

SOUTHERN GRAMPIANS SHIRE COUNCIL

**Council Meeting Agenda
Wednesday 8 November 2023**

To be held in MJ Hynes Auditorium
5 Market Place, Hamilton at 5:30pm



TABLE OF CONTENTS

1	Membership.....	3
2	Welcome and Acknowledgement of Country	3
3	Prayer	4
4	Apologies.....	4
5	Confirmation of Minutes	4
5.1	Confirmation of Minutes.....	4
6	Declaration of Interest	4
7	Leave of Absence.....	4
8	Questions on Notice	5
9	Public Deputations	6
10	Petitions.....	7
11	Informal Meetings of Councillors	8
11.1	Briefing Session 4 October 2023.....	9
11.2	Briefing Session 10 October 2023.....	10
11.3	Briefing Session 25 October 2023.....	11
12	Management Reports.....	12
12.1	Pedrina Park Lights - Design and Construct Tender	12
12.2	TP-58-2023 122-124 Lonsdale Street, Hamilton	18
12.3	Contract 076-23 - Supply of Road Making Materials.....	25
13	Notices of Motion.....	30
14	Urgent Business	31
15	Mayor, Councillors and Delegate Reports.....	32
16	Confidential Reports	33
17	Close of Meeting	34

1 Membership

Councillors

Cr David Robertson (Mayor)
Cr Helen Henry (Deputy Mayor)
Cr Mary-Ann Brown
Cr Albert Calvano
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
Ms Karly Saunders, Governance Coordinator

2 Welcome and Acknowledgement of Country

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

“Our meeting is being held on the traditional lands of the Gunditjmara, Tjap Wurrung and Buandig 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 Colliton will lead 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

5 Confirmation of Minutes

RECOMMENDATION

That the Minutes of the:

1. Council Meeting held on 11 October 2023
2. Unscheduled Meeting held on 25 October 2023
3. Statutory Meeting to Elect the Mayor and Deputy Mayor held on 1 November 2023

be confirmed as correct records of business transacted.

6 Declaration of Interest

7 Leave of Absence

There are no requests for a leave of absence of tonight's agenda.

8 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 are no Questions on Notice listed on the agenda.

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 are no Public Deputations listed on tonight's agenda.

10 Petitions

There are 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:

- Briefing Session – 4 October 2023
- Briefing Session – 10 October 2023
- Briefing Session – 25 October 2023

This agenda was prepared on 31 October 2023. 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:	Briefing Session 4 October 2023
Date:	4 October 2023
Location:	Virtual via Teams
Councillors in Attendance:	Cr Brown Cr Colliton Cr Henry Cr Malone Cr Rainsford Cr Robertson
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and Performance Rory Neeson, Director Wellbeing, Planning and Regulation Juan Donis, Acting Director Infrastructure and Sustainability

The Informal Meeting commenced at 3:00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Budget Preparation Process	Nil
2	Native Title Process	Nil
3	Sustainability Strategy	Nil

The Informal Meeting concluded at 5:20pm.

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session 10 October 2023
Date:	10 October 2023
Location:	MJ Hynes Auditorium and various sites in Penshurst
Councillors in Attendance:	Cr Brown Cr Colliton 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 Susannah Milne, Manager Community Wellbeing Di Dixon, Coordinator Leisure Facilities Matthew Tulloch, Manager Business Systems and Transformations

The Informal Meeting commenced at 11:30am.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor Only Meeting	Nil
2	Matters Raised by Councillors	Nil
3	Operational Outdoor Pools Briefing	Nil
4	Telstra Contract	Nil
5	Site Visits in Penshurst: <ul style="list-style-type: none"> - Recreation Reserve - Botanical Gardens - Mount Rouse - Volcanic Discovery Centre 	Nil

The Informal Meeting concluded at 5:10pm.

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session 25 October 2023
Date:	25 October 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr Brown Cr Calvano Cr Colliton 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 Emily Anderson, Youth Engagement Officer Anita Collingwood, Senior Statutory Planner Roger Rook, Coordinator Recreation Services

The Informal Meeting commenced at 12:00pm

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor Only Meeting	Nil
2	Councillor and CEO Meeting	Nil
3	Matters Raised by Councillors	Nil
4	Wannon Water Briefing	Nil
5	TP-58-2023 122 – 124 Lonsdale Street, Hamilton	Nil
6	Pedrina Park Lights	Nil

The Informal Meeting concluded at 5:10pm.

