environmental and Sustainability Considerations

A Waterway permit has been obtained for all bridges from Glenelg Hopkins Catchment Management Authority. Environmental Sustainability has been considered in Tender Evaluation.

WorkSafe Victoria has been notified about the lead removal works and will be contacted for site inspection upon the commencement of work.

Community Consultation and Communication

Council officers will contact the affected residents in the neighbouring areas for any road closures. Officers will also contact emergency services, affected bus routes (if any) as part of the communications plan.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

The evaluation panel affirm that no direct or indirect interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That:

1. Council award Tender 23-21 Bridge Maintenance and Repairs to McElligott Partners Pty Ltd with a total sum of \$399,606.00 (incl. GST);
2. The contracts are signed and sealed when prepared.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr McAdam

That:

1. Council award Tender 23-21 Bridge Maintenance and Repairs to McElligott Partners Pty Ltd with a total sum of \$399,606.00 (incl. GST);
2. The contracts are signed and sealed when prepared.

CARRIED

11. Notices of Motion

11.1 Notice of Motion #5/21

Cr Rainsford

I hereby give notice of my intention to move the following motion at the Council Meeting to be held on 10 November 2021

MOTION

That Southern Grampians Shire Council seek a report on preparation of a Lake Hamilton Grangeburn Precinct Masterplan

Background

Councillors have come together to begin the project of reviewing our Lake Hamilton precinct and surrounding assets, along with the Grangeburn within the town's boundaries.

The purpose of preparing a Lake Hamilton and Grangeburn Precinct Masterplan is to maximise the potential of this valuable community asset alongside protecting the nature based recreation, fauna and flora the community also value.

Lake Hamilton and the Grangeburn provides a rich environment for abundant wildlife alongside diverse recreational activities for residents and visitors to Hamilton including platypus, koalas and unique birdlife.

The Grangeburn and Lake Hamilton walking tracks are well used. Sailing, rowing, water skiing, fishing and swimming are permitted activities on the Lake.

The popular ANSETTS. Museum needs revitalisation as an important part of the Gateway to Hamilton. Discussion around repositioning the Visitor. Information Centre in this gateway is considered prudent.

Council has identified the following areas which require attention. The main asset which provides a year round water body is the Dam wall requiring maintenance to function at optimum level. An engineer's report has been prepared and required funds identified.

The regular blue green algae infestations affect the safety and enjoyment of the Lake. Nutrient inflow, water movement and depth are some of the factors identified requiring action.

Originally a seasonal swamp supplied by the Grangeburn the depth, the islands and the shape of Lake Hamilton are all engineered and with the area of land owned by the community (through council) there is potential for some expansion or reconfiguration.

The placement of the small island affects the length of the rowing course and the path of speed boats with skiers.

There is a lack of refreshment facilities, a café or restaurant that can attract visitors and service those already enjoying the playground, skatepark, park run course and water sports.

Outdoor picnic and barbecue areas and suitable parking alongside adequate toilet facilities can be identified.

The potential for improved road access without interfering with nature based recreation with a “ring road” connecting to Ballarat Road and Mill Road has potential.

The overpass over the Railway line and Grangeburn is unattractive. There is potential for a walkway addition off the side of the overpass and artistic beautification.

One of the local Pick my Project submissions from the Glenelg Hopkins CMA was an interesting Sculpture trail long the Grangeburn.

How Lake Hamilton links with the CBD, the Railway station and the overpass can all be designed in a precinct masterplan. With important tourist way finding and place making considerations built in.

Maximising the fishing potential and safeguarding the fauna and flora, it’s all a balance, best done with broad and well informed community consultation.

Recent land sales and developments within the precinct have stimulated community interest and encouraged councillors to ensure that Council urgently reviews the management of the council owned area and maximises the potential of neighbouring investments, working with community, CMA and Government to prepare a plan for the future.

Public Documents relevant to the area include:

2005 Grangeburn Masterplan * Michale Smith & Associates)

2012 Action Plan for improvement of water quality (ALS)

2006 Lake Hamilton Management Plan (Regional Development Company)

Officers Comments

Council adopted a Recreation and Leisure Strategy and Master Plan for Lake Hamilton in 2019. This Master Plan focused on the recreational use of the Lake area. The Ansett Museum and Grangeburn were beyond the scope of this report.

A desk top review of the current Masterplan and the development of a scope to explore the opportunities of this important asset could form the basis of future business cases for consideration and implementation. Prior to delivering a review, a gaps analysis of the work completed, underpinned by some stakeholder engagement is advisable. This will determine which aspects of the current masterplan warrant the specific changes in project delivery foreshadowed in the notice of motion.

Some other strategic considerations also apply. Any work on road networks to serve the Lakes Edge development, should be informed by the completed key worker housing project for Lakes Edge. That work will not be completed until around March/April 2022. The Economic Development Strategy is scheduled for development also this financial year and may shed some light on tourism initiatives in the Shire, including possibly near Lake Hamilton.

