

SOUTHERN GRAMPIANS SHIRE COUNCIL

Council Meeting Minutes
10 July 2024

Held in Council Chambers
5 Market Place, Hamilton VIC 3300 at 5:30pm



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1 Present

Councillors

Cr David Robertson, Mayor
Cr Helen Henry, Deputy Mayor
Cr Mary-Ann Brown
Cr Bruach Colliton
Cr Fran Malone
Cr Katrina Rainsford

Officers

Mr Tony Doyle, Chief Executive Officer
Mr Darren Barber, Director People and Performance
Mr Rory Neeson, Director Wellbeing, Planning and Regulation
Ms Marg Scanlon, Director Infrastructure and Sustainability
Lisa Grayland, Acting Governance Coordinator

2 Welcome and Acknowledgement of Country

The Mayor, Cr Robertson will read the acknowledgement of country:

“Our meeting is being held on the traditional lands of the Gunditjmarra, Djab Wurrung, Jardwadjali and Buandig people.

I would like to pay my respects to their Elders, past, present and emerging, 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 Brown will lead the meeting in a prayer.

“Almighty God grant to this Council, wisdom, understanding and sincerity of purpose for the good governance of this Shire.”

4 Apologies

5 Confirmation of Minutes

COUNCIL RESOLUTION

MOVED: Cr Malone
SECONDED: Cr Henry

That the Minutes of the June Council meeting held on 12 June 2024 be confirmed as a correct record of business transacted.

CARRIED

6 Declaration of Interest

7 Leave of Absence

There is one request for a leave of absence on tonight's agenda.

- Cr Calvano

8 Questions on Notice

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

8 Questions on Notice

There are two Public Deputation listed on tonight's agenda.

8.1 Jenny Rankin – Glenthompson Swimming Pool Closure

Question 1 -

Since we haven't yet had answers to the questions we asked at that briefing, I want to put them again:

- Will Council agree to a minimum 6 month stay on works at the pool? While some items have already been removed, we would like to know nothing else will be taken before discussions are held about what belongs to the township;
- Is Council willing to participate in independent mediation with the community over retention of the pool?
- And is Council willing to work with the community to find workable alternative ways to keep the pool open?

Question 2:

At that briefing, Mr Doyle said we would need the backing of the whole community if we were to keep the pool. That backing was clearly demonstrated at both engagement sessions in Glenthompson late last year. Yet despite that overwhelming endorsement, councillors voted to ruin it.

On the other hand, with no evidence of such support, Council has allocated money in the recently accepted budget for the acquisition and renovation of the school. We welcome investment in our district as a return on the financial contributions we make to Council. And the school may, in time, prove to be a very worthwhile project. But at this time, it is not Council-owned, its price has not been disclosed, it has no sale date and no feasibility or business plans, and will cost a bomb to repair and renovate.

So this decision seems to be capricious and based on a false dichotomy. Capricious in the sense that an existing and well supported facility, in which the community is heavily invested, is to be sacrificed, while a project for which support and viability are unknown is to get your funding. A false dichotomy in that this decision has been couched as a choice between one or the other, when we need the option of both.

Response from Council Officer

One:

- Will Council agree to a minimum 6 month stay on works at the pool? While some items have already been removed, we would like to know nothing else will be taken before discussions are held about what belongs to the township;

Council made the decision at the April Council Meeting to:

1. Close and decommission the Glenthompson Swimming Pool;
2. Continue discussions with the community on its future priorities for the town;
and
3. Present these priorities to Councillors as part of the 2024-2025 budget process.

Following the presentation from the Glenthompson Swimming Pool Committee at the May Briefing Session, Council officers have not removed any pumps or permanent fixtures from Glenthompson Swimming Pool. As Officers noted to you following your last presentation, we have no plans to decommission the pool equipment at this time. As indicated at your last deputation, the timing of this is most likely to align with a decision and implementation of the future use of the site and expansion of the neighbouring park. Also as previously indicated, if we have equipment malfunctions at other pools and can reuse equipment at the Glenthompson Swimming Pool rather than buy new, we will do that, but at this stage we have no expectations that this will occur.

Staff have reported that they have been questioned by members of the community when they were at the site taking a 'portable manual vacuum that is used across all outdoor pools and is not a permanent fixture at any pool'. This information was provided to Jenny Rankin via a letter from the CEO.

Officers also presented an item as part of the 2024-2025 Council Budget that provides \$100,000 to assist the Glenthompson community to purchase the former Glenthompson Primary School site. This was included as part of the budget following previous discussions with the community around their future priorities for the town. Council is continuing to have discussions with the State Government and Eastern Marr to see the sale of this site proceed.

- Is Council willing to participate in independent mediation with the community over retention of the pool?

Council made the decision to close and decommission the Glenthompson Swimming Pool at the April Council Meeting. Council has made a lawful decision in line with the requirements of the Local Government Act regarding responsible financial management, it is therefore hard to see what role mediation could play. If you have a proposal, please send it to us for consideration. In your last deputation to Council, you indicated that a community group would put a proposal to Council regarding the future management of the pool, which Council indicated it would welcome receiving. We continue to engage with the Glenthompson community on their future aspirations.

- And is Council willing to work with the community to find workable alternative ways to keep the pool open?

During the engagement sessions Council completed late 2023 with the community, community ownership and/or management of the swimming pool was raised to which

the community advised that this not a feasible option due to their limited capacity both on a volunteer and financial basis. If, as you have foreshadowed at your last deputation, you or your pool group have a proposal, Council would welcome receiving it and discussing it further.

Two:

At that briefing, Mr Doyle said we would need the backing of the whole community if we were to keep the pool. That backing was clearly demonstrated at both engagement sessions in Glenthompson late last year. Yet despite that overwhelming endorsement, councillors voted to ruin it. On the other hand, with no evidence of such support, Council has allocated money in the recently accepted budget for the acquisition and renovation of the school. We welcome investment in our district as a return on the financial contributions we make to Council. And the school may, in time, prove to be a very worthwhile project. But at this time, it is not Council-owned, its price has not been disclosed, it has no sale date and no feasibility or business plans, and will cost a bomb to repair and renovate. So this decision seems to be capricious and based on a false dichotomy. Capricious in the sense that an existing and well supported facility, in which the community is heavily invested, is to be sacrificed, while a project for which support and viability are unknown is to get your funding. A false dichotomy in that this decision has been couched as a choice between one or the other, when we need the option of both. My question, then, is: - Would one of the four councillors who voted to defund and destroy our pool please explain why they are prepared to sacrifice this valuable and well supported existing facility, while allocating Council finance to a project for which community support has not been demonstrated, and that may still not eventuate?

Officers are unable to provide a response to this question as it is directed at Councillors to respond.

Response from Mayor David Robertson:

Working with the Community on the future of the pool. I have had discussions after a phone call from one of your community members, his words: "We should be working with Council and not fighting against Council". He came up with a few suggestions about what they're trying to do or what you are trying to do out there and we would be open to some of those, he talking about financing the pool with other means. We were certainly not going to fill it in and destroy the pool if there is another option or way of keeping it open. We are certainly open to that.

At \$65,000 a year to open the gates plus the refurbishment and upgrading of the pool is beyond the council means.

I don't think there is anywhere else in Australia, where has a community has the opportunity at the moment that a pool themselves, plus two pools within 15 minutes and another pool about 30 minutes away. It's a luxury that you have and the demographics and the changing of population to the extent now that there is very use

out there, there is very few young people out there using the pool. I will go onto your question which I will answer on behalf of my colleagues.
Why are we investing money into school?

The purchase of the school has been on the books for a long time. It is a State Govt owned building and we have had applications from the Glenthompson Community Association, putting in a request of projects that they would like. The school was at the top of the list, could we purchase it for the community's activities?

It would be open for 365 days a year, that's better than the 43 or 53 days the pool is open Yes, it will need money to get it back into order, but after that, the running costs would be a lot lower.

It would be able to be used by everyone in the community, from Men's Shed Women's shed art gallery to art workshops to even retails shops. Much more attractive than a pool that is only open through the summer months. We believe it would benefit the community greater.

9 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 provide 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 Meeting. All members of the public must also comply with Council's Governance Rules in relation to meeting procedures and public participation at meetings.

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

10 Petitions

There were no Petitions listed on tonight's agenda.

11 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:

-

This agenda was prepared on 07 July 2024 Any Informal Meeting of Councillors between that date and the date of tonight's Meeting will appear in the agenda for the next Council Meeting.

