



Shire of
Serpentine
Jarrahdale

Special Council Meeting

Confirmed Minutes

7.00pm

Monday, 22 February 2021

Purpose: To consider the request for additional funds to complete the Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) in Byford.

Contact Us

Enquiries

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In Person

Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong WA 6123
Open Monday to Friday 8.30am-5pm (closed public holidays)



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Table of Contents

1. Attendances and apologies (including leave of absence):	5
2. Public question time:	6
2.1 Public questions	6
3. Public statement time:	7
4. Petitions and deputations:	7
5. Declaration of Councillors and Officers interest:	8
6. Receipt of reports:	8
6.1 Reports	8
6.1.1 – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) (SJ1665)	8
7. Motions of which notice has been given:	22
8. Urgent business:	22
9. Closure:	22

The purpose of this Special Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(1)(e)) and *Council's Standing Orders Local Law 2002 (as amended)* – Part 14, Implementing Decisions. No person should rely on the resolutions made by Council until formal advice of the Council resolution is received by that person.

The Shire of Serpentine Jarrahdale expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.



Councillor Attendance Register

In accordance with Ordinary Council Meeting, 16 December 2019, Resolution OCM293/12/19, clause 5 – “That Council requests the Chief Executive Officer maintain a Councillor Attendance Register recording Councillor Attendances at Ordinary Council Meetings, Special Council Meetings and Policy Concept Forums”.

Council October 2019 -

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Denholm	Cr McConkey	Cr Strange	Cr Strautins
14/12/20	OCM	✓	✓	✓	✓	A	✓	✓	✓	✓
14/12/20	SCM	✓	✓	✓	✓	A	✓	A	✓	✓
30/11/20	PCF	✓	✓	✓	A	✓	✓	✓	✓	✓
23/11/20	SCM	✓	✓	✓	✓	A	✓	✓	✓	✓
23/11/20	PCF	✓	✓	✓	✓	A	✓	A	✓	✓
16/11/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
02/11/20	PCF	A	✓	✓	✓	A	✓	✓	✓	✓
19/10/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
05/10/20	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/09/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
07/09/20	PCF	✓	✓	✓	✓	✓	✓	A	✓	✓
24/08/20	PCF	✓	✓	✓	✓	A	A	✓	A	✓
17/08/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
03/08/20	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/07/20	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
20/07/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	A
06/07/20	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
22/06/20	SCM	✓	✓	✓	✓	✓*	✓	✓	✓	✓
15/06/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/05/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
23/03/20	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
16/03/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓



Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Denholm	Cr McConkey	Cr Strange	Cr Strautins
24/02/20	PCF	✓	✓	✓	A	✓	✓	✓	✓	✓
17/02/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
03/02/20	PCF	✓	A	✓	✓	A	✓	✓	✓	✓
03/02/20	SCM	✓	A	✓	✓	A	✓	✓	✓	✓
16/12/19	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/11/19	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
04/11/19	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓

* Councillor Dagostino was an apology for the Special Council Meeting on 22 June 2020, but attended the resumed Special Council Meeting on 29 June 2020 from 7.00pm to 7.05pm, before Declaring an Interest and leaving the meeting.

A – Apology

LOA – Leave of Absence

NA – Non Attendance



Minutes of the Special Council Meeting of the Shire of Serpentine Jarrahdale held on Monday, 22 February 2021 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Councillor Rich declared the meeting open at 7.00pm and welcomed Councillors, and Staff, and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to the Traditional Owners, Elders Past, Present and Emerging.

Minutes

1. Attendances and apologies (including leave of absence):

Councillors: M Rich.....Presiding Member
D Atwell
M Byas
R Coales
B Denholm
L Strange
D Strautins

Officers: Mr P Martin.....Chief Executive Officer
Ms H Sarcich.....Deputy CEO / Director Community and
Organisational Development
Mr F SullivanDirector Corporate Services
Mr A TrosicDirector Development Services
Mr S HardingDirector Infrastructure Services
Dr K ParkerManager Governance
Ms A LierschAgendas and Minutes Officer (Minute Taker)

Apologies: Councillor K McConkey;
Councillor M Dagostino.