Consideration should also be given to the Precinct surrounds to consider and ascertain land use and community use and needs since the development of these strategic plans. Future projections and forthcoming strategic plans such as the Active Transport Plan (pedestrian and cyclist infrastructure) will also need to be taken into consideration.

Issues concerning water quality are complex and fit into Council's commitment to integrated water management and land management issues within the catchment. This will need to involve close work with the Glenelg Hopkins Catchment Management Authority, local landowners and others. Any dredging of the Lake is also complex, noting the potential for contamination, questions on disposal of such fill and planning related to the dam wall and its upgrade/replacement.

A critical review of existing strategic work, stakeholder engagement and more specific capital projects for Lake Hamilton is a significant piece of work. Council will need to prioritise the importance of setting up a budget allocation for 2022/23 noting that there are also expectations of more detailed planning and project delivery for Cox Street, Melville Oval, Hamilton Art Gallery, 90 Lonsdale Street, the Small Towns Strategy and other key projects.

COUNCIL RESOLUTION

MOVED: Cr Rainsford

SECONDED: Cr Henry

That Southern Grampians Shire Council seek a report on preparation of a Lake Hamilton Grangeburn Precinct Masterplan.

CARRIED

A division was called

DIVISION	
FOR	AGAINST
Cr Calvano Cr Colliton Cr Henry Cr McAdam Cr Rainsford Cr Robertson	Cr Brown

12. Delegated Reports

Reports on external Committees and Representative Bodies for which Councillors have been appointed as a representative by Council.

12.1 BARWON SOUTH WEST WASTE AND RESOURCE RECOVERY GROUP (BSWWRRG)

Cr Henry reported on her attendance at the BSWWRRG Meeting held virtually on 21 October 2021.

12.2 RAIL FREIGHT ALLIANCE

Cr Rainsford reported on her attendance at the Rail Freight Alliance meeting held virtually on 5 November 2021.

12.3 AUDIT AND RISK COMMITTEE

Cr Robertson reported on his attendance at the Audit and Risk Committee meeting held virtually on 9 November 2021.

13. Mayors and Councillors Reports

Address from the Mayor and Councillors in relation to matters of civic leadership and community representation, including acknowledgement of community groups and individuals, information arising from internal Committees, advocacy on behalf of constituents and other topics of significance.

14. Confidential Matters

RECOMMENDATION

That the following items be considered in Closed Council as specified in section 66 (2) (a) and referenced in section 3(1), Confidential Information (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released as per the *Local Government Act 2020*.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr Calvano

That the following items be considered in Closed Council as specified in section 66 (2) (a) and referenced in section 3(1), Confidential Information (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released as per the *Local Government Act 2020*.

CARRIED

14.1 Aged Care Transition – [REDACTED]

Directorate: Evelyn Arnold, Director Community and Corporate Services
Author: Craig Kenny, Mach2 Consulting
Attachments: None



Executive Summary

Southern Grampians Shire Council is a long-term provider of aged and disability services for its community.

Significant Commonwealth reforms have been implemented in the past decade and these changes to the funding and operating environment have resulted in Council being ill-equipped and not suited to continuing as a provider.

The current *Commonwealth Home Support Program* (CHSP) transitions to the new *Support at Home* program after 30 June 2023 and Council has concluded that it is in the best interests of the community that it seeks to transition out of the service delivery function. It will however seek to influence to appointment of a values-aligned local provider to build local service system capacity.

In taking this decision Council understands it has responsibilities to clients and families, long service staff and the broader community to manage the transition effectively and to anticipate and mitigate risk.

This first decision is taken on an in-principle basis to enable direct engagement with clients, families, staff, and unions. It will also allow Council to conduct an expression of interest process on a confidential basis to identify a potential values-aligned future provider.

Council will receive a further report in February or March 2022 at which time it will amend or confirm its decision and make a recommendation to the Commonwealth.

Discussion

Southern Grampians Shire Council (the Council) is an important provider of home and community care services to assist older people and those recovering from acute care to continue to live independently in the community. Through the previous Home and

Community Care (HACC) program this was an important part of the core mission for Victorian Local Government for almost 40 years. The HACC program was initiated in the early 1980s and most Victorian Local Government s invested in the development of a highly coordinated and integrated suite of services across assessment, domestic assistance, personal care, respite care, home maintenance, delivered meals, senior citizens centres and social support. This highly integrated system was peculiar to Victoria and was not replicated in other states.

The investment and organisational commitment to provision of services has over time become emblematic of the supportive relationship between Local Government and its community. Investment in HACC services was a means of expressing a strong commitment to many vulnerable members of the community: this included older people, people with a disability or mental illness and people at risk of homelessness.