12 Management Reports

12.1 Pedrina Park Lights - Design and Construct Tender

Directorate:	Wellbeing, Planning and Regulation
Report Approver:	Rory Neeson (Director Wellbeing, Planning and Regulation)
Report Author:	Susannah Milne, Manager Community Wellbeing
Presenter(s):	Roger Rook, Coordinator Recreation Services
Attachment(s):	<ol style="list-style-type: none">1. CONFIDENTIAL - Hamilton Running Club - Relocation Support [12.1.1 - 2 pages]2. CONFIDENTIAL - HDCA Letter of support Pedrina Lights [12.1.2 - 2 pages]3. CONFIDENTIAL - 075-23 Tender Evaluation Report Final [12.1.3 - 27 pages]

Executive Summary

Pedrina Park in Hamilton has been developed as the primary multi-purpose sporting precinct within the Southern Grampians Shire Council. As part of the current masterplan for the facility, the provision of lighting at the Pedrina Park 1 Oval is listed as a future priority.

Due to the current Melville Oval redevelopment project, there has been an identified need for another sporting oval in Hamilton with adequate lighting to provide a training venue for the Hamilton Kangaroos Football Club for the 2024 season, while also providing another suitable winter sports training location, when not required by the Hamilton Kangaroos in 2025.

This saw Council provide a \$100,000 allocation for lighting at the venue in the 2023-2024 budget. Council was also successful in securing an additional \$50,000 grant from the Australian Football League (AFL) under the Australian Football Facilities Fund.

Following the budget allocation, Council officers met with the Pedrina Park user groups on the 28 June, and the Mitchell Park user groups on the 29 June to determine support for the lighting project to proceed. Both meetings provided unanimous 'in principle' support for the lighting project to enable the tender process to commence.

The project is also reliant on all sporting clubs who currently use Mitchell Park in Hamilton (Hamilton Running Club, Hamilton Little Athletics and the Hamilton and District Cricket Association) agreeing that no further building upgrades would be completed at the site by Council as to fund the remainder of the project, an additional \$150,000 of renewal works identified for Mitchell Park in Hamilton would be used to allow the project to proceed.

For some clubs, this would mean relocation from Mitchell Park to Pedrina Park or an understanding that Council would potentially demolish existing buildings without replacing them as they reach end of life.

Following the tender evaluation process, Council officers have held additional conversations with all users of Mitchell Park who have continued to give "in principle" support to the project,

with these letters of support attached to the report. Both letters have given support subject to various requirements which include:

1. Hamilton Running Club relocation to Pedrina Park pending:
 - Provision of suitable sporting infrastructure;
 - Access to appropriate amenities, ie: storage, drinking fountains, shelter, power;
 - Capacity to integrate with existing users including scheduling
2. Hamilton District Cricket Association
 - Continued maintenance on the public toilet facility at Mitchell Park

No discussions have been held with the owner of the land (DEECA). These would be held after a Council decision and agreement from all current facility users on the future use of Mitchell Park.

Discussions have also been held with all current users of Pedrina Park who gave support for Council to commence the tender for the lighting project in June 2023 following the adoption of the budget. If the project is to proceed, further discussions about how the relocation of any sporting groups to the oval would occur. This would include the installation of new infrastructure (e.g., throwing cages, storage sheds etc.) and how scheduling of participation across the venue would occur.

This would all be discussed further as part of a planned user group meeting to be held following this decision by Council with all Councillors invited.

The tender for this lighting project that was advertised in August contained options to install new 50 or 100 lux LED lighting and four new poles around the Pedrina Park 1 Oval.

Three conforming tenders were received with evaluation details contained in this report.

Discussion

The Southern Grampians Shire Council Recreation and Leisure Strategy identifies for installing lighting at Pedrina Park Oval 1 to provide additional nighttime training capacity within Hamilton. In line with the strategy, the requirement for training is an average of 50 lux.

The tender for 075-23 Pedrina Park Oval Lighting – Design and Construct received three conforming submissions and was evaluated in accordance with the Council Procurement Policy.

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

- Price and Output- 40 %
- Demonstrated performance in provision of similar services - 25%
- Methodology - 25%
- Sustainable Procurement - 10%
- Occupational Health & Safety - Pass/Fail

The initial tender evaluation results are shown in the table below:

Company Name	Qualitative Score (%)
REES Sports Lighting - Optivision	70.46%
Laser Electrical Horsham	84.30%
COMTEK	50.19%

A comparison of lighting design was undertaken between the two highest scoring tenders (REES Sports Lighting and Laser Electrical), with both tenderers providing designs for 50 and 100 lux lighting.