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Audit & Risk Committee Meeting
Date:	6 June 2024
Location:	Martin J Hynes / Teams Meeting
Councillors in Attendance:	Cr Bruach Colliton
Council Staff in Attendance:	Darren Barber, Director People & Performance Nick Templeton, Head of Finance Melissa Beaton – HR Coordinator Mike Shanahan – Risk, Health & Safety Coordinator Nadine Rhook – Executive Assistant to Director People & Performance
Apologies	Cr Helen Henry Tony Doyle, Chief Executive Officer Tahlia Homes – Manager People & Culture Lisa Grayland – Acting Governance Coordinator

The Informal Meeting commenced at 2.30pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Membership	Nil
2	Committee & Auditors in Camera	Nil
3	Welcome	Nil
4	Apologies	Nil
5	Confirmation of Previous Minutes – 13 February 2024	Nil
6	Conflict of Interest Disclosure	Quarterly Councillor's Expenditure
7	CEO Report	Nil
8	Governance & Risk Management Disclosure	Nil
9	Summary Table of Outstanding Matters	Nil
10	Register of Committee Members Interests	Nil
11	ARC Chair Report	Nil
12	ARC Self Assessment	Nil
13	Audit & Risk Committee Charter Review	Nil
14	Financial Report to 31 March 2024	Nil
15	Quarterly Councillor's Expenditure Report (For Information)	Cr Henry and Cr Colliton
16	New and Revised Accounting Policies and Approved Accounting Standards	Nil
17	RSD Audit – Draft Strategic Internal Audit Plan	Nil
18	Progress Report of Internal Audit Actions (Interplan)	Nil
19	Reports & Correspondence of Note: VAGO, Ombudsman & IBAC Reports	Nil
20	Compliance Framework Review & Quarterly Compliance Reporting	Nil

21	OH&S Quarterly (Summary) Report	Nil
22	Risk Management Quarterly Report and Framework Review	Nil
23	Strategic Risk Register	Nil
24	External Audit - Progress Report of Current Actions	Nil
25	Annual VAO Audit Strategy	Nil
26	Excess Leave Update	Nil
27	Other Items	Nil
28	Next Meeting	Nil

The Informal Meeting concluded at 3.54pm.

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	CEO Performance Review Meeting - 19 June 2024
Date:	19 June 2024
Location:	Speckle Frog Cafe
Councillors in Attendance:	Cr Brown Cr Colliton Cr Henry Cr Malone Cr Robertson Cr Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer

The Informal Meeting commenced at 12:00pm

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	CEO Performance Review	
2		
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The Informal Meeting concluded at 2:30pm

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Audit & Risk Committee Meeting - Budget
Date:	20 June 2024
Location:	Teams Meeting
Councillors in Attendance:	Cr Helen Henry Cr Bruach Colliton
Council Staff in Attendance:	Darren Barber, Director People & Performance Nick Templeton, Head of Finance Nadine Rhook – Executive Assistant to Director People & Performance

The Informal Meeting commenced at 3.00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Membership	Nil
2	Committee & Auditors in Camera	Nil
3	Welcome	Nil
4	Apologies	Nil
5	Annual Financial Reporting – Draft Budget 2024-2025	Nil

The Informal Meeting concluded at 4.00pm.

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session 26 June 2024
Date:	26 June 2024
Location:	Mj Hynes Auditorium
Councillors in Attendance:	Cr Brown Cr Henry Cr Malone Cr Rainsford Cr Robertson
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and Performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Bill Scott , Manager Project Managment Officer Di Dixon, Coordinator Leisure Facilities

The Informal Meeting commenced at 11:00am

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Rail Trail Crossing,	
2	Restoration of Essential Public Assets (REPA) For Council AGRN 1037	
3	HILAC service review,	
4	Youth Discussion – Louise Lonergan,	
5	Melville Oval site visit	
6		
7		

The Informal Meeting concluded at 5:00pm

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	HRLX Advisory Committee meeting -28th June 2024
Date:	28 June 2024
Location:	Livestock Exchange Tearoom
Councillors in Attendance:	Cr Brown Cr Rainsford
Council Staff in Attendance:	Marg Scanlon, Director Infrastructure and Sustainability Trevor Haley, Acting Manager Works

The Informal Meeting commenced at 10:00am

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Outcross Reporting	
2	Current seasonal impacts	
3	Hamilton and District Stock Agents Association representation on the HRLXAC	
4	Centre for Farmer Health introduction.	
5	This meeting was followed by an engagement session with the stock agents to provide an overview of the HRLX Business and Marketing Plan and to discuss current season impacts and support resources available.	
6		
7		

The Informal Meeting concluded at 11:30am

12 Management Reports

12.1 Parking Meter Petition

Directorate:	Wellbeing, Planning and Regulation
Report Approver:	Rory Neeson (Director Wellbeing, Planning and Regulation)
Report Author:	Daryl Adamson (Manager Strategy and Regulation)
Attachment(s):	Nil

Executive Summary

At the 12 June 2024 Ordinary Council Meeting, a Public Deputation was heard from the Hamilton Regional Business Association (HRBA) regarding the replacement of old parking meters and the implementation/installation of Next Generation Parking Meters to the Hamilton CBD.

A Council resolution to receive the petition 'against' parking meters in the CBD was moved by Cr. Colliton and seconded by Cr. Rainsford. This report responds to the public deputation and tabled petition.

Discussion

In 2020, Council adopted the Hamilton CBD (Central Business District) Masterplan which, in part, discussed the broader future of parking meters in the CBD. This strategic document recommended Council keep paid parking, but upgrade to new parking meters with additional payment and enforcement technology.

At the Council Meeting on 14 September 2022, Council endorsed removing 204 pay-by-space parking meters currently in the Hamilton CBD and replacing them with 'next generation' parking meters by allocating \$160,000 from retained earnings to initiate the project in 2022-2023.

This decision was again reaffirmed at the 11 October 2023 Ordinary Council Meeting which resolved to:

1. Remove 204 pay-by-space parking meters currently in the Hamilton CBD and replace with 'next generation' parking meters.
2. Execute a contract with Duncan Solutions Next Generation Pay by Plate Machines to the value of \$160,000 in accordance with SGSC Procurement Policy 2021-2025, Procurement Exemption, Appendix 3 "Information Technology Resellers and Software Developers".
3. Initiate a communications strategy informing the community of Councils intention to install meters in the Hamilton CBD.

Following this decision, Council installed 16 next generation pay-by-plate parking meters in the Hamilton CBD. Implementation of the parking meters allowed for a reallocation of resources, reduced operational costs and the ability to return the footpath to outdoor dining and retailing.

Identified benefits of implementing pay-by-plate technology has included:

- More efficient enforcement and the ability to target repeated offenders.

- Less queries on infringements.
- Discourages overstays.
- Provides useful data on actual usage by drivers and helps identify churn and usage rates per parking zone.
- Does not require drivers to return to car to place ticket on dashboard.

The petition 'against' parking meters in the Hamilton CBD' asked concerned community members to consider if they believe the new parking meters are:

- Detrimental to shop front businesses that occupy positions close vicinity of parking meters.
- Inconvenient to shoppers, diners and businesspeople due to the limited one-hour maximum time limit restrictions.
- A discouragement to shoppers from making purchases in the Hamilton CBD.
- Inconvenient for disabled, frail or elderly people who need walk extra distances to a parking meter.

Council acknowledges ongoing community dissatisfaction with paid parking in the Hamilton CBD, however, reaffirms its previous strategic work which recognises the intent and application of regulated parking in a vibrant central business district to ensure the flow of traffic and to ensure priority parking for those community members that require it.

To ensure further transparency in paid parking, Council Officers are currently developing a Council Policy to provide further guidance on decision making and to ensure transparency to the community for a sustainable operation for parking services into the future.

Financial and Resource Implications

Council has resolved previously to install 25 machines in the Hamilton CBD.

As only 16 machines have been installed in the first phase, a variation of the contract will be made to install an additional 9 machines to fill perceived gaps and reduce the walking distance between meters. The additional machines and their installation will remain in budget for project expenditure.

Council Plan, Community Vision, Strategies and Policies

Grow Our Regional Economy

2.4 Support local business and industry

2.4.2 Support and facilitate business development and growth initiatives.

Provide Strong Governance and Leadership

5.1 Transparent and accountable governance

5.1.2 Ensure flexible and transparent decision making through open and accountable governance.

Provide Strong Governance and Leadership

5.4 Customer-focused services

5.4.1 Use digital solutions in service delivery to maximise efficiency of outcomes.

Legislation

- *Infringements Act 2006*
- *Local Government Act 1987*
- *Local Government Act 2020*
- Community Local Law No 1 of 2022

Gender Equality Act 2020

This report has no direct consequences relating to gender equality.

Risk Management

The purpose of upgrading the Hamilton CBD parking meters delivers on key findings in the Hamilton CBD Masterplan and Council Plan by directly addressing service levels and financial sustainability of a key Council revenue streams and function.

Implementation and application of new parking technology allows for greater transparency and protects the sustainable operation and community expectations of the service into the future.

Safety of our Officers from a security and manual handling perspective has been mitigated through this initiative. Public discourse and debate in relation to parking will continue, however there is a greater risk to Council's reputation by maintaining the status quo when there is a clear path to delivering a sustainable outcome.

Climate Change, Environmental and Sustainability Considerations

By adopting intelligent parking technology, Council has drastically reduced the amount of paper we consume and ongoing maintenance costs. Pay-by-phone applications mean that motorists can use Apple Pay, Android Pay and other digital wallets to minimise the circulation of cash and create a digital paper trail for all parking transactions.