Members of the Public: 6



2. Public question time:

2.1 Public questions

Public questions commenced at 7.00pm.

No public questions were submitted prior to the meeting.

Presiding Member, Councillor Rich asked if there were any public questions from the floor.

Mr Shaye Mack

Question 1

What was the original budget amount? What would the total budget for the project be?

Response (Director Corporate Services)

Original budget amount for separable portion 4 was \$341,000, however the original contract was let for \$824,000. The total budget for separable portion 4 will become \$2.3 million.

Question 2

Given the extra money and the accountability for the money, why has this happened? This is not the first time this has happened. What is being done to correct these mistakes.

Response (Chief Executive Officer)

Overall, we are learning from the process. The Audit, Risk and Governance Committee discussed this matter earlier tonight at their meeting. Officers are going to be scoping projects better at the start prior to going to tender. The Onecomm system has provided more financial information for Officers to use. There will also be an improvement in the management of contracts moving forward. This will include how we manage variations to ensure we don't end up like this again in the future.

Council, when it considers the item, may request a report be prepared on lessons learnt and improvements which can occur in our processes.



Mrs Lee Bond

Question 1

Downer EDI employ more than 53,000 people. Explain why a company of this magnitude is claiming an overrun of costs?

Response (Chief Executive Officer)

The variations are outlined in the confidential attachment. Contractual arrangements require the information to be kept confidential. The information is itemised and has been provided to Councillors.

Response (Director Infrastructure Services)

The original tender was put together 4 years ago, and was not put together by the Contractor. There have been changes to specifications required by PTA over time. Additional works have been required on the basis of safety. These additional works are required to get permission to work within the PTA corridor.

Question 2

Who signed the contract? Were lawyers engaged?

Response (Shire President)

The Shire President advised the question will be taken on notice. In accordance with the Shires Policy 1.1.3 – Public Question and Public Statement Time - Ordinary Council Meeting a written response will be provided.

Question 3

Why is there so much mismanagement with Abernethy Road?

Response (Shire President)

I do not believe there has been mismanagement, but if you believe there has been mismanagement, there are formal avenues for making a report.

Presiding Member, Councillor Rich asked if there were any further public questions from the floor at 7.09pm. No further questions were asked.

Public questions concluded at 7.10pm

3. Public statement time:

Nil.

4. Petitions and deputations:

Nil.



5. Declaration of Councillors and Officers interest:

Nil.

6. Receipt of reports:

6.1 Reports

6.1.1 – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) (SJ1665)	
Responsible Officer:	Manager Infrastructure and Assets
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to request additional funds to complete the Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) in Byford.

After much negotiation with the Public Transport Authority (PTA) and the contractor, a date to finish the works has been agreed upon by all the parties. This has provided clarity in the variations either submitted or likely to be submitted by the contractor to finish the project.

This report therefore requests Council approve the additional variations required to complete the project pursuant to 21A of the *Local Government (Functions and General) Regulations 1996*.

Relevant Previous Decisions of Council

<p><i>Ordinary Council Meeting - 17 February 2020 – OCM020/02/20 - extract</i></p> <p><i>That Council NOTES the additional expenditure to the Abernethy Road Upgrade Project and considers allocation of the additional funds at report number 10.3.6 Budget Adjustment for Unallocated Surplus.</i></p>
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Ordinary Council Meeting - 27 November 2017 - OCM149/11/17

That Council awards Tender RFT 09/2017 Abernethy Road Upgrade (Separable Portion 4 - Works within Rail Boundary) to Tenderer number 2 (Downer EDI Works Pty Ltd), in accordance with their submission at Confidential Attachment OCM149.3/11/2017.

Background

The Abernethy Road Upgrade Project was divided into four (4) separate portions:

- Separable Portion 1: Kardan Boulevard to Soldiers Road – Civil construction works for road, underground stormwater drainage and stormwater basin;
- Separable Portion 2: Soldiers Road to South Western Highway – Civil construction works for road, underground stormwater drainage and Beenyup Brook culvert crossing;
- Separable Portion 3: Underground Power and Services; and
- Separable Portion 4: Works within Rail Boundary.