REES Sports Lighting provided a design with a minimum lux of 45, a maximum lux of 136 and an average lux of 76.77 across the playing surface providing a large lighting variation across the field.

Laser Electrical Horsham provided a design with a minimum lux of 70, a maximum lux of 119 and an average lux of 95.31 providing a more consistent light saturation across the field.

Based on this comparison, and the similarity of the total score, Laser Electrical Horsham is identified as the preferred tender.

To ensure the success of the project, officers have engaged geotechnical and power capability advice for the site to ensure that the project can proceed without any variations to the project budget. These works are being completed outside the scope of works for this tender and will be complete before the tender is finalised.

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 document and has priced through a submitted quote.

Whilst cost risk exist this risk is reduced by achieving design and construction through one contractor. Any variations will be assessed through the standard approval process, which will minimise cost risk to Council.

No tenderer supplied a price for an additional switchboard for connection, and it has been costed that this will be in the order of \$25,000 if required.

Council is also completing a geo-technical assessment at the venue to support the installation of the new lighting towers.

The total project cost is summarised below.

	Budget	Option 1 – 50 lux	Option 2 – 100 lux
Original	\$100,000		
AFL Grant	\$50,000		
Lux Option		\$191,000	\$213,500
Switchboard allowance		\$25,000	\$25,000
Project Management & Contingency – 17%		\$32,470	\$36,295
Total	\$150,000	\$248,470	\$274,795

Allowing for project management and contingency, there is insufficient budget in the initial allocation to proceed with this project.

As mentioned earlier in this report, an additional allocation of \$150,000 is potentially available for this project via the reallocation of funding from renewal works at Mitchell Park in Hamilton (subject to some conditions around support from users and no further Council investment in the site).

If this reallocation does occur there is sufficient budget for this project to proceed.

Council Plan, Community Vision, Strategies and Policies

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.

Legislation

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

This report is also consistent with the Southern Grampians Shire Procurement Policy 2021-2025.

Gender Equality Act 2020

There is not considered to be any negative gender impacts from this project however the installation of new lights at Pedrina Park will have a positive impact of allowing it to be used by more users and sporting groups in the future.

Risk Management

It is essential that the contractor has the capability to construct to a high standard and follow

stringent quality controls. The contractor will be responsible for detailed design, hence minimising SGSC's risk of variations due to design flaws during construction.

These have all been demonstrated as part of the tender responses for the project.

The project must be completed by April 2024 to enable use during the next football season. It is therefore essential that the tender be awarded for the works to commence as early as possible.

The contractor is responsible for the provision of suitable material that will satisfy the Australian standards.

Climate Change, Environmental and Sustainability Considerations

The project is considered as low impact on environmental parameters, the contractor's environmental management plan will be assessed and approved prior to works commencing on site.

Utilising new LED technology will provide a more sustainable outcome compared to traditional lighting options.

A comparison between the 50 lux and 100 lux submissions showed that the 100-lux option would be achieved by the installation of 50% more light infrastructure. Increasing the installation to the 100-lux option would increase the power consumption by 50%, impacting both the financial and environmental costs of the use of the lights.

Community Engagement, Communication and Consultation

Communication has occurred with the existing users of Pedrina Park before the tender process commenced to gain their support for the project.

Communication also occurred with the existing users of Mitchell Park so that they understood the ramifications in terms of Council's future investment at Mitchell Park if this project is to proceed.

Following a decision from this Council Meeting, further engagement will be completed with users of both facilities and Councillors, around the next steps of the project which includes both the installation of the lighting and potential relocation of sporting clubs.

The tender process was completed in line with Council's Procurement Policy with the tender publicly advertised in the Council's e-Tendering portal and the Hamilton Spectator on 4 September 2023 and closed on 25 September 2023.

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.

Rory Neeson, Director Wellbeing, Planning and Regulation
Susannah Milne, Manager Community Wellbeing
Bill Scott, Manager Project Management Office
Roger Rook, Coordinator Recreation Services
Janelle Dahlenburg, Procurement Officer

RECOMMENDATION

That Council award the tender 075-23 Pedrina Park Oval Lighting – Design and Construct to Laser Electrical for the GST exclusive lump sum of \$191,000.