The National Aged Care reforms

Australia's integrated national aged care program has been undergoing significant reforms over the past 10 years following Commonwealth agreement to take full responsibility for aged care in August 2011 and establishment of the National Disability Insurance Scheme at around the same time.

The key drivers for the aged care reforms included:

- the number of people in Australia requiring aged care (in some form) would increase by 350% between 2011 and 2050
- significant system weaknesses (difficult navigation, limited services, variable quality, and no consumer choice) and inefficiencies (duplication of effort, no competition, and high-cost structures) that needed to be eradicated, and
- real concern that the cost of providing adequate care for older people in future would be unaffordable as a nation.

Attributes of the current aged care model include:

- CHSP – 'entry level' basic home support and community-based services – domestic assistance, personal care, shopping etc – this program provides services to 839,400 older Australians nationally
- Home Care – four levels of 'packaged care' funded from basic to high care to maintain independence – services were provided to 175,000 older Australians
- Residential Care – funded residential aged care (respite and permanent) – 310,000 older Australians nationally

In 2019/20 the total Commonwealth aged care budget in 2020/21 was \$21.5 billion or \$5,063 per older person; this comprised Residential Care \$13.64 billion and Home Care and Home Support \$6.7 billion.

Design principles for the aged care reforms have remained very consistent since initiation, these include:

- **Consumer Choice and Control** – funding is provided directly to the clients based on assessed need to support choice and control – the client purchases services from a range of providers. This has a strong human rights and philosophical basis but introduces competition and signals the end of 'block funding' certainty for providers in most circumstances.

- **A Simplified Gateway** – My Aged Care is the single point of entry for all Australians to access aged care services – the 2017 Legislated Review of Aged Care has recommended merging of the RAS (Home Support) and Aged Care Assessment Teams (ACAT) (Residential Aged Care) into a streamlined national assessment service.
- **Demand Driven System** – the current ‘block funded’ and supply driven system will progressively move to a ‘demand driven’ funding system to ensure consistent services are delivered to where they are needed rather than what areas funding is allocated.
- **Competition Policy** – there is a renewed national focus on competition policy to drive economic growth, productivity, and efficiency in service delivery. It is more likely than not that future program design will be based on market and competition principles meaning that Local Government will face direct market exposure and ratepayer subsidy will be in effect prohibited.
- **Monopoly Market** – the current protected market arrangements are being completely dismantled to facilitate open competition and improved efficiency. Local Government is not equipped to effectively operate under market conditions. (Block funding may be retained for some niche programs and regional and remote areas, but most of the program will likely be on a ‘most efficient’ multiple provider basis.)
- **Market Efficiencies** – the Commonwealth is seeking to reduce transaction costs by having fewer contracts with larger organisations who can operate across large geographic areas – it is unclear whether there will be direct contracts between the Commonwealth and individual Local Governments after June 2023.
- **Client Contribution** – the Commonwealth expects that all Australians will make a consistent contribution to care depending on their capacity and capability.

Recent reform decisions

The May 2021 Federal Budget announced a significant response to the Aged Care Royal Commission in its May budget, this included:

- \$6.5 billion for 80,000 additional aged care packages
- \$3.9 billion for improved front line residential care
- \$630 million improved access for vulnerable Australians
- \$365 million for better transition to residential care
- \$230 million to strengthen aged care quality and compliance
- \$49.4 million for aged care training
- \$21 million for improved sector governance
- \$13.4 million to Primary Health Networks to drive better coordination

The budget included an announcement of an extension of the CHSP program to 30 June 2023 to enable the design and roll-out of the new ‘Support at Home’ program. The original reform timing was for completion by 30 June 2018, and this has been subject of four extensions: one to 2019, then to 2020, again to 2022 and now to 2023.

The ‘Support at Home’ program will be a new integrated program commencing 1 July 2023 that combines CHSP, Home Care Packages, Residential Respite and Short-term Restorative Care. This integrated model will most likely be client-directed, offer a range of providers (i.e., a market-based model) and require that providers offer a suite of services across in-home, personal, nursing, and allied health.

The Regional Assessment Service that undertakes intake and assessment for the CHSP and HACCPYP programs was on a pathway to a national streamlined model by 1 July 2020. This initial plan was delayed pending the outcomes of the Aged Care Royal Commission and the Commonwealth announced in May 2021 that it will initiate a unified assessment model in 2022, and this new program will have responsibility for the new 'support at home' program from July 2023.