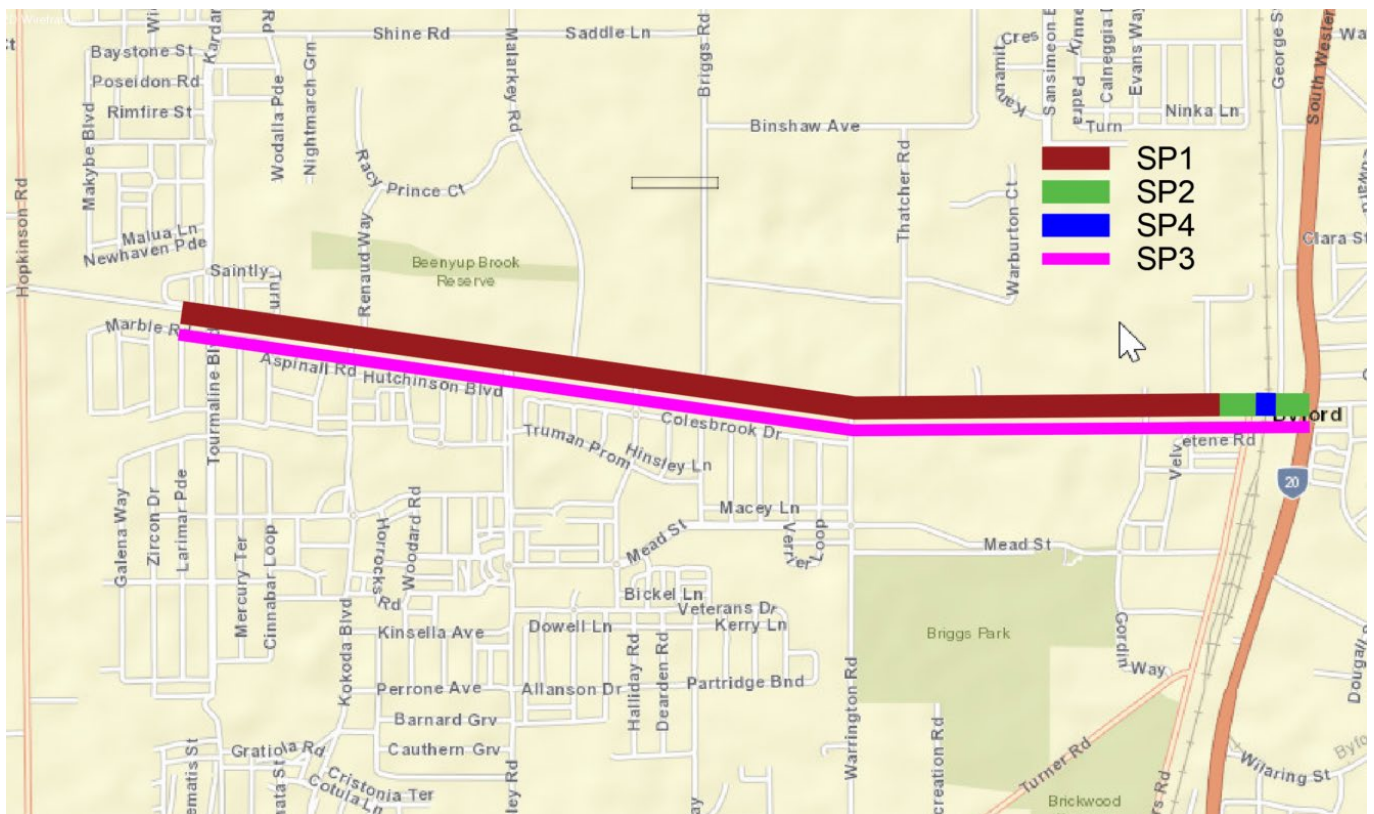


Figure 1 - Location Map

Council awarded the contract for Separable Portion 4 (SP4) to Downer EDI at the Ordinary Council meeting of 27 November 2017. Whilst the contract provided for the contractor to take possession of the site on 31 January 2018, the site works have only commenced as of November 2020. This is due to the amount of time taken to navigate through the stringent PTA processes which are in place to ensure community safety and minimising inconvenience to the public.