Next generation parking meters are operated by solar. As a mitigation to panel shading or prolonged bad solar weather, the internal batteries of the units can be charged as required.

Community Engagement, Communication and Consultation

Significant community engagement was completed and recorded in the Hamilton CBD masterplan which was adopted by Council in 2020.

During the implementation of the new meters in 2024, a significant communication strategy was developed. This has delivered significant education to our community on the role of parking meters and their operation and exemptions.

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.

- Daryl Adamson, Manager Shire Strategy and Regulation
- Rory Neeson, Director Wellbeing Planning and Regulation

RECOMMENDATION

That Council acknowledges and receives the petition, and that responsible Officers develop a Hamilton CBD Parking Policy to be adopted by Council at a future meeting.

COUNCIL RESOLUTION

MOVED: Cr Rainsford
SECONDED: Cr Brown

That Council acknowledges and receives the petition, and that responsible Officers develop a Hamilton CBD Parking Policy to be adopted by Council at a future meeting

CARRIED

12.2 Property Discontinuance French Street, Hamilton

Directorate: Infrastructure and Sustainability
Report Approver: Marg Scanlon, Director of Infrastructure and Sustainability
Report Author: Julie Markby, Property Officer
Presenter(s): Julie Markby, Property Officer
Attachment(s): Nil

Executive Summary

Council was approached in 2023 by Ansett Developments Pty Ltd and Drive Through Hamilton Pty Ltd (Ansett Development) to purchase two parcels of land adjoining their properties. These two parcels are access roadways from French Street to the rear of 57-61 Cox Street (red parcel) and to the rear of 103, 105 and 109 French Street (blue parcel). The land owned by Ansett Developments (green parcels) See image below.



Council is the owner of the land parcel (as shown in red in the image above). Council is the registered owner of the land parcel (as shown in blue in the image above).

Council proposed to sell both parcels of land to Ansett Developments, with the condition that Council preserve any existing easements, and that Ansett Developments will provide public car parking spaces.

A public notice was issued inviting submissions to the proposed sale of the red parcel and the discontinuance and sale of the blue parcel. The notice expired on 31 March 2024 without any lodged submissions.

Community stakeholder consultation was conducted with no concerns regarding the proposal. None of the surrounding businesses will be affected by the proposal.

It is recommended that Council agree to the discontinuance of the road to the rear of 57-61 Cox Street and discontinue the part of the road to the rear of 109 French Street and vest it in Council's ownership, before selling it to Ansett Developments land with newly created easements giving right of access to Council in accordance with *Local Government Act 1989*, clause 3 of Schedule 10 and section 114 of the *Local Government Act 2020*.

Discussion

Council was approached in 2023 by Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd (Ansett Developments) to purchase two parcels of land surrounded by their properties. These are a road running from French Street to behind 57-61 Cox Street (red parcel) and part of a road running behind 103, 105 and 109 French Street (blue parcel) pictured below.

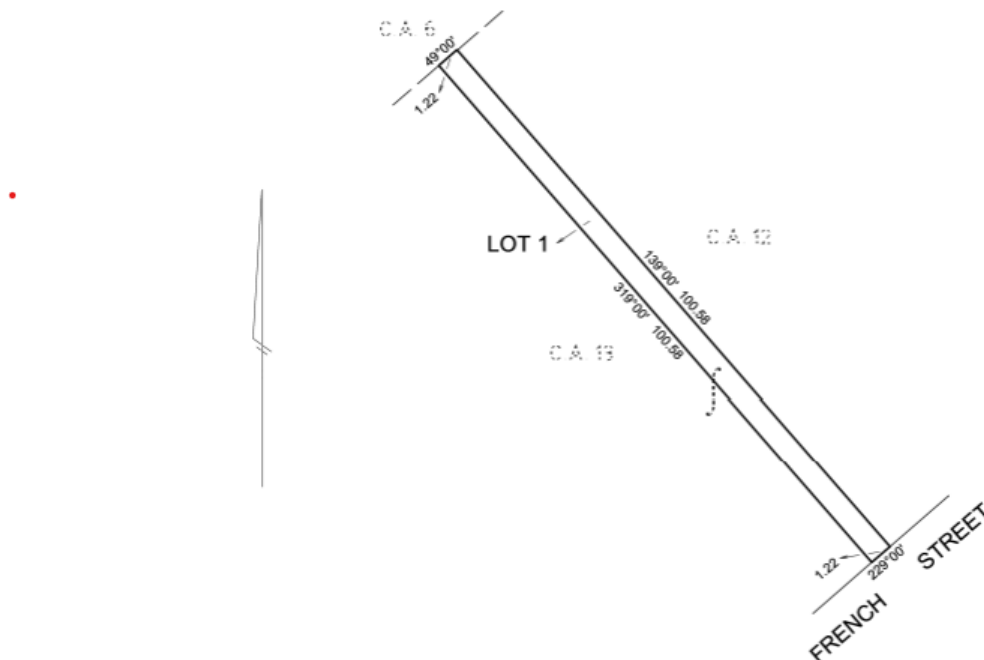


The matter went before Council on 19 September 2023 and Council resolved to sell the two parcels to Ansett Developments.

Council gave notice under Section 206 and clause 3 of the Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020* that Council proposes to discontinue and sell part of the road adjoining the properties at 103, 105 and 109 French Street Hamilton to the current owner of Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd to provide public car parking spaces. See image below showing the section of road to be discontinued and sold.



Council also gave notice under section 114 of the *Local Government Act 2020* that Council proposes to sell the land running from French Street to behind 57-61 Cox Street, Hamilton to the current owner of Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd. See image below.



The Public Notice closed on 31 March 2024 without any lodged submissions.

Financial and Resource Implications

The two parcels are not maintained by Council and the sale of these parcels would transfer the ongoing maintenance responsibilities onto the new owner.

The estimated income from the sale of the road adjoining the properties at 103, 105 and 109 French Street Hamilton is \$10,000 based on the market valuation completed by Preston Rowe Paterson on 16 November 2023.

The estimated income from the sale of land from French Street to the rear of 57-61 Cox Street, Hamilton is \$18,500 based on the market valuation completed by Preston Rowe Paterson on 24 February 2024.

Council Plan, Community Vision, Strategies and Policies

Maintain and Renew Our Infrastructure

- 3.1 Plan and maintain sustainable assets and infrastructure
- 3.1.1 Review and adopt asset management plans to align with future service levels, environmental and financial sustainability.

Legislation

Section 206 and clause 3 of the Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020*

Gender Equality Act 2020

The disposal of these parcels does not have any direct Gender implications.

Risk Management

Any required rights of access would need to be re-created by way of a creation of easement, either before or after the transfer of the blue parcel to Ansett Developments.

Climate Change, Environmental and Sustainability Considerations

The proposed sale of the two parcels demonstrates Council's leadership to consider the surplus property which is otherwise underutilised and not maintained. This proposal presents the opportunity for these parcels to be suitably maintained and enhanced by a private owner.

Community Engagement, Communication and Consultation

Council advertised by giving public notice of its intention to sell the road adjoining 103, 105 and 109 French Street Hamilton and the land running from French Street to behind 57-61 Cox Street Hamilton to the current owner of Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd. Submissions closed on 31 March 2024.

If Council chooses to proceed it will then need to publish a discontinuance notice in the Victoria Government Gazette for a period of 28 days. After this period, Council would first need to transfer the parcel to itself pursuant to section 207D of the *Local Government Act 1989* before it could be transferred to Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd. Council's Road Management Plan would also be updated.

Stakeholder engagement was undertaken with the adjoining businesses, the Subaru Dealer located at 103 French Street and PK Bearings Pty Ltd located at 105 French Street with no objections raised to the proposed sale of the red parcel and the discontinuance and sale of the blue parcel.

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.

Julie Markby (Property Officer)
Marg Scanlon (Director Infrastructure)

RECOMMENDATION

That Council endorse the discontinuance of the road to the rear of 57-61 Cox Street Hamilton and discontinue the road to the rear of 109 French Street Hamilton and vest it in Council's ownership, before selling it to Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd with newly created easements giving right of access to Council in accordance with *Local Government Act 1989*, clause 3 of Schedule 10 and section 114 of the *Local Government Act 2020*.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr Henry

That Council endorse the discontinuance of the road to the rear of 57-61 Cox Street Hamilton and discontinue the road to the rear of 109 French Street Hamilton and vest it in Council's ownership, before selling it to Ansett Developments Pty Ltd & Drive Through Hamilton Pty Ltd with newly created easements giving right of access to Council in accordance with *Local Government Act 1989*, clause 3 of Schedule 10 and section 114 of the *Local Government Act 2020*.