The Aged Care Royal Commission and broader aged care reforms have a critical focus on quality and compliance frameworks. This is already reflected in the rigorous requirements of the Aged Care Quality Standards which have applied since 1 July 2019 bringing an increased focus on training of staff, compliance, and outcomes for clients. Enhancing quality and safety is a major focus of the final Royal Commission Report and the Commonwealth has confirmed that there will be an increased emphasis on compliance and reporting for all providers

The Commonwealth has stated that the 2022/23 extension period for CHSP will be based on "payment in arrears". CHSP providers will invoice at the end of each month for actual services delivered rather than Council being paid in advance each quarter with any unspent funds being recouped through the end of year acquittal or subsequent audit. The Commonwealth has identified four benefits of this approach:

- Alignment with future reforms – the Support at Home program will support availability of services through funding following the individual client in most cases, payment in arrears facilitates this process and ensures a consistent consumer experience across all levels of care
- Better consumer choice – payment in arrears encourages a more direct relationship between services that are available and what consumers want. It also ensures access to services in a timely manner.
- Accountability – paying for services that have been delivered is a more accurate and accountable use of government funds.
- Reducing unspent funds – payment in arrears reduces unspent funds and allows reallocation of funding to where it is most needed as quickly as possible.

Southern Grampians Shire Service Profile

Southern Grampians Shire Council is considered a small provider of home and community care services. The largest Victorian Local Government providers deliver over 120,000 hours of in-home services per annum compared with Southern Grampians' 20,000, this is in comparison with some larger not-for-profit providers which deliver many hundreds of thousands of hours of service across CHSP and Home Care Packages.

Council services are funded under two main programs:

- CHSP is a national program aimed maintaining independent living for people over 65 (or 55 for Aboriginal & Torres Strait Islander people) funded by the Commonwealth, and
- HACCPYP is a state-based program that provides services for people under the age of 65 with a disability or chronic illness.

Services are funded from three main sources:

- Unit price – under block funding the government pays Southern Grampians Shire a unit price for services delivered under each program
- Client contribution – the client or carer pays a fee for service depending on their means

- Ratepayer – the cost of delivery is subsidised by income from rates

Program (2021/22)	Funded Hours	Annual Grant Income
CHSP Domestic Assistance	13165	\$642,304.91
CSHP Personal Care	1643	\$80,179.97
CHSP Flexible Respite	179	\$8,746.61
CHSP Social Support – Group (Senior Citizens)	n/a	\$50,245.41
CHSP Social Support – Individual	2192	\$80,179.99
CHSP Meals	31,017	\$104,526.15
CHSP Home Maintenance	411	\$20,803.98
CHSP Home Modifications	137	\$104,526.15
CHSP Centre Base Respite	n/a	n/a

Table 1: CHSP Services - Hours and Grant Income

Program (2021/22)	Funded Hours	Annual Grant Income
HACCPYP Home Care	2044	102,322.64
HACCPYP Personal Care	Included in Home Care	
HACCPYP Property Maintenance	40	2,076.40

Table 2: HACCPYP - Hours and Grant Income

Key issues

Support at Home Program

Southern Grampians Shire Council has accepted that it will not be able to play a meaningful role as a provider of services under the future 'Support at Home' program and that it is in the broader public interest that it transitions out of direct service delivery to focus on broader policy areas such as positive ageing, health and wellbeing and adaptation of universal services to better meet the needs of older citizens.

Participation in 'Support at Home' will likely require Council to extend its suite of programs well beyond current entry level services into allied health, nursing, and more complex personal care. This extension will require higher standards and clinical governance further adding to costs and complexity.

Mandate to operate

Council's current mandate was established over 30 years ago and has been as a 'block-funded' service provider for the majority of CHSP program hours and units for the municipality. Block-funding provided certainty and security for Council in how services could be planned and delivered.

A future mandate under the Support at Home program will most likely be on the following criteria:

- Area – preference will be given to providers operating across one or more Aged Care Planning Regions or even state-wide or national basis.
- Consumer directed funding – most funding will be directed to the consumer, and they will have choice and control over which provider they will select. This automatically places Council under market or competition arrangements and severely reduces certainty.
- Payment in arrears – payment will be based on delivered units and paid following submission of monthly invoices. Council will need new business systems and sufficient cashflow to sustain operations.
- Expanded service suite – there will be an expectation to single providers will span entry-level to complex care requirements, this will invoke increased quality, compliance, and clinical governance requirements.

Workforce

Most Local Government providers have experienced significant competition for qualified direct care workers in recent years, and this has been exacerbated in Southern Grampians Shire by housing affordability and other barriers to the local employment of key workers.

The chronic shortage of qualified workers has meant that Council has not been able to meet service delivery targets which means that Commonwealth policy objectives have not been met.

Cost of Services

In the context of what the Commonwealth is seeking to deliver, Victorian councils are a relatively inefficient and expensive provider of services. Unit costing analysis conducted on over 30 councils found that the delivery of all in-home services requires a ratepayer subsidy of between \$15.00 and \$25.00 per hour to deliver.

Unit costing for Southern Grampians Shire undertaken in August 2021 based on 2020/21 budget data identified a direct unit cost of \$43.28, when local overheads were included the unit cost increased to \$64.95 per hour of service delivered. (This excludes consideration of corporate overheads.)