The original Tender RFT 09/2017 requires Downer EDI to deliver the project based on single stage commissioning, i.e. the rail, road and pedestrian access would shut over one weekend, with both pedestrian mazes to be completed in the short period. However, Downer in their tender submission proposed 2-stage commissioning, i.e. one of the mazes to be constructed and functional before installing and commissioning the second maze. The tender was accepted by Council at its meeting on 27 November 2017 on the understanding that this may not be a critical issue. However, as the project progressed, it became evident that this did become a critical and unavoidable issue due to additional public safety requirements after conducting 3 risk workshops and many discussions between the Shire, PTA and Downer. PTA required that to mitigate the risk against the issues, the project delivery methodology needed to be implemented via 2 stages instead of a single stage, which has led to significant redesign of the project. The redesign had to go through rigorous PTA design review processes.

As a result of the above-mentioned delays, the contractor has submitted variations to the contract principally comprising:

- Changes to enhance public safety.
- Increased costs due to time elapsed (approximately 3 years) as per the contract as the contractor was not given access to site in the timeframe originally agreed.
- Some additional utility services are needed to be relocated such as water mains.

More details are provided in the later part of this report.

All construction works to Separable Portions 1, 2 and 3 are complete. The remaining outstanding works are within the rail boundary (SP4), which includes rail replacement, pedestrian maze, new boom gates and rail/pedestrian signals.

Preliminary Stage 1 construction works for SP4 (pits, pipes, retaining wall, footpath and rail fencing) commenced in November 2020 and are currently in progress. Stage 2 works (rail replacement, pedestrian maze, new boom gates and rail/pedestrian signals) which require the rail and road closure over a 3-day period has been agreed by PTA and the contractor to be mid-April 2021. However, the road is anticipated to remain closed for another 3 weeks after the closure of the railway line to allow works required to complete the project. The whole project is anticipated to be completed by mid-May 2021.

Officers have attempted to negotiate to have these works occur sooner, but this time has been agreed upon due to:

- The timing of works occurring to coincide with works occurring at Denny Ave on the Armadale rail line. These works happening at the same time will reduce impact on passengers on the Australind Service.
- The availability of crucial equipment which is in demand given rail work in other areas.

The project has incurred additional costs during the implementation of SP4 to date, and further additional costs are required to complete the project.

Community / Stakeholder Consultation

Nil.



Statutory Environment

Local Government Act 1995 - Section 6.8 (1)(b) – Expenditure from municipal fund not included in annual budget.

Regulation 21A of the *Local Government (Functions and General) Regulations 1996* - a variation to a contract for the supply of goods or services with a successful tenderer may only be made in accordance with regulation.

Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* – when tenders have to be publicly invited.

Comment

The *Contract and Variation* section of this report elucidates the additional variations to the original contract as approved by Council as required by Regulation 21A of the *Local Government (Functions and General) Regulations 1996*.

The *Budget* section of this report will outline the additional source of funds required to meet these variations as required by *Local Government Act 1995* - Section 6.8 (1)(b).

Contract and variations

The delivery of the Abernethy Road Upgrade Project (Separable Portion 4) has incurred additional costs to cover items of works that were previously not allowed for in the original contract value such as: changes to PTA requirements i.e. specification changes for works within the PTA corridor; additional risk workshops and associated management time of contractors; and site issues/problems encountered during the construction phase and other unforeseen works.

A rail project is an uncommon capital work project for the Shire, given the complexities and nuances that relate to the railway industry. There are many safety and procedural facets that need to be addressed prior to getting approval to conduct works in a PTA rail reserve which has been very challenging for Shire officers to navigate. An approach that could have been considered at the time of development of the project would have been to ask PTA to manage SP4 given their expertise and understanding of their requirements.

As Council has entered into a contract with Downer EDI a number of years ago, there will be escalation costs to cover cost increases over an extended period.

Additional costs approved to date for the rail contractor, Downer EDI, are listed in **Confidential attachment 1**.