CARRIED

12.3 Restoration of Essential Public Assets (REPA) AGRN 1037

Directorate: Infrastructure and Sustainability
Report Approver: Bill Scott (Manager Project Management Office), Marg Scanlon (Director Infrastructure and Sustainability)
Report Author: Infrastructure and Sustainability
Presenter(s): Stephen Collins, Flood Recovery Project Coordinator
Attachment(s): 1. CONFIDENTIAL - 2023090 Flood Recovery Evaluation Report_ [12.3.1 - 22 pages]

Executive Summary

This report seeks endorsement for the contract to undertake the Restoration of Essential Public Assets (REPA) works to reinstate damaged assets back to their condition before the October 2022 flood event.

After issuing a Request for Tender (RFT) for Contract No 2023090, six responses were received and evaluated. A detailed procurement report is attached which provides details of the tenders received and the evaluation. The recommendation to Council is to award Tender No 2023090 to DWB Engineering Pty Ltd for the tendered lump sum price of \$1,488,433.42 (excl. GST).

Discussion

Due to the storms and floods across Southern Grampians Shire Council in October 2022, (AGRN 1037), 42 roads and 3 bridges were impacted and are the subject of restoration works.

The Restoration of Essential Public Assets (REPA) tender involves reinstating damaged assets back to their condition prior to the flood event.

Following the Flood Event, an independent engineer was engaged to inspect Council's assets to determine the extent of the damage. This report identified the damage done to assets, the treatments needed to restore back to pre-flood condition, an estimate of the cost of repairs required, and photos showing location and damage to the asset. Also in the report were specifications to include in the Tender documents.

Based on this report, a Certified Estimate (CE) was lodged with the Assessing Authority, the Disaster Recovery Funding Arrangements (DRFA).

Tender documents were drawn up specifically to provide pricing for Flood restoration works, Betterment works, and a Schedule for Day works, to give flexibility to the Council on the amount of extra work that will be conducted under this contract.

This contract involves works to be completed with the following categories:

- Road Rehabilitation
- Road Culvert Restoration
- Road Floodway Restoration
- Signs, markers and roadside furniture repairs
- Removal of Debris and creek channel clearance

The following Tender Submissions were received:

Tenderer	Price	Conforming
DWB Engineering Pty Ltd	\$1,488,433.42	Yes
Tenderer 2	\$1,567,150.00	Yes
Tenderer 3	\$1,796,909.29	Yes
Tenderer 4	\$1,894,102.20	Yes
Tenderer 5	\$1,666,940.52	Yes
Tenderer 6	\$1,984,635.30	Yes

These conforming tenders were evaluated against the following pre-set evaluation criteria:

- Price – 60%
- Demonstrated performance in provision of similar services - 10%
- Methodology - 10%
- Quality of reporting – 10%
- Sustainable Environmental – 10%
- Occupational Health & Safety - Pass/Fail

Tenderer	Qualitative Score (%)	Price	Quantitative Score (%)	Total Score
DWB Engineering Pty Ltd	27.63%	\$1,488,433.42	60.00%	87.63%
Tenderer 2	28.12%	\$1,567,150.00	56.99%	85.11%
Tenderer 3	30.36%	\$1,796,909.29	49.70%	80.06%
Tenderer 4	24.88%	\$1,894,102.20	47.15%	72.03%
Tenderer 5	29.26%	\$1,666,940.52	53.57%	82.83%
Tenderer 6	27.24%	\$1,984,635.30	45.00%	72.24%

Financial and Resource Implications

The contractor will be responsible for carrying out the works under specified conditions in technical and general specification of the contract documents and has priced the project accordingly.

FUNDING SOURCE	AMOUNT
Southern Grampians Shire Council (Betterment)	\$155,258.72
Disaster Recovery Funding Arrangements (DRFA)	\$1,333,174.70
<u>TOTAL FUNDING</u>	\$ 1,488,433.42

As per Category B Restoration of Essential Public Assets Works Guidelines, before essential public asset reconstruction works are to commence, **approval must be sought** from the Assessing Authority and the Administering Authority. Where reconstruction works have commenced or are completed prior to the Certified Estimate works package being approved by the Administering Authority, the Delivery Agency should be aware that they are commencing the work at their own financial risk.

Council Plan, Community Vision, Strategies and Policies

Maintain and Renew Our Infrastructure

- 3.1 Plan and maintain sustainable assets and infrastructure
- 3.1.2 Maintain infrastructure to the agreed standard and ensure the principles of sustainability and universal design are considered in the planning and development of infrastructure to support community access and connection meeting the needs of the communities.

Maintain and Renew Our Infrastructure

- 3.2 Safe and well-maintained transport routes and infrastructure for all modes of travel
- 3.2.1 Continue to advocate for improved transport services and connections through funding and partnerships with relevant agencies.

Legislation

This report assists the Council in meeting its obligations under the *Local Government Act 2020* and the *Road Management Act 2004*.

Gender Equality Act 2020

There are no implications for the *Gender Equality Act 2020*.

Risk Management

The risks associated with this work have been assessed as low to medium. To mitigate the risks associated with these works, a suitable qualified contractor will be engaged.

Climate Change, Environmental and Sustainability Considerations

The project is considered to have a low impact on environmental parameters. The awarded contractor is required to develop an environmental management plan which will be submitted to Council for approval prior to the works commencing on site.

Community Engagement, Communication and Consultation

Prior to commencing work, a program of works outlying traffic management plans will be supplied to Comms for Media release.

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.

Marg Scanlon, Director Infrastructure and Sustainability.
Bill Scott, Manager Project Management Office.
Stephen Collins, Flood Recovery Coordinator

RECOMMENDATION

That Council:

1. Award Contract No 2023090 for Restoration of Essential Public Assets to DWB Engineering Pty Ltd for the tendered lump sum price of \$1,488,433.42 (excl. GST).
2. Authorise the Chief Executive Officer to execute Contract No 2023090 for Restoration of Essential Public Assets and any other documents required by, or to give effect to, the terms of the contract on behalf of Council.

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr Malone

That Council:

1. **Award Contract No 2023090 for Restoration of Essential Public Assets to DWB Engineering Pty Ltd for the tendered lump sum price of \$1,488,433.42 (excl. GST).**
2. **Authorise the Chief Executive Officer to execute Contract No 2023090 for Restoration of Essential Public Assets and any other documents required by, or to give effect to, the terms of the contract on behalf of Council.**

CARRIED

12.4 Establishment of Hamilton Gallery Foundation

Directorate:	Chief Executive Office
Report	
Approver:	Tony Doyle, CEO
Report Author:	Joshua White, Gallery Director
Attachment(s):	Draft Revised Constitution, Hamilton Gallery Board Ltd Draft Trust Deed, Hamilton Gallery Public Ancillary Trust Memorandum of Understanding Director Biographies

Executive Summary

This report seeks Council's endorsement to establish a charitable Foundation, the purpose of which is to raise capital funding to support the development of a New Hamilton Gallery. It is proposed this will be achieved through the appointment of three Directors to the Hamilton Gallery Board Ltd (HGBL), establishment of a public ancillary trust to be known as the Hamilton Gallery Public Ancillary Trust (Trust), and endorsement of a Memorandum of Understanding (MOU) between Council and HGBL, which will act as Trustee for the Trust.

Discussion

At Council's Unscheduled Meeting on 26 July 2024 the 2024/25 budget was endorsed, which included funding to undertake a full design of the New Hamilton Gallery, making the project shovel ready.

The New Hamilton Gallery project has a significant history.

To adequately fund the construction of the New Hamilton Gallery, private donations and philanthropic funding will be critical.

- In 2024, legal advice was obtained by Officers from Russell Kennedy Lawyers, which determined the best practice and model for a legal entity to attain private funds for the project, which is the structure recommended in this report.
- In 2022, Council determined the Gallery's location would be within the CBD of Hamilton on the current Gallery's location.
- In 2019, a business case was completed and endorsed by Council for the New Hamilton Gallery.
- In 2019, Council endorsed the establishment of a charitable foundation, including a constitution and MOU between Council and the entity.
- In 2017, legal advice obtained from Herbert Smith Freehills (HSF) provided a range of options for an appropriate organisational structure to secure future private funding.

To progress the funding of New Hamilton Gallery project, Council requires a charitable foundation that can receive donations and provide deductible gift recipient status to the donors.

It is recommended that Council re-establishes a skills-based Board in the entity endorsed in 2019 and established in June 2020 as the Hamilton Gallery Board Ltd (HGBL) (ABN 42 642 098 753). In addition, it is recommended that Council establish a public ancillary trust, the Hamilton Gallery Public Ancillary Trust (Trust), for which the Hamilton Gallery Board will be the Trustee.

In terms of the need to have a Foundation independent from Council, philanthropic funders have confirmed they prefer to support an entity which is separate from Council and this entity, with appropriate skills and experiences, would have a greater opportunity of success in attaining private donations.

The HGBL was established by Council for this purpose in June 2020, however, due to unforeseen circumstances the New Gallery project paused, and the Board never actively worked toward their purpose. No funds were acquired, no reporting occurred, no marketing distributed, and no fundraising strategy developed. This entity currently has no Directors, and Council is the sole member.

