

Strathbogie Shire Council

Extraordinary Council Meeting Agenda

Tuesday 23 January 2024

Agenda

Extraordinary Council Meeting

Tuesday 23 January 2024, at 6:00 pm

Meeting to be held at the Nagambie Regatta Centre and livestreamed on Council's website:

<https://www.strathbogie.vic.gov.au/council/our-council/council-meetings-and-minutes/>

Interim Administrator:

Peter Stephenson

Officers:

Julie Salomon – Chief Executive Officer

John Harvey – Director Sustainable Infrastructure

Meeting Procedure

1. Welcome

2. Acknowledgement of Country

We acknowledge the Traditional Custodians of the places we live, work and play. We recognise and respect the enduring relationship they have with their lands and waters, and we pay respects to the Elders past, present and emerging. Today we are meeting on the lands of the Taungurung peoples of the Eastern Kulin nation, whose sovereignty here has never been ceded.

3. Privacy Notice

This public meeting is being streamed live via our website ([Council Meetings and Minutes | Strathbogie Shire](#)) and made available for public access on our website along with the official Minutes/Decisions of this meeting. All care is taken to maintain your privacy; however, as a visitor in the public gallery, it is assumed that your consent is given in the event that your image is broadcast to the public. It is also assumed that your consent is given to the use and disclosure of any information that you share at the meeting (including personal or sensitive information) to any person who accesses those recordings or Minutes.

4. Governance Principles

Council considers that the recommendations contained in this Agenda gives effect to the overarching governance principles stated in Section 9(2) of the Local Government Act 2020. These principles are as follows:

- 1. Council decisions are to be made and actions taken in accordance with the relevant law;*
- 2. priority is to be given to achieving the best outcomes for the municipal community, including future generations;*
- 3. the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;*
- 4. the municipal community is to be engaged in strategic planning and strategic decision making;*
- 5. innovation and continuous improvement is to be pursued;*
- 6. collaboration with other Councils and Governments and statutory bodies is to be sought;*
- 7. the ongoing financial viability of the Council is to be ensured;*
- 8. regional, state and national plans and policies are to be taken into account in strategic planning and decision making;*
- 9. the transparency of Council decisions, actions and information is to be ensured.*

5. Apologies / Leave of Absence

Amanda Tingay – Acting Director People and Governance
Rachael Frampton – Acting Director Community and Planning

6. Disclosure of Conflicts of Interest

7. Public Question Time

8. Officer Reports

- 8.1 Strategic and Statutory
- 8.2 Community
- 8.3 Infrastructure
- 8.4 Corporate
- 8.5 Governance and Customer Service
- 8.6 Executive

Julie Salomon

CHIEF EXECUTIVE OFFICER

19 January 2024

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8. OFFICER REPORTS

8.3 INFRASTRUCTURE

8.3.1 Contract No. 22-23-01: Weir Road and Reedy Lake Road

Author: Director Sustainable Infrastructure

Responsible Director: Sustainable Infrastructure

EXECUTIVE SUMMARY

At the August 2022 Council Meeting, Council awarded Contract No. 22-23-01 for Weir Road and Reedy Lake Road Upgrade – Nagambie to Seven Creeks Excavations Pty Ltd, following a competitive tender process. The lumpsum contract was for a total sum of \$738,070 inclusive of GST.

The project was scheduled to commence in October 2022, however, was delayed due to ongoing rain and a major flood event. Considering the impacts of the flood event, a renewed project design was developed (including detailed Geotech investigation) with the view to minimise the possibility of the road being impassable in a future flood.

At the April 2023 Council meeting, Council resolved to alter the design specifications to raise the road pavement height to above flood level, approve the contract variation of \$1,084,800.08, increasing Contract No. 22-23-01 to \$1,822,870.08 inclusive of GST and commence the works in September 2023 when weather conditions were more conducive to road construction.

In May 2023, traffic counts on Weir Road captured an increase in volume, now 320 vehicles per day (vpd), in comparison with a significant lower vehicle per day count when Kirwan's bridge is open. Given this change and to ensure the road design and subsequent works are in line with standards, a new Road Safety Audit was performed to ensure the current design (4.0m seal) met road safety standards at the current traffic count of 320vpd.