12.2

TP-58-2023 122-124 Lonsdale Street, Hamilton

Directorate:	Wellbeing, Planning and Regulation
Report Approver:	Rory Neeson, Director Wellbeing, Planning and Regulation
Report Author:	Rory Neeson, Director Wellbeing, Planning and Regulation
Attachment(s):	<ol style="list-style-type: none">1. TP 58 2023 Attachment 1 Delegate Report [12.2.1 - 23 pages]2. Application Form 122-124 Lonsdale St Hamilton [12.2.2 - 3 pages]3. Title Documents 122-124 Lonsdale St Hamilton [12.2.3 - 7 pages]4. Plan Pack 122-124 Lonsdale St Hamilton (1) [12.2.4 - 40 pages]5. Planning Report 122-124 Lonsdale St Hamilton (1) [12.2.5 - 29 pages]6. Stormwater Design 122-124 Lonsdale St Hamilton [12.2.6 - 5 pages]7. Stormwater Report 122-124 Lonsdale St Hamilton [12.2.7 - 28 pages]8. CONFIDENTIAL Letter from SWH ACEO to SGSC CEO re Hamilton Community Wellbeing Centre [12.2.8 - 2 pages]

Executive Summary

Planning application TP-58-2023 seeks a planning permit for the use and development of the land at 122 and 124 Lonsdale Street, Hamilton for a medical centre and associated business identification signs.

The medical centre is proposed by South-West Healthcare and is intended to provide a purpose-built space for mental health services in Hamilton.

The proposed medical centre has a frontage to Lonsdale Street and comprises six consulting rooms, office spaces, back-of-house areas, a sensory garden, and a parking lot with access via St Mary's Lane.

It is proposed that a maximum of six practitioners will provide services at the facility at any given time, with up to 10 ancillary staff also employed.

The proposed hours are between 7 am and 9 pm from Monday to Friday and 9 am to 5 pm on Saturdays.

The application was subject to internal referrals and was subject to public notice.

As a result of notification, one objection was received, where grounds were primarily related to commercial competition between medical centres. It is recommended this objection is rejected under the *Planning and Environment Act 1987* as it is not the role of planning to regulate commercial competition.

The application has been considered against all the requirements of the relevant provisions of the Southern Grampians Planning Scheme and it has been deemed that on balance the application warrants support. Officers recommend approval subject to conditions, as set out in the accompanying delegate report.

The application is presented to Council for a decision as the estimated cost of the development exceeds \$5,000,000 and therefore exceeds the threshold of delegation.

One part of the conditions proposed as part of the permit requires discussion with Councillors following a request from the applicant to explore a variation to what has been proposed by Council's engineering team in relation to the construction of a laneway along St Mary's Lane.

Discussion

Proposal

The application proposes the construction of a new medical centre at 122 and 124 Lonsdale Street to provide mental health care services for the local community. The centre is proposed by the South-West Healthcare Community Mental Health Unit Clinic and would be operated by that organisation.

The proposed building takes a single storey form and has an internal floor area of 489 square metres. Six consulting rooms, a conference room, playroom, staff workspaces, quiet spaces, waiting rooms and other ancillary spaces are provided within the building. A sensory garden, landscaping, footpaths, and car park are proposed to support the use and provide suitable access to the site.

The exterior of the building will feature a combination of render, timber-style cladding, and brickwork in light grey and beige tones. The windows and doors will be in bronze aluminum tones, and the brickwork will be an almond colour. The roof design will be a skillion style butterfly roof with a maximum height of 4.25 metres above the floor level. The entrance parapet will extend slightly higher than the roof to serve as a streetscape feature.

Prior to construction, the existing dwelling, verandah, shed, clothesline and various concrete surfaces will be removed from the site. Some grassed areas, too, will be removed, along with six trees to the rear of the dwelling. None of these features require planning permission to be removed. Some earthworks will be necessary to provide suitable ground levels ahead of construction, and new retaining walls are proposed.

A mature English Oak tree extends from 130 Lonsdale Street and is planned to be protected and preserved during the development. New landscaping is proposed to the front and side of the building and grassed lawns proposed around the car park.

A car park with 22 spaces and a drop-off/pick-up area are proposed, with access available from Lonsdale Street via St Mary's Lane.

The use itself includes the provision of six practitioners and 10 ancillary staff to provide mental health services to patients. The proposed hours are between 7 am and 9 pm from Monday to Friday and 9 am to 5 pm on Saturdays, with typical hours being 8.30 am to 5 pm. Appointment times outside of these hours will be scheduled based on client demand.

Business identification signs and wayfinding signs are required to support the proposed medical centre. The proposed signs include a bollard sign near the front entrance and a backlit fascia sign with the Southwest Healthcare logo displayed on the parapet facade. Further signage with simple lettering is also proposed above the entry door and is less visible from the adjacent street.