Before this previous Board endorsement by Council, it was determined that this entity would undertake the Gallery operations in due course. This element was identified to satisfy the expectations of funders and puts in place a long-term governance model for the new Gallery. Under current corporations and taxation law, the functions of being a charitable gift recipient in the form of a public ancillary fund are not compatible, but if we view Council as the owner of the Gallery, employer of the staff, and the Board of HGBL as managing programming going forward, then this is acceptable.

The existing HGBL entity that Council has in place can be utilised for the re-establishment of the charitable foundation. To facilitate this, there are changes that are required to HGBL's constitution that do not drastically change the overall purpose or methods of the Board nor Council's responsibility and relationship to the Board that was previously endorsed. The two changes are that HGBL will act as Trustee for a public ancillary fund trust, and that HGBL is no longer a part of the Register of Cultural Organisations (ROCO).

The Trust will be a separate entity that will accumulate donated funds and then, in turn, donate these funds to the Hamilton Art Gallery for the construction of the New Hamilton Galley under section 7K of the Charities Act 1978 (Vic). The public ancillary fund will be created under a trust deed (attached) and will be operated by a Trustee being the Hamilton Gallery Board Ltd. A public ancillary fund is required because the Board does not qualify for tax benefits, but a public ancillary fund does. For the Board to qualify for these tax benefits that donors are seeking, it would be required to obtain Deductible Gift Recipient (DGR) status, with the eligibility for DGR being very specific; an entity responsible for the operations of a cultural institution or cultural object acquisition. The Board currently is neither.

The ATO is responsible for endorsing public ancillary funds. The requirements for public ancillary funds are set out in the Taxation Administration (Public Ancillary Fund) Guidelines 2022. Public Ancillary Funds are often known as umbrella funds. Well known examples of Public Ancillary Funds include the Lord Mayor's Charitable Foundation and the Australian Communities Foundation. Public Ancillary Funds are entities which fundraise and pool donations to pass them to other DGRs. The recipients must be type one or "doing" organisations, who employ staff and undertake service delivery. Public Ancillary Funds cannot grant funds to other ancillary funds.

Public Ancillary Funds must be governed by a Board comprising a majority responsible persons. Responsible persons must have a significant degree of responsibility to the Australian people. This includes professionals adhering to a code of conduct. The thinking is that responsible persons will not allow funds to be mishandled, since they would risk losing their professional registrations or personal reputation. As the Member, Council must ensure Directors of the Trustee (HGBL) are responsible persons with the skills and capability to appropriately achieve the trust's purpose and manage the funds accumulated.

HGBL is no longer an endorsed ROCO, as all ROCO's have been dissolved. This occurred as the Office of the Arts was originally responsible for ROCO's, however, it was transferred to

the ATO who has determined that there is no need for ROCO's, as DGR organisations are adequate.

Council will need to endorse the three nominated Directors to the HGBL to activate that entity. Council Officers recommend Mr. Allan Myers AC KC, Dr. Alison Inglis and Mr. Gordon Dickinson as the Council elected Directors (bio's are attached). They have been approached as they have skills, knowledge, experience, and are extremely well respected within the arts industry.

The establishment of the Foundation provides two opportunities for Council. The first is what will initially be its primary function, the raising of the capital funds needed to build the new Gallery. To this end, the inaugural Board could not be better placed to make this happen with extensive philanthropic experience and connections in the arts sector, as well as extensive business credentials. The second of these opportunities is to have the Board, with its connections in the arts sector and business acumen, be responsible for the Gallery's programming as we approach commencement of construction. This timing will allow the Board to focus on the fundraising and support Gallery operations once funds are raised and construction begins. If the Foundation supports programming of the Gallery as construction commences, given the usual two-year lead time, they will be responsible for the programming from the opening of the new Gallery.

As the sole Member, Council will maintain the right to appoint and remove Directors to the Foundation.

To the key documents and steps are summarised as follows:

- Utilise the current registered company Hamilton Gallery Board Ltd, which was established in 2020, by appointing the three recommended Directors. This Board will use its extensive connections to identify further Director appointments and recommend these to Council for formal appointments. The revised constitution of HGBL is attached for Council review and endorsement.

The constitution sets out the rules upon which the Board functions. It establishes the purpose of the Board, the accountability of members, as well as the powers and duties of Directors. A minimum of three Directors will be appointed by Council with a maximum of 11 Directors possibly appointed.

The Founder (or "Settlor") is to give the first \$100 to the Trustee and that is the end of the role. It is traditionally undertaken by a third party, an uninvolved individual who will not personally benefit from any of the Trust's transactions, e.g. an accountant or lawyer. Given the initial symbolic act, it provides an opportunity for someone more high profile and connected to Southern Grampians Shire Council. Currently, the Mayor is listed as Founder, but Councillors can advise on who they would see as an appropriate person to be Founder.

It is not appropriate for Council to take on the role of Founder when its Art Gallery stands to benefit from the Public Ancillary Fund. See clause 5.2, which prohibits the trustee from applying funds to the Founder. This is a standard Public Ancillary Fund provision which cannot be changed.

Councillors will note that the constitution specifies the Mayor and Chief Executive Officer acting jointly to be responsible for the appointment of Directors. Officers' preference was for these appointments to be by Council resolution; however, it is envisaged the Mayor and CEO would act on a resolution of Council rather than act personally. An internal Council policy will be developed to ensure the Mayor and CEO

require a Council resolution prior to making an appointment. Given our above comments it is not appropriate for Council to be the appointor.

- The Council establish a Public Ancillary trust to be called Hamilton Gallery Public Ancillary Trust for donor tax benefits with Hamilton Gallery Board Ltd. to act as trustee. The Trust deed is attached for Council review and endorsement. The trust deed sets out the purpose of the fund and governing rules.
- The Council establish a Memorandum of Understanding (MOU) between itself and the Hamilton Gallery Board Ltd. to guide the relationship and expectations. A copy of the MOU is attached for Council's review and endorsement. The MoU sets out the nature of the relationship between Council and the Board including the respective roles and responsibilities in relation to the various stages of developing the New Hamilton Gallery. It should be considered an evolving document, updated every three years and modified only with mutual consent of both parties. We anticipate the first review will be prior to HGBL taking on programming responsibilities.
- Hamilton Gallery Board Ltd. to develop a fundraising strategy and budget for submission to Council for endorsement.

Financial and Resource Implications

To attract the right caliber of people to the Foundation Board, Council will need to pay a commercially commensurate sitting fee. Factors to consider in setting remuneration levels included the nature of the work, degree of accountability and responsibility, and skills and experience of the appointee. It is proposed remuneration is offered to Board members as follows:

Chair \$10,000 per annum, Member \$7,000 per annum, plus any travel or out of pocket expenses. A number of the proposed Directors have already indicated they will waive their remuneration.

Whilst this proposed fee will equate to a cost, it needs to be considered against the task of raising more than \$30m.

As a guideline, we have used the Victorian State Government's board remuneration guidelines and given that our Board is made up of leaders in their field, it could be argued, based on the State Government guideline, that our Board should be remunerated as a Band 3 or 4. But given the nature of the board is charitable, we are proposing that we use Band 5 as our benchmark:

Band	Classification criteria	Chair	Member
5	Statutory Authorities with a turnover of below \$50 million or assets below \$50 million or profit below \$5 million.	\$12,995 to \$27,523	\$7,797 to \$14,702

In addition, Council will need to fund administrative/marketing support for the Foundation and it is envisaged this would be a part time contract role providing a number of hours per month to administer Board meetings as well as undertake marketing activities and development of Marketing collateral. Rather than seek Council approval for funding at this time, officers propose we ask the Board to submit a budget proposal to Council for consideration.

Council Plan, Community Vision, Strategies and Policies

Support Our Community

- 1.1 An empowered and connected community
- 1.1.1 Facilitate opportunities for people to participate in community life, through volunteering, civic leadership, social programs, to enable inclusion, social connection and wellbeing.

Support Our Community

- 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.
- 1.2.4 Advocate for and work with external services that support our community and deliver outcomes.

Support Our Community

- 1.3 Grow a diverse and inclusive community
- 1.3.2 Encourage, support and celebrate a diverse, multicultural community, including celebrating, recognising and respecting our cultural heritage and engaging our Indigenous communities.
- 1.3.3 Support the increase of social, economic and digital connectedness.
- 1.3.4 Provide, promote and support appropriate and accessible services, facilities and activities for younger residents.

Support Our Community

- 1.4 A safe community
- 1.4.2 Demonstrate leadership in gender equality, cultural diversity and inclusiveness for all.

Grow Our Regional Economy

- 2.4 Support local business and industry
- 2.4.2 Support and facilitate business development and growth initiatives.

Legislation

Nil

Gender Equality Act 2020

Our Gallery programs specifically target all demographics. In the last 18 months this has included exhibitions to showcase local female artists, programming specifically targeting all demographics, and Emerging From Darkness which featured 3 female baroque artists.

A Gender Impact Assessment will be completed early in the design process.