This equates to a ratepayer subsidy of approximately \$400,000 per annum for CHSP and HACCPYP services.

From a public interest perspective, if Council was not the provider, the Commonwealth will be responsible and accountable for the delivery of services and the ratepayer subsidy could be redirected to alternative priority areas.

Other financial implications of this decision include:

- the Commonwealth is facing an incredibly significant increase in demand for services (> 350%) and must find the most efficient means of delivering a universal service platform for all Australians, no matter where they live,
- the Commonwealth believes services can be delivered for a cost equal to the funding provided plus the fee paid by the client with no other subsidy (around \$50.00 per hour),

- all levels of government should be seeking to achieve the most efficient means of delivering outcomes for the community. Market sounding completed by Mach2 Consulting indicates that there are regional and national aged care providers who would be able to deliver CHSP and HACC PYP services in Southern Grampians Shire,
- Victorian ratepayers are currently subsidising a service that is the responsibility of another level of government (essentially voluntary cost-shifting) – the Commonwealth has taken full responsibility and does not require Local Government support or subsidy to deliver services, and
- National Competition Policy states that any level of government should not subsidise services where there is a reasonable alternative.

Pathway options available to council

Option 1 – Plan for service provision beyond 30 June 2023

This option is not recommended.

Preparation for service provision under the future Support at Home program will require Southern Grampians Shire to completely redesign its service and business model as well as reduce its cost structures by at least 30% to 35%.

Expansion of the traditional service model into more complex care will significantly increase risk and require commitment to clinical governance.

Market competition will be used as a driver of quality and efficiency under the new program, and this will invite commercial risk and application of National Competition Policy competitive neutrality principles.

Local Government cost structures are inflexible and the biggest barrier for Southern Grampians Shire (and all Local Government providers) is scale of service provision and inability to amortise local overhead costs.

Option 2 – Transition out of direct service delivery and focus on broader policy

This option is recommended as being in the public interest and aligned with Council's broader obligations to the community.

Council accepts that Commonwealth policy is moving towards a consistent national integrated aged care system and that this will require more efficient providers who can deliver services across a broad spectrum of needs.

The decision to transition out of its long-term commitment to service delivery is a significant decision and not taken lightly. Council has an obligation to resource and support an effective transition for clients and staff.

Council will proactively manage an effective transition out of service delivery and ensure that all clients (and especially those clients that are vulnerable or at risk of social isolation) are provided with support.

Council accepts its moral and industrial obligations to all staff affected by this decision.

Option 3 – Transition through partnership or sub-contract

In this scenario Council would retain its service agreements and seek to contract with local or regional partners for delivery.

This option is not recommended as the 2-year time frame left for the CHSP program is not sufficient to prepare, commission, and implement an effective procurement process (for both Council and the potential contractor).

Sub-contracting several other industrial and commercial risks including transfer of business and potential for increased costs due to contract supervision.

Financial and Resource Implications

This report has significant financial implications for Council.

The ongoing ratepayer subsidy (estimated at between \$350,000 and \$400,000 in recent years) is not required to deliver Commonwealth policy objectives of an integrated aged care program to support older people to live independently in the Southern Grampians community.

Council will need to commit resources to support an effective transition process, this is estimated to be around \$65,000 over the next 12 to 18 months.



It is recommended that Council's Audit Committee receive a review report at the end of the transition process that summarises all costs and addresses lessons learnt.

Legislation, Council Plan and Policy Impacts

Commonwealth Policy

The Commonwealth took full policy, funding, and commissioning responsibility for an integrated aged care program in August 2011 and has proceeded to implement a range of reforms based on very consistent design principles. The Commonwealth is seeking to design and deliver a nationally consistent consumer centred, integrated, and flexible aged care system that meets the needs of all older Australians.

National Competition Policy

A constraint on Council decision making is the application of National Competition Policy to Local Government in Victoria. The Commonwealth is more than likely to apply market principles to a future Home Support service model and that National Competition Policy and Competitive Neutrality Principles would therefore apply to Local Government operations. Competitive Neutrality Principles apply to the significant business activities of Councils and not to non-business or non-profit activities. The concept of 'significance' is defined on a case-by-case basis looking at the importance of competition in a specific market.

Given the Commonwealth is more than moving to a market-based model for delivery of future services, it is reasonable to assume that there will be a high degree of focus on ensuring the market is not distorted or disrupted by government subsidised activity.

There is a mandated 'public interest test' that must be undertaken if Council wishes to continue to provide services that are subsidised in competition with other 'not-for-profit' and

'for-profit' providers. There is no viable or significant public interest in Council continuing to be a provider in competition with more efficient and more effective non-government providers.