As per designers' advice, the safest and recommended option for this road is a 9.0m road pavement, requiring the removal of a minimum of 126 trees and installation of guard rail at an estimated cost of \$620,000 plus required native vegetation offsets.

As per Infrastructure Design Manual (IDM) standards, the minimum standard for a rural road design with more than 150vpd is a 6.2m seal with 1.5m shoulder both sides. Proceeding with the tendered design (4.0m road seal), does not meet the standards of the IDM.

However, the Infrastructure Design Manual does provide for the road design standards to be varied in cases where doing so would significantly impact on native vegetation as is the case at this location.

Subsequently, a road safety audit of the tendered design was completed to ensure that with the dissidence of the IDM standards, and the reduction of the number of trees to be removed, the design continued to provide an acceptable level of safety.

It was anticipated that the response from the Road Safety Auditor would have been available prior to the September 2023 Council meeting, however this was not the case.

Due to the concerns from the community regarding the proposed design, a report was received at the September 2023 meeting, where Council resolved that the contract would not commence until an independent Road Safety Audit (refer Attachment 1) is complete and that a further report is received by Council detailing available options, financial implications, and risk mitigation strategies.

The response from the independent road safety auditor has been received. They considered the initial design with the use of the 4.0m seal width appropriate, however recommended the unsealed shoulder widths be increased from the initial designed 1.0m width to 1.5m either side of the seal.

This design requires approximate removal of 37 trees. Significant numbers of trees will be protected by safety barriers as they are not being directly impacted by the design. A planning permit is required to remove these trees. The contract price does not include any monetary value for the native vegetation offsets.

It is recommended the project commences without impacting any trees whilst Council applies for a planning permit for their removal. The Planning Permit application is currently under preparation, once costs are received from the Arborist for the Native Vegetation offsets, the application will be submitted upon receipt of this information. The most recent design was also discussed with members of the Kirwans Bridge community and adjacent landholders to Weir Road, who are generally satisfied and keen to see project commencement.

The Contractor was also requested to reprice this design option, and following negotiations it is noted that the tender price of \$1,797,557.60 including gst which is less than the previously approved contract value for the project represents true value for money.

In addition, this amount excludes the contingent liability for a prolongation claim. Council officers are currently negotiation with the tenderer and this matter will be subject to a future council report.

RECOMMENDATION

That Council:

- 1. Note the outcomes of the independent Road Safety Audit;***
- 2. Proceed with the design for Contract No 22-23-01 being a 4.0m seal of the road with 1.5m unsealed shoulders (each side of the seal);***
- 3. Note the contract variation of -\$25,312.48 decreasing the overall value of Contract No 22-23-01 Weir Road and Reedy Lake Road Upgrade – Nagambie, to \$1,797,557.60 including gst;***
- 4. Note that works will commence on the construction of the project where trees are not impacted whilst applying for a planning permit to remove the trees impact by the works;***
- 5. Note that further reports will be tabled at a Council meeting in February/March 2024 regarding costs associated with the contingent liability for the prolongation claim and any native vegetation removal offsets (which form part of the total project cost); and***

6. Note construction will commence in January 2024.**PURPOSE AND BACKGROUND**

At the August 2022 Council Meeting, Council resolved to award Contract No 22-23- 01 for Weir Road and Reedy Lake Road Upgrade – Nagambie to Seven Creeks Excavations Pty Ltd, after emerging as the successful tenderer following a competitive tender process. The lumpsum contract was awarded to the contractor for a total sum of \$738,070 inclusive of GST.

The project was scheduled to commence in October 2022, however, was delayed due to ongoing rain and a major flood event which resulted in the isolation of the Kirwans Bridge community. After informal discussion with Council, Officers took the opportunity to learn from this flood event and review the design (including detailed Geotech investigation) of the project to minimise the possibility of the road being impassable in future extreme flooding events.