Risk Management

The project will face risks associated with major projects, including funding and the most significant of which is cost overruns in a heated construction market. We believe we have mitigated the funding risk through detailed and strategic advocacy. We will mitigate construction risk through ensuring our design is simple and materials that are easily accessible, and also access to a significant contingency through our fund raising. Project

Management would be outsourced to a firm experienced in managing major construction projects.

Climate Change, Environmental and Sustainability Considerations

The New Hamilton Gallery will be built to environmental standards and the NGV have offered support to help limit carbon emissions as they are willing to share their studies and work for their new build in this area.

Community Engagement, Communication and Consultation

Council has undertaken significant engagement already with the development of our Arts & Culture Precinct Plan, and the development of the Hamilton Gallery Strategic Vision Document. Other than targeted engagement with a defined group of stakeholders during the co-design period, we will not undertake further consultation until conceptual plans are available.

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.

Tony Doyle, CEO

Joshua White, Hamilton Gallery Director

RECOMMENDATION

That Council:

- Endorse the Hamilton Gallery Board Ltd constitution, Hamilton Gallery Public Ancillary Trust Deed and the Memorandum of Understanding between Council and the Hamilton Gallery Board Ltd.
- Delegate to the CEO the authority to work with the proposed Founder and Trustee to finalise these documents and to execute them and establish the public ancillary trust.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr Rainsford

That Council:

- **Endorse the Hamilton Gallery Board Ltd constitution, Hamilton Gallery Public Ancillary Trust Deed and the Memorandum of Understanding between Council and the Hamilton Gallery Board Ltd.**

Endorse the Hamilton Gallery Board Ltd constitution with the inclusion of the following clauses under

**Clause 11.1 Appointing and removing directors
11.1 (e) Directors are appointed for a term of three [3] years**

**Clause 11.11
Add the following clause:**

**Clause 11.11 (c)
The minutes of the meeting of the Hamilton Gallery Board Ltd to be tabled at a Council meeting.**

**Memorandum of Understanding
Remove Clause 6 - refers to the Position of Director, Planning and Development – this position no longer exists.**

Endorse the Hamilton Gallery Public Ancillary Trust Deed

Endorse the draft Memorandum of Understanding between Council and the Hamilton Gallery Board to be taken back to Council for Endorsement.

Appoint Mr Allan Myers AC KC, Dr Alison Inglis AM and Mr Gordon Dickinson as the initial directors of the Board of the Hamilton Gallery Foundation.

Delegate to the CEO the authority to work with the proposed Founder and Trustee to finalise these documents and to execute them and establish the public ancillary trust

Council develop a Policy regarding appointments to Council Boards and Advisory Committees.

- **Delegate to the CEO the authority to work with the proposed Founder and Trustee to finalise these documents and to execute them and establish the public ancillary trust.**

CARRIED

12.5 Procurement of design services – New Hamilton Gallery

Directorate:	Chief Executive Office
Report Approver:	Tony Doyle, CEO
Report Author:	Tony Doyle, CEO Tony Doyle, CEO Joshua White, Gallery Director
Attachment(s):	<ol style="list-style-type: none">1. NHG - Architectural Design - Tender Pack [12.5.1 - 18 pages]2. NHG - Part One - Strategic Vision [12.5.2 - 26 pages]3. NHG - Part Two - Strategic Design Brief [12.5.3 - 33 pages]4. NHG - Part Three - Building Analysis.pdf [12.5.4 - 15 pages]5. Part Four - Spatial Analysis Brown Street Site [12.5.5 - 4 pages]6. Spatial Analysis Brown Street Site [12.5.6 - 3 pages]

Executive Summary

The purpose of this report is to brief Councillors on the procurement process for the engagement of design services for the New Hamilton Gallery.

Discussion

The procurement of an architect to undertake the design of the New Hamilton Gallery is an important step in Council's journey to develop a new gallery. Primarily, Council is seeking an architect who can embrace Council's vision for the new gallery, but bring expertise and experience to the project in the way the vision is interpreted. Implicit in this, is a preference to appoint an architect who has gallery/museum experience. Also of importance, is a track record of delivering projects within budget, and a willingness to engage with philanthropists. It is anticipated the criteria applied by the procurement panel will be as follows:

Price	40%
Experience	30%
Capability	20%
Capacity	10%

Strategic Vision:

Council has been working with the University of Melbourne (UOM) to develop a strategic vision for the new gallery. This work has been led by Associate Professor Rory Hyde in conjunction with Professor Alan Pert, of the University's Architecture school. Rory and Alan have deep global experience with museum development. Rory and Alan's biographies are as follows:

Associate Professor Rory Hyde – Rory is a designer, curator, educator and writer. His work is focused on new forms of design practice for the public good, and redefining the role of the architect today. Hyde is associate professor of architecture (curatorial design and practice) at the University of Melbourne, and design advocate for the Mayor of London. From 2013 to 2020 he was the curator of contemporary architecture and urbanism at the Victoria and Albert Museum.

His writing on architecture and the future of design practice has been featured in various newspapers and journals including The Economist, The Guardian, Harvard Design Magazine,

Domus, and Icon. He is the author of Future Practice: Conversations from the Edge of Architecture (2012) and co-editor of Architects After Architecture: Alternative Pathways for Practice (2021).

Professor Alan Pert - Alan was appointed Deputy Dean of the Faculty of Architecture, Building and Planning in 2021. He previously served the Faculty as Director of Melbourne School of Design from October 2012. Alan is the Faculty lead for the University's new campus at Fishermans Bend, due to open in 2025. Alan is currently the Chair of the Affordable Housing Hallmark Initiative and Lens Leader, Design Innovation. Alan is also an acclaimed architect. As Director of NORD (Northern Office for Research by Design) Alan aims to carry out practice-based research, analysing and forging propositions across writing, discourse, exhibitions, education and building. NORD was established to allow the practice of architecture and research to coexist. It is through the practice of architecture and design that NORD undertakes its research, often by using competitions and live projects as vehicles to develop and test ideas.

Current projects include a major regeneration project for the 'potteries' in Stoke on Trent, England, A Maggie's Cancer Care Centre and an 18-bed Palliative Care Hospice in the UK. The new furniture galleries for the Victoria & Albert Museum, has recently been completed and the Primary Substation for London 2012 has been featured in a number of international journals as well as being the winner of an RIBA Award and European Brick Award in 2011. In 2006 NORD were awarded the title of Young Architect of The year by Building Design Magazine whilst the following year, NORD were awarded the title of Scottish Architect Of The Year by RIAS and Prospect Magazine. The recently completed 'Shingle House' for Living Architecture has reached the RIBA Manser Medal shortlist, while a new studio complex for Artist's in Glasgow won the highly acclaimed Doolan Prize at the end of 2013.

The work undertaken by UOM has been guided by Council's strategic documents and many conversations with Gallery staff, council leadership, Hamilton Gallery Friends, and other local community groups. At the heart of this vision is to position the new gallery as a 'Civic Gallery'. A place where the collecting and presenting of art is complemented by civic and community functions. The gallery strengthens the connection between 'culture' and life, by connecting art to local people in a way that is inclusive, generous, and exciting.

The strategic vision (attached) proposes a series of design principles that guide the gallery in becoming a civic museum for its region. The gallery will foster:

- Local identity
- Civic life
- Creative pathways
- The collection
- Natural environment
- First nations cultures
- Connections

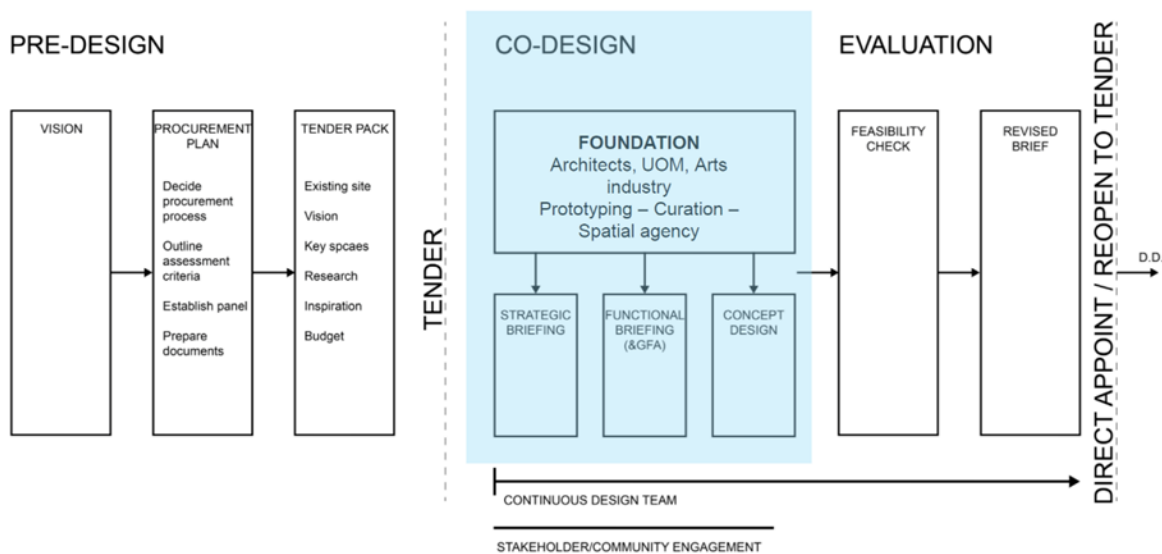
The document also spells out key spaces, including a Public Living Room, Community Meeting Spaces, Artist in Residence Studios, Community Workshop, Open Storage, Temporary Exhibition, Permanent Exhibition and New Media.