Requirement for Permit

A planning permit is required as follows:

- Clause 32.07-2 (Residential Growth Zone) – A permit is required to use the land for a Medical Centre that has a gross floor area greater than 250sqm.
- Clause 32.07-8 (Residential Growth Zone) – A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.07-2.
- Clause 43.02-2 (Design and Development Overlay) – A permit is required to construct a building or construct or carry out works.
- Clause 43.01-1 (Heritage Overlay) – A permit is required to construct a building or construct or carry out works and to display a sign.
- Clause 52.05-13 (Signs) – A permit is required to construct and display a business identification sign.

Issues

Submission

As a result of public notification, Council received one submission where grounds were primarily related to concerns of commercial competition with nearby medical care providers. The submission raises no concern with the built form, amenity impacts, waste management, traffic management or other matters considered by the Southern Grampians Planning Scheme.

Section 57 (2) of the *Planning and Environment Act 1987* states that Council may reject a submission, which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector.

Competition between medical centres is a normal commercial situation that can arise, particularly in a regional centre. It is a long-established principle of planning law that it is not the role of planning to regulate competition. In this instance, it is recommended that Council reject the submission.

Compliance with the Southern Grampians Planning Scheme

A planning assessment has been carried out which assessed the proposal against the relevant provisions and policies within the Southern Grampians Planning Scheme where it has been concluded that on balance the application should be supported. A copy of the Delegate Report has been included as an attachment (Attachment 1) to this report.

Council officers have discussed the proposed permit conditions with the Permit Applicant and the requirement for St Mary's Lane to be upgraded, and at no cost to Council, is contentious. This issue is discussed in more detail below.

Road Upgrade Conditions – St Marys Lane

The application proposes the use of St Marys Lane for access to the site, including the drop-off/pick-up area to the front of the proposed medical centre and the carpark to the south. St Marys Lane abuts the southern boundary of the site and has two concrete vehicle crossings, one at Lonsdale Street and one at Clarendon Street. The laneway is currently used in both directions of travel. The laneway is an informal, unsealed accessway which Council owns but does not currently maintain.

The gifting of the laneway to Council in 2016 caused the accessway to become a public highway as defined under common law but did not bind or oblige Council to maintain the road. Consequently, the laneway has been available for public use with no ongoing maintenance being completed. It should also be noted that this laneway has not been included in Council's Road Management Plan.

The traffic generated by the proposal cannot be accommodated by the existing condition of St Mary's Lane, noting it is beyond the capacity and function of the unsealed road. In its current state, the laneway is not suitable for all weather access over any significant timeframe and would quickly become hazardous to users. In addition to the current users, the laneway would be used by staff and patients of the proposed medical centre, waste collection services, cleaners, couriers and other ad hoc visitors. The current condition of the laneway is not appropriate for such extensive use, particularly in an urban environment on the fringe of the CBD.

The existing dimensions and construction standard of the laneway are inadequate to allow vehicles and pedestrians to safely enter and exit the site (with two-way traffic) from Lonsdale Street. It is therefore necessary that the full extent of the laneway be upgraded. Council's engineers have proposed conditions to be included on the permit which relate to the construction standard of the laneway and the associated plans and calculations that will need to be prepared before works commence. The Infrastructure Design Manual (IDM) sets out the requirements that must be satisfied for a road to be included in the Register of Public Roads and Clause 52.06-9 of the Planning Scheme sets out access requirements to be met before new land uses commence.

In a pre-lodgement meeting with the Permit Applicant, Council's engineer discussed the current condition of the laneway, being an unmaintained public highway, and the need for the applicant to upgrade the laneway as part of the proposed development. The application plans, however, show little detail about the laneway and fails to provide any direction for creating suitable access. It is apparent that the permit applicant has not anticipated the need to upgrade the road as part of the development, though this is common practice for developments of this scale.

Large developments requiring access via substandard roads would ordinarily be approved with permit conditions requiring the permit holder to pay for the associated road upgrade as it is a catalyst for intensified use of the road. Anticipating such a permit condition requiring the upgrade of St Mary's Lane and disputing the requirement due to the road being declared as a public highway, the permit applicant has written to request Council contribute to the expense of the upgrade of St Mary's Lane. A copy of this letter is provided in the attachments to this report (Attachment 8).