Industrial obligations

Council has industrial obligations to staff to ensure notification of change and consultation and engagement on significant decisions that impact the workplace.

The changes anticipated by this in-principle decision will trigger these obligations and therefore Council must be clear on its position around engagement of staff and notification of unions.

A final decision to exit the program will trigger redundancy provisions of the Enterprise Agreement, exploration of redeployment opportunities and payment of retrenchment packages for affected staff.

An industrial risk that Council must be aware of is transfer of business, this is where a Council seeks to transfer its funding agreement directly to another local provider through a sub-contracting or partnership arrangement. A transfer of business occurs where work, operations, employees, and assets transfer from one entity to another. The implications include that some, or all the employment conditions (wage rates, enterprise agreement, flexibility arrangements etc) of the original employer can, in some circumstances transfer to the new employer.

For a "transfer of business" to occur it relies on whether a range of requirements are satisfied, these include:

- employees transfer between the two entities within a 3-month period,
- employees are terminated by the old employer,
- the work is the same or substantially the same as with the old employer, and
- there is an association between the old employer and the new employer.

Southern Grampians Shire will need to take its own legal advice based on its own circumstances but the risk of a transfer of business is considered much higher in a sub-contracting arrangement as compared with an arrangement where a service agreement is terminated, employees paid retrenchment benefits and funding returned to the Commonwealth.

Council Plan 2021-2025

1. Support our community

Council's transition from being a provider of home support services will potentially strengthen its capacity to invest in positive ageing and health and wellbeing initiatives for older citizens.

Council will continue to play a strong advocacy role to ensure older residents have access to quality aged care services and in not being a provider will be able to take a more active planning and coordination role.

Council will have a future focus on adaptation of universal services (recreation, leisure, libraries, open space etc) to meet the needs of older citizens and people with a disability.

Council will take a strengths-based approach to managing transitions and seek to empower clients, families, and staff in their engagement with the implementation of the decision.

2. Grow our regional economy

It is in the interests of the Commonwealth and Southern Grampians Shire to have a diverse range of home support and aged care providers servicing regional needs. The aged care system is much larger than home support services and future providers can bring additional benefits and investment.

Future providers will deliver across aged care planning regions (8 to 10 LGAs) and deliver services to meet entry-level to complex care needs.

3. Maintain and renew our infrastructure

Council will focus on ensuring future infrastructure meets the needs of older people and people with a disability in its community.

4. Protect our natural environment

There are no significant environmental implications arising from this report.

5. Provide strong governance and leadership

Under the former HACC program Council had a strong history in delivery of integrated services to its community.

Government reforms, creation of the NDIS and future Support at Home program have challenged this role and Council must now plan for its future policy objectives and potential role.

The Local Government Act 2020 includes service performance principles that mandate that Council services must be responsive to changing needs and emerging trends. This decision is reflective of the radically changed policy environment, anticipates the future design of the Support at Home, and outlines a course of action that will be in the best interests of the community.

Human Rights

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

Probity and confidentiality

The expression of interest process that is recommended must meet the probity and confidentiality requirements of the Commonwealth. This will be an important decision criteria in any 'without prejudice' recommendation to be made to the Commonwealth by Southern Grampians Shire.

Risk Management

A comprehensive risk and community impact analysis has been completed for Southern Grampians Shire Council; the high-level risks associated with this decision include:

- **Future Cost of Services** – the current estimated ‘cost to council’ for the main Home Support services of approximately \$400,000 per annum is based on ‘block funding’ and a consistent demand for service. It is highly likely that with increasing demand, the introduction of competition and consumer directed care the future cost of service will increase and that there will be higher volatility and commercial risk.
- **Avoided risks** – by choosing to transition out of service delivery Council is avoiding a significant number of risks, these include commercial risk, business continuity, competition policy and clinical governance.
- **Investment in Innovation** – if Council seeks to remain as a provider of services post-2023 it will need significant investment to support the reorientation of its operating model. This will require renegotiation of industrial arrangements, investment in business processes and technology, reduce overheads, working capital (move to payment in arrears) and capability to quickly increase and reduce scale of operations.
- **Unit Cost** – the unit cost of delivery by Local Government is relatively high when compared to the level of funding provided and the operating costs of not-for-profit and other non-government organisations. Significant industrial and operating reform would be required to seriously change Local Government cost structures.
- **Commercial Risk** – the introduction of ‘consumer directed care’ and likely end of ‘block-funding’ will introduce significant commercial risk for Council. Councils have operated in a highly collaborative, almost monopoly market for 30 years and will have difficulty in adapting operating models to meet these challenges.
- **Scale of Operations** – some councils have examined if growing the scale of operations might be a solution to responding to the reforms. Investigation of this option has indicated that growth in a highly competitive market is unlikely due to inability to expand geographic boundaries, inherent cost structures, limited range of service offerings and lack of experience.
- **Full Cost Attribution** – most Local Government budgets reflect only direct operating costs and local management overhead. Full cost attribution will reflect direct and indirect operating costs, local and corporate overheads, costs of assets deployed in service delivery and adjustments for tax and other advantages derived from being a level of government.
- **Market Competition** – it is more likely than not that ‘limited or full-market competition’ will be introduced in the commissioning of aged care services. Council will need to restructure its operating model and cost structures to adapt to this emerging challenge.
- **National Competition Policy** – NCP requires council to completely remove underlying rate-payer subsidies or pass costs on to consumers. Council can undertake a Public Interest Test, but it is not likely to be able to justify continued subsidisation when in competition.
- **Stranded Services** – if active markets for aged and disability services develop in populated areas, it may result in Councils being left with only remote or rural areas with a very high costs of delivery. Council will be the provider of last resort with diminishing market share and significantly increasing unit costs.
- **Thin Market** – the lack of viable alternate providers is a real risk in regional areas. The responsibility for ‘market stewardship’ and ensuing viable providers sits with the Commonwealth and Victorian governments who have significant market power and influence.