Whilst this strategic vision spells out Council’s aspirations for the Gallery, Council is seeking and Architect who can use their experience and expertise to interpret and represent this vision in a functional design. It is recommended that Council spell out in the design tender that it is not wanting to develop a building with an iconic external appearance, rather create a space that provides a great internal experience.

Design Process and Stages:

It is proposed that Council depart from a traditional design procurement which would have us engage an Architect to complete the whole design process to being construction ready. To ensure our gallery meets the vision of being a “civic gallery”, and reduce the projects financial risk, we intend to do a 3 stage design process, which enables Council to undertake some community engagement to hone the strategic vision and develop concept and cost plans (Co-design) to support the fund raising, and only proceed to full construction drawings when our funding needs have been achieved. To be clear, it is proposed Council’s contract with the chosen Architect will not commit Council to proceeding beyond the Co-Design stage without having achieved its funding goals. If our funding goals are not achieved, the contract will lapse.

The design process is staged as shown in the diagram below.



- 1) Pre Design – This stage is now completed. Whilst the tender pack includes the most pertinent strategic documents, namely the Strategic Vision, Brown Street Arts & Culture Precinct, and the spatial analysis undertaken by Willaims Boag, are included in the tender pack, other relevant documents can be provided to the successful tenderer if required. These documents are referenced in the Strategic Vision document.
- 2) Co-design – Council is establishing a charitable Foundation to raise capital funding to build the new Hamilton Gallery. Whilst Council is contributing to the construction cost, additional funding will be sought from the philanthropic sector as well as State & Federal Governments. Council has progressed these discussions and committed the funds to undertake the design process. The Foundation, will have the role of overseeing the design process and being the reference/contact point

for the appointed architect. The Foundation will provide recommendations to Council, who will be the body to sign off on outcomes.

The outcomes from the stage 2 co-design will be refinement of the strategic brief, a functional brief (specs on what will be built), and concept designs including (including a cost plan). This is followed by an evaluation stage to check feasibility and consolidate into a revised brief before leading into project delivery of full construction ready designs. Appointing the design team earlier in the process enables the input of meaningful community insights earlier in the design process, while also maintaining a continuous design team throughout the project.

The co-design phase is a collaborative design approach that captures the views and ideas of multiple stakeholders: from gallery staff to community groups, artists to school children. It is envisaged, given the extensive community consultation already undertaken, that this engagement will involve strategic document review and engagement with curated groups that are representative of stakeholders and broader community, rather than an extensive community wide engagement.

- 3) Stage 3 of the design process will commence when the Foundation and Council raise the required construction funding. If Council is unable to raise the required funding within 4 years of the completion of stage 2, the contract will lapse, or Council may revise the project to deliver an outcome with the funding raised. Stage 3 of the design process will deliver detailed design/construction drawings to allow the construction to commence.

Procurement Timeline:

- | | |
|---|---------|
| • Council approval of procurement process | 10/7/24 |
| • Public tender release | 19/7/24 |
| • Close of tenders | 16/8/24 |
| • Council approval of architect | 11/9/24 |

Procurement Documentation:

Procurement documentation will include:

- Procurement and project summary document
- Strategic Vision
- Spatial Analysis

Financial and Resource Implications

Council's Annual 2024/25 Budget and Long Term Financial Plan has allocated funding for the design process.

Council Plan, Community Vision, Strategies and Policies

Support Our Community

- 1.1 An empowered and connected community
 - 1.1.1 Facilitate opportunities for people to participate in community life, through volunteering, civic leadership, social programs, to enable inclusion, social connection and wellbeing.
 - 1.1.2 Support the community and other agencies to build resilience and preparedness in planning for emergencies and climate change impacts and mitigation.
 - 1.1.4 Ensure communication and engagement methods use inclusive practices and processes.

Support Our Community

- 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.
 - 1.2.4 Advocate for and work with external services that support our community and deliver outcomes.

Support Our Community

- 1.3 Grow a diverse and inclusive community
 - 1.3.2 Encourage, support and celebrate a diverse, multicultural community, including celebrating, recognising and respecting our cultural heritage and engaging our Indigenous communities.
 - 1.3.3 Support the increase of social, economic and digital connectedness.
 - 1.3.4 Provide, promote and support appropriate and accessible services, facilities and activities for younger residents.

Support Our Community

- 1.4 A safe community
 - 1.4.2 Demonstrate leadership in gender equality, cultural diversity and inclusiveness for all.

Grow Our Regional Economy

- 2.4 Support local business and industry
 - 2.4.2 Support and facilitate business development and growth initiatives.

Legislation

Nil

Gender Equality Act 2020

Our Gallery programs specifically target all demographics. In the last 18 months this has included exhibitions to showcase local female artists, programming for all demographics, and Emerging From Darkness which featured 3 female baroque artists.

A Gender Impact Assessment will be completed early in the design process.

Risk Management

The project will face risks associated with major projects, including funding and the most significant of which is cost overruns in a heated construction market. We believe we have mitigated the funding risk through detailed and strategic advocacy. We will mitigate construction risk through ensuring our design is simple and materials that are easily accessible, and also access to a significant contingency through our fund raising. Project Management would be outsourced to a firm experienced in managing major construction projects.

Climate Change, Environmental and Sustainability Considerations

The New Hamilton Gallery will be built to environmental standards and the NGV have offered support to help limit carbon emissions as they are willing to share their studies and work for their new build in this area.

Community Engagement, Communication and Consultation

Council has undertaken significant engagement already with the development of our Arts & Culture Precinct Plan, and the development of the Hamilton Gallery Strategic Vision Document. Other than targeted engagement with a defined group of stakeholders during the co-design period, we will not undertake further consultation until conceptual plans are available.

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.

Tony Doyle, CEO

Joshua White, Hamilton Gallery Director

RECOMMENDATION

That Council:

- Endorse the draft procurement documents.
- Authorise the CEO to commence the procurement process for design services for the New Hamilton Gallery.

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr Rainsford

That Council:

- Endorse the draft procurement documents.
- Authorise the CEO to commence the procurement process for design services for the New Hamilton Gallery.

CARRIED

12.6 Election Period Policy - Amendment

Directorate:	Chief Executive Office
Report Approver:	Tony Doyle, Chief Executive Officer
Report Author:	Tony Doyle, Chief Executive Officer Lisa Grayland, Acting Governance Coordinator
Attachment(s):	1. Election Period Policy 2024 [12.6.1 - 10 pages]

Executive Summary

The Election Period Policy was recently reviewed in February 2024. However, due to changes communicated by the Victorian Electoral Commission there must be a change made to the dates of the caretaker period.

The Policy has been updated to reflect this change.

It is a requirement under Section 69 of the *Local Government Act 2020* (the Act) for Councils to maintain an Election Period Policy. This Policy forms part of the Governance Rules and is reviewed prior to each Election Period.

An Election Period Policy must prohibit any Council decision during the election period for a general election that –

- (a) Relates to the appointment or remuneration of the Chief Executive Officer but not the appointment or remuneration of an Acting Chief Executive Officer; or
- (b) Commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- (c) The Council considers could be reasonably deferred until the next Council is in place; or
- (d) The Council considers should not be made during an election period.

An Election Period Policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Any Council decision made in contravention of the Act is invalid and any person who suffers loss or damage as a result of acting in good faith on a Council decision deemed invalid, is entitled to compensation from the Council for that loss or damage.

Council's Election Period Policy has been reviewed and is attached for consideration.

Discussion

In preparation for the October 2024 Local Government Elections, a revised Election Period Policy was developed and adopted by Council in February 2024. The policy sets out the requirements to be applied by Council during the election period for a general election.

The purpose of the Policy is to ensure that the ordinary business of Southern Grampians Shire Council continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established caretaker conventions.

These conventions are intended to ensure that Council and Councillors will not use public resources in election campaigning or make major policy decisions that may bind the incoming Council.

This policy addresses and provides guidelines in respect of the matters listed below:

- Council decision-making
- Public consultation, meetings and Council events
- Use of Council resources
- Access to Council information and assistance to candidates
- Electoral material
- Media and publicity
- Section 123 of the Act (misuse of position)

The election period (also known as the caretaker period) starts at the time that nominations for the election of Council close (known as nomination day) until Election Day. At the time that the policy was adopted, the election period for the 2024 elections was to be 24 September 2024 until 6pm on Election Day, Saturday 26 October 2024 inclusive, and these dates were included in the policy. However, the Victorian Election Commission (VEC) has recently communicated to Council, that the program of dates for the election has been moved forward to allow the Commission more time to work through each stage of the election.