The permit applicant has conducted a cost analysis of the laneway upgrade and Council's Engineering department advises the estimated cost is overpriced and appears to include the cost of renewing and relocating Wannon Water sewer infrastructure. The renewal or relocation of such infrastructure is not a default requirement of the laneway upgrade but would only be required if the sewer is at too shallow a depth to enable excavation for a new pavement to be laid. Council's engineers are of the opinion such a circumstance is unlikely to exist and that new pit lids suitable for vehicular traffic (Class D lids) are most likely the only sewer-related work required to be carried out. Council's team has conducted its own cost analysis which is more modest than the total reached by the permit applicant.

The permit applicant is prepared to contribute up to \$100,000 to the laneway upgrade as part of a cost-sharing arrangement with Council. Council executives have engaged with the permit applicant to reach an agreement around cost-sharing, with both parties offering to contribute up to \$100,000. It is essential to note that the final cost of the laneway upgrade may exceed \$200,000 and that Council expects the permit holder to pay any additional expense and complete the work to suitable standard.

Given this agreement has been informally reached, it is recommended that a permit condition be included to require Council and the permit holder to enter into an agreement

under Section 173 of the Act to formally require the cost-share agreement. This condition has been included in the list of conditions at the end of Attachment 1 (Delegate Report).

In determining the application, Council must consider the following options:

1. Council may resolve to approve the application, as presented in the recommendation in Attachment 1 *Delegate Report*. This option includes a condition (Condition 23) which requires a Section 173 agreement for the construction of St Marys Lane, with a cost-share arrangement between the permit holder and Council. Provision in Council's budget would consequently be required to accommodate this expense and the implementation of this requirement would be enforced via an agreement between Council and the Permit Applicant under Section 173 of the Planning and Environment Act 1987. The works would be completed by Council in a cost share arrangement with the applicant split 50/50 and completed in the 2024-2025 financial year but with Council's contribution being capped. This option would ensure the project can proceed promptly.
2. Council may resolve to approve the application, with an alteration to Condition 23 to require the permit holder to pay for and carry out the necessary works for the upgrade of St Marys Lane, with no expense to Council.
3. Council may resolve to approve the application and to construct and maintain St Marys Lane and include it on the Register of Public Roads at Council's expense. Provision in Council's budget would consequently be required to accommodate this initial and ongoing expense.
4. Council may resolve to approve the application with Conditions 22 and 23 amended to require the laneway to be partially upgraded to allow access to the subject site to a lesser standard than that required by the IDM. The cost of such work would be borne by the permit holder and be completed to Council's satisfaction.

Officers' recommendation which is included as part of the permit conditions in Attachment 1 states that the first option listed above is the preferred option.

Financial and Resource Implications

The proposal relies on the use of St Mary's Lane for access to the car park. It is recommended that the developer pay the cost of the upgrade to St Mary's Lane, thereby providing suitable access for the use. Should Council depart from this recommendation, the cost would need to be borne partly or entirely by Council. The cost of the upgrade of St Mary's Lane is estimated to be at least \$200,000. The upgrade will include works required to protect drainage, sewer and other infrastructure in the vicinity of the laneway.

Should Council fund – whether in part or in full – or directly carry out the works associated with the laneway upgrade, this would need to be promptly executed. The permit applicant has a contract of sale which ties them to certain conditions, including the timeframe for establishing the use. Council should not unreasonably delay or cause to delay work required to facilitate the sale of land.

The proposed medical centre will generate new jobs which will benefit the local economy directly and indirectly.

Should the Council's decision be appealed at the Victorian Civil and Administrative Tribunal (VCAT), additional costs associated with the appeal, such as officer time, legal advice and/or representation, will be necessary.

Council Plan, Community Vision, Strategies and Policies

Support our Community

- 1.2.3 Partner with community services and agencies to plan for the outcomes outlined in the Public Health and Wellbeing Plan.
- 1.2.4 Advocate for and work with external services that support our community and deliver outcomes.

Legislation

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

Gender Equality Act 2020

The application does not present any direct link to gender equity.

Risk Management

The Council's decision may be reviewed through an appeal to the VCAT. This may result in the Council's decision being overturned and subsequent expenditure spent to participate in that process.

Climate Change, Environmental and Sustainability Considerations

The proposed building has been designed to cater for people of varying physical abilities, ensuring the building is fit-for-purpose and therefore unlikely to require later retrofitting and associated building waste.

The building has been architecturally designed with sustainability and environmental benefits in mind.

Community Engagement, Communication and Consultation

Notice of the application has been given in the form and timeframe prescribed by the *Planning and Environment Act 1987*.

Two individuals have contacted the planning officer to seek clarification around the use and one written submission has been received.

The written submission – written by a representative of a local medical practice – states that the submitter objects to the application 'on the grounds of close vicinity for HFP, being the next-door building' and the application being 'against fair competition'.