Downer EDI have submitted other additional cost variations to the contract which are being assessed by the Shire's Officers. Details of all variations (approved, pending approval and future anticipated) are in **Confidential attachment 1**.

In addition, the Shire will require additional budget to continue to engage Calibre consulting engineers to provide railway consultancy services comprising response to technical queries and technical support during testing and commissioning of the rail crossing. Additional budget will also be required to cover temporary traffic management due to prolongation of the project period, details of which are also in **Confidential attachment 1**.



The original contract sum awarded to Downer EDI via Tender RFT 09/2017 was \$824,917. The Council approved additional variations of \$440,000 for SP4 in its Ordinary Council Meeting of 17 February 2020. From the **Confidential attachment 1**, additional variations of \$1,077,318 are required to complete the project. Officers recommend these variations will be funded from savings on other separable portions of Abernethy Road and \$500,000 of additional Municipal Funds.

The additional variations for this portion include:

- Additional contract cost escalation due to delay in site possession.
- Changes in design to signal, power and telecommunication pits and pipes to meet PTA's requirements.
- Additional earthworks within rail reserve surrounding pits.
- Additional tamping equipment mobilisation for rail works due to schedule disruption.
- Replacement of a previously unidentified 150mm diameter cast iron water main, required by Water Corporation.
- Multiple equipment and labour mobilisations and additional management costs due to design changes.
- Construction support required from engineering consultancy firm, Calibre Group to provide a Superintendent Representative (site supervision), addressing technical queries and support during testing and commissioning rail signals.

Shire Officers exercised due diligence and thoroughness in assessing the variations submitted by contractors/consultants. Variations are assessed based on information within contracts, quotations received and current market rates where contract rates do not prevail.

Shire Officers have also considered this project in the context of the Byford Rail Extension project.

Shire Officers recommend that the SP4 project should be completed now for the following reasons:

- It is imperative the Shire complete the widening of Abernethy Road at the rail crossing to remove the pinch point (2 lanes as compared to the 4 lane widened sections on either side of the railway crossing on Abernethy Road) to improve road safety.
- Widening this section of Abernethy Road will improve traffic access to Byford CBD via George Street and South Western Highway, therefore supporting access to local businesses.
- Improvement of road and pedestrian access safety as the temporary traffic management installed on site was designed as a short term solution.
- Avoidance of possible costly contractual claims from Dower should the works be discontinued now and their contract terminated.



Engagement of Calibre Professional Services One Pty Ltd – Sole Supplier Engagement

Calibre Professional Services One Pty Ltd is a specialist provider of Rail Design services and were engaged initially under a small design project which has increased over time due to expanded requirements.

When Calibre Professional Services One Pty Ltd was first appointed, three quotes were obtained as per Council's procurement policy at the time.

As the total expenditure associated with the contract to provide specialised railway consultancy services may exceed \$250,000, Council is requested to consider approving a sole supplier arrangement in accordance with Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996*. Officers contend the services being sought could not be practically delivered by another entity.

These considerations are:

- Difficulty in obtaining rates from other providers due to the complexity of the job to date.
- Engagement of a new supplier would further delay the agreed date for works to be performed.
- Detailed project knowledge from project inception and providing continuity of project expertise and support.

This resolution will assist in the timely delivery of the project.

Compliance to Regulations

Shire Officers have also sought legal advice as to whether the proposed variations to the contract required by the delay in commencement of the works and changed requirements constitute a change in the scope of the contract that could require retendering (refer to **Confidential attachment 2**).

Requirements of regulation 21A:

A variation to a contract for the supply of goods or services with a successful tenderer may only be made in accordance with regulation 21A of the *Local Government (Functions and General) Regulations 1996* (FG Regulations), which states:

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*
- the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*

The variations as detailed in this report established that changes have or will be made to the design and specification to contract works, and that the variations proposed are consistent with the original scope of the contract, and therefore would not change the scope of the contract, negating the requirement to retender.