At the April 2023 Council meeting, in summary, Council resolved to increase the design specifications to raise the road pavement height to above flood level, approve the contract variation of \$1,084,800.08, increasing contract no 22-23-01 to \$1,822,870.08 inclusive of GST and commence the works in September 2023 when weather conditions were more conducive to road construction.

Since the Council meeting in April 2023, the traffic counts on Weir Road have captured an increase in volume, now 320 vehicles per day (vpd), in comparison with a significant lower vehicle per day count when Kirwan's bridge is opened. Given this change and to ensure the road design and subsequent works are in line with standards, a new Road Safety Audit was performed to ensure the current design (4.0m seal) meets road safety standard at the current traffic count.

It was identified at that time that this traffic count (more than 150vpd) would require a 6.2m seal and 1.5m shoulder both sides in accordance with the Infrastructure Design Manual (IDM) standards.

As per designers' advice, the safest and proposed option for this road is a 9.2m pavement, with a 6.2m seal which would mean the removal of 126 trees and installation of guard rail at an estimated cost of \$620,000 plus required native vegetation offsets.

The identified 126 trees are the minimum number of trees to be removed that are in direct conflict with the road shoulder and earthwork batters for a 9.2m pavement, with a 6.2m seal. It does not include the number of trees that have more than 10% of their Tree Protection Zone (TPZ) impacted and will be considered "technically lost" which resulted in an estimate of approximately 200 trees.

The number of "technically lost" trees would need to be determined by an arborist. Officers understand this would be a significant concern to the community, and therefore, do not believe this is a viable option at this time.

Proceeding with the tendered design (4.0m seal), does not meet the standards of the IDM. However, the Infrastructure Design Manual does provide for the road design standards to not be followed in cases where doing so would significantly impact on native vegetation, as is the case at this location.

Subsequently, a road safety audit of the tendered design was completed to ensure that with the dissidence of the IDM standards associated with this road design, and the reduction of the number of trees to be removed, continued to provide a safe outcome.

It was anticipated that the response from the Road Safety Auditor would have been available prior to the September 2023 Council meeting, however this was not the case.

Due to the concerns from the community regarding the proposed design, a report was submitted to the September 2023 meeting, where Council resolved to:

1. *Note that Contract No. 22-23-01 will not commence until an independent Road Safety Audit is complete; and*
2. *Receive a further report at a future Council meeting on the outcome of the Road Safety Audit detailing available options, financial implications, and risk mitigation strategies.*

ISSUES, OPTIONS AND DISCUSSION

One of the overarching governance principles in section 9 of the Local Government Act 2020 is that priority is to be given to achieving the best outcomes for the municipal community, including future generations.

Since the Council meeting in April 2023 officers have conducted further traffic counts on Weir Road to ascertain traffic volume during Kirwan's Bridge closure. The counts have captured an increase in volume which now is 320vpd, in comparison with a significant lower vehicle per day count when the bridge was open. Given this change, the communities express concerns regarding the dissidence of the IDM standards associated with the revised road design and to ensure the road design and subsequent works are in line with safety standards, a new Road Safety Audit was carried out on the current design.

The response from the independent road safety auditor was that they considered the initial design with the use of the 4.0 m seal width appropriate however recommended the unsealed road pavement shoulder widths be increased from the initial designed 1.0m width to 1.5m either side of the seal.

At further meetings with members of the Kirwans Bridge community and adjacent landholders to Weir Road, the design was discussed and concerns over safety of intersections within the project area, the impact of the recent flooding as well as the impact on the trees was incorporated into the design reviews.

This design and the communities ongoing concerns related to the intersection designs was subsequently referred back to the road safety auditor.

The Independent Road Safety Auditor has advised that the current design is considered appropriate.

This design requires approximately 37 trees are directly impacted by the construction of the works to be removed. Significant numbers of trees will be protected by safety barriers as they are not being directly impacted by the design.

The trees directly impacted by the road's construction are generally isolated to the major culvert installation widening works. It is considered that significant lengths of the project can be constructed without impacting on any existing trees. It is recommended that works

commence on the project without impacting on any trees whilst Council applies for a planning permit for their removal.