Section 57 (2) of the *Planning and Environment Act 1987* states that an 'objection must be made to the responsible authority in writing stating the reasons for the objection and stating how the objector would be affected by the grant of the permit'.

Section 57 (2A) proceeds to state that the responsible authority may reject an objection which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector.

The submission received in relation to this application states that the application for a medical centre is inconsistent with fair competition, implying that a new medical centre in close proximity would affect the commercial wellbeing of the existing medical centre. The submission raises no concern with the built form, amenity impacts, waste management, traffic management or other matters to be considered under the Planning Scheme. It is recommended that the objection be rejected, pursuant to Section 57(2A) of the *Act* as it relates to commercial competition.

Disclosure of Interests

No officers who were involved in providing advice or approving this Report have a conflict of interest to declare. Officers include:

- Rory Neeson, Director Wellbeing, Planning and Regulation
- Anita Collingwood, Senior Statutory Planner

RECOMMENDATION

That Council, having caused notice of Planning Application No. TP-58-2023 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987*, decides to Grant a Permit under the provisions of Clause 32.07-2, Clause 32.07-8, Clause 43.01-1, Clause 43.02-2, Clause 52.05-13 and Clause 52.06-3 of the Southern Grampians Planning Scheme in respect of the land known and described as 122 and 124 Lonsdale Street, Hamilton for the Use and Development of a Medical Centre, including works and signage in accordance with the endorsed plans, generally in with the application dated 13 July 2023, subject to the conditions listed in Attachment 1.

12.3 Contract 076-23 - Supply of Road Making Materials

Directorate: Infrastructure and Sustainability
Report Approver: Marg Scanlon, Director Infrastructure and Sustainability
Report Author: Brett Holmes Manager Works
Attachment(s): 1. Supply of Road Making Materials 076 23 [12.3.1 - 4 pages]
2. Quarries [12.3.2 - 1 page]

Executive Summary

Council has undertaken a tender process to establish a panel of suppliers of road making materials primarily for Council's road construction, gravel resheeting programs and maintenance operations. Furthermore, these suppliers could also be engaged to provide materials for other Council capital projects and works.

Tender 076-23 Supply and Delivery of Road Making Materials was publicly advertised on 19 August 2023. The tender closed on 11 September 2023. This tender seeks the supply of road making materials for the period 1 December 2023 to 30 November 2024.

Eleven conforming tenders were received from licensed quarries providing prices and quantities of specified products. These tenders have been evaluated against price of product, availability of supply, compliance with OH&S requirements and consideration for environmental sustainability. Tenders were received from

1. Rigby Bros & Co PTY LTD (Coleraine)
2. LK Earthmovers Pty Ltd (Hamilton & Penshurst)
3. Mooree partnership (Tarrayoukyan)
4. Walkers Earthworks Pty Ltd (Hamilton)
5. Tyrendarra Lime Pty Ltd (Tyrendarra)
6. Peter Milne Earthmoving Pty Ltd (Gritjurk)
7. Aussie Rock Pty Ltd (Wickliffe)
8. Moree Quarries ((Harrow)
9. WA Molan & Sons (Terang)
10. Western Quarries Pty Ltd (Ararat) (Pending updated extraction license, awarding this tender is dependent on the outcome of this license)
11. Mibus Bros (Aust) Pty Ltd (Portland)

The term of this contract includes the initial contract period of 1 year with the option for a further 3 x one-year extensions, subject to performance and capacity to meet the contract requirements.

It is recommended that Council adopts the panel comprising the nominated suppliers including;

Rigby Bros & Co PTY LTD (Coleraine)
LK Earthmovers Pty Ltd (Hamilton & Penshurst)
Mooree partnership (Tarrayoukyan)

Walkers Earthworks Pty Ltd (Hamilton)
Tyrendarra Lime Pty Ltd (Tyrendarra)
Peter Milne Earthmoving Pty Ltd (Gritjurk)
Aussie Rock Pty Ltd (Wickliffe)
Moree Quarries ((Harrow)
WA Molan & Sons (Terang)
Western Quarries Pty Ltd (Ararat): Pending provision of a current extraction license.
Mibus Bros (Aust) Pty Ltd (Portland)

Discussion

This is a panel contract which enables the materials to be sourced from across eleven contractors based on their supply capacity, cost, location and availability. There is no obligation to the contractors for Council to purchase any road making materials under this contract or for all companies to supply product. Council does not guarantee the volume of purchases from individual suppliers.