- **Industrial and Employee Relations** – every scenario or pathway for Council contains industrial and employee relations risks, these include industrial obligations under Enterprise Agreement; renegotiation of employment arrangements and a moral obligation to long-serving staff.
- **Managing Transitions** – Council will need to manage the transition of many individual clients over the coming 12 to 18 months, significant investment will be required to provide a safety-net to ensure positive outcomes for clients and community.
- **Addressing Vulnerability** – most clients will make a transition with limited support from Council. It is understandable that Council has a high level of concern for vulnerable members (mental illness, social isolation, at risk of homelessness, intellectual disability etc) of the community and therefore it will invest in transition programs and safety-nets to provide appropriate support structures.
- **Advocacy** – There is a clear need for strong advocacy to the Victorian and Commonwealth Governments on the risks for Local Government arising from the reforms. This includes holding the Commonwealth and Victorian governments accountable for service delivery outcomes; ensuring the market stewardship roles are fulfilled; and making representations on the needs of vulnerable communities.

Environmental and Sustainability Considerations

There are no environmental sustainability implications associated with this report.

Community Consultation and Communication

Significant consultation with the Community has identified that supporting our ageing population is an important priority for the community.

Council officers have engaged with Commonwealth and Victorian government agencies to provide notice and advice of the decision-making process.

Council by taking this in-principle decision will trigger a comprehensive communications and consultation exercise; this will include:

- Clients and families have been informed that Council is commencing a decision process and will be provided with a contact number to raise any questions or concerns during the process.
- A proactive media engagement strategy to explain the rationale for Council's decision, the intended process, and long-term benefits for the community.
- The Australian Services Union, acting as the industrial representatives of staff have been advised of the intention of Council to make an in-principle determination on this matter. A staff working group will be established to ensure clear communication throughout the process.
- Council officers will host an information and 'Q & A' session for the general community following Council determination on this matter.
- A comprehensive 'Frequently Asked Questions' document will be available via Council's website and customer service centres.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Southern Grampians Shire Council:

- (a) Notes that since 2011 the Commonwealth has progressed implementation of a consistent and integrated national aged care service system based on increased consumer choice and control and competition between providers to drive quality improvements and service efficiencies with a final transition date of 1 July 2023.
- (b) Accepts that due to inherent service cost, financial constraints, competition policy and other structural challenges, Southern Grampians Shire Council along with many other Victorian councils will not be able to play a meaningful future role in service delivery.
- (c) Determines on an in-principle basis that it will transition out of direct service delivery roles in the following programs:
 - (i) All funded Commonwealth Home Support Programme services
 - i. Domestic Assistance
 - ii. Personal Care
 - iii. Flexible Respite
 - iv. Social Support – Individual
 - v. Home Maintenance and Modifications
 - vi. Social Support – Group
 - vii. Centre-based Respite Care
 - viii. Food Services
 - ix. Sector Support & Development
 - (ii) All HACC-PYP funded services
 - i. Community Care
 - ii. Property Maintenance
 - iii. Service Systems
 - iv. Delivered Meals
 - v. Assessment
- (d) Commits to working with the Commonwealth and Victorian Governments to negotiate timing and transition processes that will protect the interests of clients, their families, much valued staff, and the broader community.
- (e) Notes that under its service agreements all processes and matters related to the transition process (i.e., names of future providers) will remain confidential until the

Commonwealth and Victorian governments provide consent for release of information.