The Contractor was also requested to reprice this design option, and following negotiations it is noted that the tender price of \$1,797,557.60 including gst which is less than the previously approved contract value for the project represents true value for money, however excludes native vegetation removal costs and contingent liability claims.

The final design (available on Councils website: [Kirwans Bridge Community Panel | Share Strathbogie](#)) includes:

- 4.0m seal of Weir Road and Reedy Lake Road,
- 1.5m unsealed shoulders each side of the seal,
- Required signage, and
- Required drainage works.

COMMUNITY ENGAGEMENT

One of the overarching governance principles in section 9 of the Local Government Act 2020 is that the municipal community is to be engaged in strategic planning and strategic decision making.

The most recent design was discussed with members of the Kirwans Bridge community and adjacent landholders to Weir Road. At this and other informal stakeholder meetings, the design was discussed and concerns over safety of intersections within the project area, the impact of the recent flooding as well as the impact on the trees was incorporated into the design reviews.

This design and the communities ongoing concerns related to the intersection designs was also referred to the independent Road Safety Auditor. The Independent Road Safety Auditor has advised that the current design is considered appropriate.

Officers subsequently prepared the Design Drawings and Bill of Quantities for further community feedback. Following this engagement, community members are generally satisfied and are keen to see the project commence.

POLICY CONSIDERATIONS

Council Plans and Policies

The Council Plan is related with the following:

- Strategic Focus Area 3 – Live. Access. Connect
- Strategic Focus Area 5 – Strong. Healthy. Safe

Asset Management Policy

- Asset renewal – is the upgrading or replacement of an existing Asset, or a component, that restores the service capability of the Asset to its original functional condition and performance.

LEGAL CONSIDERATIONS

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that Council decisions are to be made and actions taken in accordance with the relevant law.

The contract has already been delayed and the contractor can access penalty payments. Officers have sought legal advice on the matter and are currently in negotiation with the tenderer. This matter will be subject to a future council report.

Conflict of Interest Declaration

All officers, and/or contractors, involved in the preparation of this report have signed a written declaration that they do not have a conflict of interest in the subject matter of this report.

Transparency

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the transparency of Council decisions, actions and information is to be ensured.

It is considered that all steps have been taken in line with Council's Procurement Policy which ensures transparency in the process. Decisions made by Council will be:

- undertaken in accordance with the Act and the Governance Rules.
- will be conducted in an open and transparent forum with information available via Council reports, Council meetings will be open to the community or can be viewed on the livestream (and available as a recording) unless closed for reasons permitted by s.66(2) of the Act.

FINANCIAL VIABILITY CONSIDERATIONS

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the ongoing financial viability of the Council is to be ensured.

Contract No. 22-23-01 has been let, and works were to commence in September 2022 (prior to the October 2022 flood event).

Following negotiations with the tenderer, and should Council support the recommendations contained within the report, the tender price will be \$25,312.48 less than the previously accepted figure.

It should be noted that this amount excludes the contingent liability for a prolongation claim and any native vegetation removal offsets. Council officers are currently negotiation with the tenderer and this matter will be subject to a future council report/s.

SUSTAINABILITY CONSIDERATIONS

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

The proposed construction and upgrade of this road must take improved road safety into consideration. Commissioning an independent Road Safety Audit, has provided recommendations for any safety mitigating measure that needs to be implemented to ensure road users can use the road safely.

The project will, provide environmental and economic outcomes, increase social participation, and enable the seamless access with other arterial, regional roads and interstate access points.

HUMAN RIGHTS CONSIDERATIONS

The recommendation does not limit any human rights under the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

CONCLUSION

The proposed design of the Weir Rd project incorporates the recommendations of the Independent Road Safety Auditors report. It was also presented and discussed with members of the Kirwans Bridge community and adjacent landholders to Weir Road

It is recommended that Council note the tender price of \$1,797,557.60 including gst which is less than the previously approved contract value for the project and represents true value for money. A further report to be table at either the February or March 2024 Council meeting to consider the costs associated with the contingent liability for the prolongation claim and any native vegetation removal offsets which form part of the total project cost.

ATTACHMENTS

Attachment 1 – Independent Road Safety Report

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT P.M.