This has resulted in the close of nominations date being moved forward and consequently an earlier start to the caretaker period. The policy has been amended to reflect the new caretaker period dates which is now 12 noon on Tuesday, 17 September until 6pm on Election Day, Saturday, 26 October inclusive.

Financial and Resource Implications

The adoption of the attached Election Period Policy 2024 will not impact Council's financial resources and the Election is accounted for in Council's Budget. However, the election will come at a large expense with a quoted cost provided by the VEC in April being \$205,465.62.

Council Plan, Community Vision, Strategies and Policies

Provide Strong Governance and Leadership

- 5.1 Transparent and accountable governance
 - 5.1.1 Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting the role.
 - 5.1.2 Ensure flexible and transparent decision making through open and accountable governance.

Legislation

The Local Government Act 2020

Local Government (Electoral) regulations 2020

Privacy and Data Protection Act 2014

Gender Equality Act 2020

There are no implications for gender with the review or the application of this report.

Risk Management

Regular review of the Election Period Policy ensures the Policy is fit for purpose and meets legislative requirements.

Climate Change, Environmental and Sustainability Considerations

There is no direct implication to climate change, Environmental and Sustainability associated with the report.

Community Engagement, Communication and Consultation

The Policy will be made publicly available and circulated within Council to ensure compliance with the Policy is maintained during the Election Period.

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.

Tony Doyle, Chief Executive Officer
Lisa Grayland, Acting Governance Coordinator

RECOMMENDATION

That Council:

1. Adopt the amended Election Period Policy to reflect the new caretaker dates.
2. Revoke the Election Period Policy February 2024.

COUNCIL RESOLUTION

MOVED: Cr Brown
SECONDED: Cr Henry

That Council:

1. **Adopt the amended Election Period Policy to reflect the new caretaker dates.**
2. **Revoke the Election Period Policy February 2024.**

CARRIED

12.7

Audit & Risk Committee Meeting Minutes - 6 June 2024 and Special Budget Meeting - 20 June 2024

Directorate:	People and Performance
Report Approver:	Darren Barber, Director People and Performance
Report Author:	Nadine Rhook, Executive Assistant Director People and Performance
Attachment(s):	1. 06-06-2024 - ARC Minutes - Final (1) [12.7.1 - 14 pages] 2. 20-06-2024 - ARC Minutes - Budget - Final [12.7.2 - 4 pages]

Executive Summary

The Minutes from the 6 June 2024 meeting and the Special Budget meeting held on 20 June 2024 as endorsed by the Audit and Risk Committee (ARC) are presented to Council for adoption.

Discussion

Under Section 53 of the *Local Government Act 2020* the Council must establish an Audit and Risk Committee, as an Advisory Committee of the Council. This Committee fulfils both a statutory and consultative function. It provides feedback, advice and direction to Council on both Risk and Financial matters in accordance with the committee charter.

The Budget documents are presented to the ARC Committee for their review, advice and noting.

Financial and Resource Implications

Preparation of reports, agenda and minutes of the Audit and Risk Meeting utilises Council resources. Council Officers and Chief Executive Officer attend the Audit and Risk Committee meeting to present reports and provide information to the committee.

Independent members of the Audit and Risk Committee are paid a sitting fee as members of the Committee and internal auditors are engaged to conduct audits in accordance with the endorsed audit schedule throughout the year.

Council Plan, Community Vision, Strategies and Policies

Provide Strong Governance and Leadership

- 5.1 Transparent and accountable governance
- 5.1.1 Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting the role.

Provide Strong Governance and Leadership

- 5.3 Committed and skilled staff
- 5.3.1 Encourage an organisation that values equality, diversity, workplace health, safety and wellbeing.

Legislation

The Audit and Risk Committee is established in accordance with the *Local Government Act 2020* (Section 53).

Gender Equality Act 2020

There are no *Gender Equality Act 2020* implications through the noting of the Audit and Risk Committee minutes.

Risk Management

The Audit and Risk Committee has clear function in review of Councils Risks as per the Committee Charter.

Climate Change, Environmental and Sustainability Considerations

Whilst there is no direct implication in this category associated with the report, it should be noted that Council and the committee are committed to producing documentation and data through systems that have the least impact in the environment. Agendas, reports and minutes are produced electronically and distributed via email. Presenters are encouraged to attend meetings virtually to reduce the need for travel.

Community Engagement, Communication and Consultation

Changes in membership will be communicated to the relevant stakeholders when a change in membership has occurred.

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.

Darren Barber, Director People and Performance
Nadine Rhook, Executive Assistant Director People and Performance

RECOMMENDATION

That Council note the Minutes for the Audit and Risk Committee Meeting held on 6 June 2024 and the Special Budget meeting held on 20 June 2024.

COUNCIL RESOLUTION

MOVED: Cr Henry
SECONDED: Cr Malone

That Council note the Minutes for the Audit and Risk Committee Meeting held on 6 June 2024 and the Special Budget meeting held on 20 June 2024.

CARRIED

Notices of Motion

There are no Notices of Motion listed on tonight's agenda.

14 Urgent Business

There is no Urgent Business listed on tonight's agenda.

15 Mayor, Councillors and Delegate 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 and delegates committees, advocacy on behalf of constituents and other topics of significance.

15.1 Cr Brown

Cr Brown reported her attendance and information about the following:

- Hamilton Livestock Advisory Committee as Chair – On 5 July 2024 - held an event at Livestock Exchange to talk to stock agents about the business and marketing plan.
- Next Wednesday at 12 noon – formal opening of Dunkeld – of the Mt Sturgeon Walking track by Senator Raff Ciccone.
- Mud Gallery – main street (Gray Street) of Hamilton – Official opening of Small Works Exhibition on Thursday 25th July.

15.2 Cr Colliton

Cr Colliton reported his attendance and information about the following:

- 6 June 2024 - Audit & Risk committee

15.3 Cr Henry

Cr Henry reported her attendance and at the following:

- Attend ARC meeting
- Hamilton Men's Probus Club
- Attend Youth Awards.

15.4 Cr Malone

Cr Malone reported on the following:

Coleraine Art & Photography Show is on, beginning on Friday 9 August, with the Gala night. Significant event for Coleraine and introduces new and emerging artists throughout the surrounding districts. Encourage people to visit.

15.5 Cr Rainsford

Cr Rainsford reported her attendance and information about the following:

- 13 June 2024 Green Triangle Freight Action Plan Group. Virtual meeting attendance poor connections. Circulated the request for contribution to Victorian Freight Action Plan and the final submission made.
- 17 June 2024 Hamilton Showgrounds Advisory Committee Meeting Well attended meeting.
Guest presentations from Wannon Water regarding Integrated Water Management and SGSC Engineer on drainage and storm water management motion to recommend remaining current funding in previous 23/24 budget being carried over be dedicated to a drainage study to ensure storm water run-off will not be putting events at risk and encouraging some maintenance funding available be used for current urgent works on drainage to support the new Multipurpose Shed being constructed in the development zone at the Hamilton Showgrounds.
- 19 June 2024 CEO Performance Review workshop attendance with other councillors and the consultant. And the list of attendance Informal Meeting of Councillors be amended.
- 19 June 2024 attended the launch of Dunkeld Writer's Festival at the Dunkeld Garage Gallery
- 26 June 2024 Southern Grampians Shire Council unscheduled meeting to adopt the 2024/2025 Budget
- 28 June 2024 Hamilton Regional Exchange Advisory Committee Meeting at our regional Saleyards with Stockagents and presentation from National Centre for Farmers Health staff Updating the infrastructure improvements required and the current poor seasonal conditions affecting our farming community.
- 28 June 2024 Southern Grampians Youth Awards at our PAC which was an excellent evening. Congratulations to all participants and our community members and Southern Grampians Shire staff who supported the event.
- My wishing tree wish for our young community members is to return passenger rail to Southern Grampians.
- 5 July 2024 I visited our Hamilton Indoor Leisure & Aquatic Centre during the Holidays Pool Party which had been a raging success complete with DJ & Light show, very well attended.

Mention made of my involvement in the VFF Making our Farm Families Safer. Stay Farming Longer & Safer project.

15.6 Cr Robertson

Cr Robertson reported his attendance at the following:

- 26 June 2024 - Rotary changeover dinner
- 27 June 2024 - Cox Street - Update meeting
- 28 June 2024 - Youth achievement awards
- 1 July 2024 – Australian Local Government Association (ALGA) - Canberra
- 2 July 2024 - Regional conference
- 3 July 2024 - Housing & energy sessions
- 4 July 2024 - Meetings with Paul Fletcher (Shadow Minister for Science and the Arts) and Tony Burke - (Minister for the Arts) - advice about Art Gallery
- 5 July 2024 - Chris Bowen Minister for Climate Change and Energy - transition to renewables

16 Confidential Reports

There are no Confidential Matters listed on tonight's agenda.

17 Close of Meeting

This concludes the business of the meeting.

Meeting closed at 6.39pm

Confirmed by resolution 14 August 2024 .



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Chairman