- (f) Affirms that in taking this decision it will continue to play an active role in ensuring its community will receive high-quality aged care services and will advocate for the needs of vulnerable members of the community.
- (g) Commits to the values and principles outlined in Appendix A of the report to underpin and support decision making through the transition process.
- (h) Notes that Council intends to be involved in the selection of a new Commonwealth Home Support Programme provider and will make recommendations to the Commonwealth for their consideration during the appointment process.
- (i) Realigns its policy direction towards future investment in age-friendly or positive-ageing initiatives and ensuring that Council's universal services and facilities are designed to meet the needs of a growing population of older residents. Further policy work and recommended directions will be referred to the 2022/23 budget process for review and approval.
- (j) Notes that Council's policy objective of ensuring that older adults seeking to live independently in the community will be provided with quality home support services will not be compromised by this decision. Services will continue to be provided and Council will be able to reinvest its current ratepayer subsidy into alternative strategic priorities.
- (k) Provides delegated authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this council decision.
- (l) Appoints the Mayor and CEO as spokespersons for all matters related to the Home Support Transition process.
- (m) Approves that a non-confidential version of this report and resolution be included in the minutes of the meeting and be used in the public domain following adoption to ensure transparency to Council's decision process.
- (n) Approves immediate notification of its in-principle decision to, and appropriate consultation with:
 - (i) Clients and families
 - (ii) Staff and union representatives
 - (iii) Media and other communications
 - (iv) Broader community

Receive a further report in February or March 2022 to confirm this decision and the details of transition including timing of transition, the process for appointment of new provider(s), safety-net provisions, transition arrangements for clients, client information, transition support for staff, implications for Council assets and facilities and communications to the broader community.

COUNCIL RESOLUTION

MOVED: Cr Calvano
SECONDED: Cr Brown

That Southern Grampians Shire Council:

- (a) Notes that since 2011 the Commonwealth has progressed implementation of a consistent and integrated national aged care service system based on increased consumer choice and control and competition between providers to drive quality improvements and service efficiencies with a final transition date of 1 July 2023.**
- (b) Accepts that due to inherent service cost, financial constraints, competition policy and other structural challenges, Southern Grampians Shire Council along with many other Victorian councils will not be able to play a meaningful future role in service delivery.**
- (c) Determines on an in-principle basis that it will transition out of direct service delivery roles in the following programs:**
 - (i) All funded Commonwealth Home Support Programme services**
 - i. Domestic Assistance**
 - ii. Personal Care**
 - iii. Flexible Respite**
 - iv. Social Support – Individual**
 - v. Home Maintenance and Modifications**
 - vi. Social Support – Group**
 - vii. Centre-based Respite Care**
 - viii. Food Services**
 - ix. Sector Support & Development**
 - (ii) All HACC-PYP funded services**
 - i. Community Care**
 - ii. Property Maintenance**
 - iii. Service Systems**
 - iv. Delivered Meals**
 - v. Assessment**
- (d) Commits to working with the Commonwealth and Victorian Governments to negotiate timing and transition processes that will protect the interests of clients, their families, much valued staff, and the broader community.**
- (e) Notes that under its service agreements all processes and matters related to the transition process (i.e., names of future providers) will remain confidential until the Commonwealth and Victorian governments provide consent for release of information.**

- (f) Affirms that in taking this decision it will continue to play an active role in ensuring its community will receive high-quality aged care services and will advocate for the needs of vulnerable members of the community.
- (g) Commits to the values and principles outlined in Appendix A of the report to underpin and support decision making through the transition process.
- (h) Notes that Council intends to be involved in the selection of a new Commonwealth Home Support Programme provider and will make recommendations to the Commonwealth for their consideration during the appointment process.
- (i) Realigns its policy direction towards future investment in age-friendly or positive-ageing initiatives and ensuring that Council's universal services and facilities are designed to meet the needs of a growing population of older residents. Further policy work and recommended directions will be referred to the 2022/23 budget process for review and approval.
- (j) Notes that Council's policy objective of ensuring that older adults seeking to live independently in the community will be provided with quality home support services will not be compromised by this decision. Services will continue to be provided and Council will be able to reinvest its current ratepayer subsidy into alternative strategic priorities.
- (k) Provides delegated authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this council decision.
- (l) Appoints the Mayor and CEO as spokespersons for all matters related to the Home Support Transition process.
- (m) Approves that a non-confidential version of this report and resolution be included in the minutes of the meeting and be used in the public domain following adoption to ensure transparency to Council's decision process.
- (n) Approves immediate notification of its in-principle decision to, and appropriate consultation with:
 - (i) Clients and families
 - (ii) Staff and union representatives
 - (iii) Media and other communications
 - (iv) Broader community

Receive a further report in February or March 2022 to confirm this decision and the details of transition including timing of transition, the process for appointment of new provider(s), safety-net provisions, transition arrangements for clients, client information, transition support for staff, implications for Council assets and facilities and communications to the broader community.

CARRIED

15. Close of Meeting

This concludes the business of the meeting.

Meeting closed at 7:06pm.

Confirmed by resolution 8 December 2021.

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Chairman