The intention is to operate a panel of suppliers to ensure the availability and supply of materials required to complete Council's works. Logistics have been considered in this evaluation as the least expensive suppliers may have longer distances to transport which results in higher total costs.

The tender was for a total of 32 different road making materials, and no tenderer has been given a pass/fail evaluation based on the price offered within an acceptable range for that product. The non-weighted items such as license requirements were also evaluated with either a pass or fail. If the appropriate level of insurance, OH&S plan and licenses were in place, this was considered a pass. It is noted one supplier, Western Quarries is required to provide a current extraction license.

Given the range of prices and products, a pricing index matrix was established to assess and determine the best value supplier based on the location of the works. The location of the project, freight options and product pricing in selecting the supplier for each order to achieve financial and logistic efficiencies.

With Boral Quarry ceasing its quarry operations at Mt Dundas, Council will source material from alternative sources with some expenditure likely to occur from quarries outside the Shire boundary. For example, Burnside Lane, Glenthompson Rehabilitation requires crushed rock to be carted from Rigby Bros (Coleraine) which is a 162km return distance, alternatively materials sourced from Western Quarries (Ararat) is 120km return distance.

Staff have visited surrounding quarries and this panel contract will allow multiple options to ensure the required materials can be sourced and supplied to meet the works program.

This panel of suppliers will also be applied for materials required for day-to-day maintenance works, open space improvements and town beautification works.

Financial and Resource Implications

Council's approved 2023-2024 Capital Works Program and the associated budgets have been allocated to the following programs:

- Road Rehabilitation - \$2,738,000.00
- Road Reseals – \$2,500,000.00
- Gravel Resheets - \$594,000.00
- Gravel Road (Maintenance) - \$807,000.00
- Bitumen Road (Maintenance) - \$745,000.00

Total program budget: \$7,384,000.00

Costs associated with the supply of road making materials are embedded within these budgets. Any materials sourced for other capital or maintenance works via this panel will be costed against the respective projects.

This panel presents financial efficiencies which will be managed, monitored and reported.

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.

3.1.4 Strategically plan a sustainable long-term capital program with identification of funding and partnership opportunities.

Maintain and Renew Our Infrastructure

3.2 Safe and well-maintained transport routes and infrastructure for all modes of travel

3.2.3 Provide infrastructure that supports a connected and active community.

Legislation

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

Gender Equality Act 2020

A gender equity assessment does not apply to this tender for the supply of materials.

Risk Management

In accordance with the Occupational Health and Safety Act all tenderers have provided evidence to demonstrate internal risk management and OHS policies and procedures are in place.

Climate Change, Environmental and Sustainability Considerations

The required materials will be sourced through a range of suppliers across Southern Grampians Shire and neighboring local government areas. Attachment 1 details the specific locations of the panel suppliers. The geographical spread of suppliers contributes to financial and environmental sustainability.

As part of state government license requirements, quarries are required to meet a range of environmental standards. Each of the panel suppliers have confirmed their compliance with extraction license requirements.

Community Engagement, Communication and Consultation

All adjacent property owners and occupiers will be notified of the road works and temporary road closures or detours in advance of works commencing on site. The tender has been advertised through Council's website and media streams providing a connection with Council's procurement portal.

Tenderers will be notified by the Procurement Officer of the decision made by Council at its meeting on 8 November 2023.

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
Brett Holmes, Manager Works
John Pierce, Team Leader

RECOMMENDATION

That Council:

1. Award contract 076-23 for the Supply of Road Making Materials to the following companies for their tendered schedule of rates, with an estimated combined value of \$10,500,000.00 over the period of the agreement;

Rigby Bros & Co PTY LTD (Coleraine)
LK Earthmovers Pty Ltd (Hamilton & Penshurst)
Mooree partnership (Tarrayoukyan)
Walkers Earthworks Pty Ltd (Hamilton)
Tyrendarra Lime Pty Ltd (Tyrendarra)
Peter Milne Earthmoving Pty Ltd (Gritjurk)
Aussie Rock Pty Ltd (Wickliffe)
Moree Quarries ((Harrow)
WA Molan & Sons (Terang)
Western Quarries Pty Ltd (Ararat): Pending provision of a current extraction license.

Mibus Bros (Aust) Pty Ltd (Portland)

and

2. Authorise the Chief Executive Officer to execute Contract No. 076-23 and any other documents required by or to give effect to the terms of the contract on behalf of Council.

13 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.

16 Confidential Reports

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

17 Close of Meeting

This concludes the business of the meeting.