Delegation and Authorisation

The Shire’s Register of Delegations and Sub-delegations, section 1.1.15 (Tenders for Goods and Services), 13(a) provides the Chief Executive Officer authority to “vary a contract after it has been entered into, with a successful tenderer provided the variation/s do not change the scope of the original contract or increase the contract value beyond 10%”.

Given that the variations mean an increase in costs that exceed 10%, in accordance with Council’s sub delegation 13(a), there is a requirement that Council approve the additional contract price increase. Under regulation 21A of the *Local Government (Functions and General) Regulations 1996* (FG Regulations) the contract value can be increased provided that it does not involve a change in scope. Legal advice obtained (see **Confidential attachment 2**) has confirmed that additional works required and costs incurred have not been a change of scope of the original contract. To activate this provision, there is a requirement for Council to approve the attached variations.

Budget

The project to date budget and actual expenditure is outlined below:

Separable Portion 4 (RC133)								
	17/18		18/19		19/20		20/21	
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
	\$	\$	\$	\$	\$	\$	\$	\$
Original Budget / Spend	341,000	47,521	-	45,731	-	147,735		125,857
Carry Forward Amount		-	293,479		718,631		862,795	
Amendments	-	-	470,883	-	291,899	-		-
Total	341,000	47,521	764,362	45,731	1,010,530	147,735	862,795	125,857

Cumulative Budget: \$1,103,782

Cumulative Spend to Date: \$ 366,844

Total Budget Required: \$2,342,235

Additional Budget Required: \$1,238,453

Funding was provided as works were expected to be performed and additional funds were expected to be reallocated from the budget of the other Separable Portions for Abernethy Road.



Therefore, an additional budget allocation of \$500,000 is required to complete the construction and contract administration delivery of SP4 as per below:

Account	Type	Description	Debit	Credit
6400-80048-6600-0000	Increase Expenditure	Abernethy Road – Separable Portion 4	1,238,453	
6400-80047-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2		563,781
6400-80049-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2 (Black Spot)		2,408
		Change in Net Current Assets – Unallocated surplus		672,264

Reason: Reallocation of existing funding from Abernethy Road Separable Portion 2, and allocate a portion of 2019/2020 Unallocated Surplus to facilitate completion of Abernethy Road Separable Portion 4. Please note \$172,264 of the \$672,264 unallocated surplus derives from additional grant funds received for the Abernethy road project but was never formally budgeted for, therefore the additional budget request to finalise the Abernethy Road project is \$500,000.



Options and Implications

Option1

That Council:

1. APPROVES the additional contract variations to the – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) as outlined in Confidential attachment 1 by the estimated value of \$1,077,318.
2. APPROVES the budget variation detailed in the table below:

Account	Type	Description	Debit	Credit
6400-80048-6600-0000	Increase Expenditure	Abernethy Road – Separable Portion 4	1,238,453	
6400-80047-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2		563,781
6400-80049-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2 (Black Spot)		2,408
		Change in Net Current Assets – Unallocated surplus from the 19/20 Financial year.		672,264

Reason: Reallocation of existing funding from Abernethy Road Separable Portion 2, and allocate a portion of 2019/2020 Unallocated Surplus to facilitate completion of Abernethy Road Separable Portion 4. Please note \$172,264 of the \$672,264 unallocated surplus derives from additional grant funds received for the Abernethy road project but was never budgeted for, therefore the additional budget request to finalise the Abernethy Road project is \$500,000.

3. Resolves NOT to tender for railway consultancy services and APPROVES appointing Calibre Professional Services One Pty Ltd in accordance with Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* as a Sole Supplier.



Option 2

That Council:

1. DOES NOT APPROVE the additional contract variations to the – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) as outlined in **Confidential attachment 1** by the estimated value of \$1,077,318.
2. DOES NOT APPROVE the budget variation detailed in the table below:

Account	Type	Description	Debit	Credit
6400-80048-6600-0000	Increase Expenditure	Abernethy Road – Separable Portion 4	1,238,453	
6400-80047-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2		563,781
6400-80049-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2 (Black Spot)		2,408
		Change in Net Current Assets – Unallocated surplus from the 19/20 Financial year.		672,264

Reason: Reallocation of existing funding from Abernethy Road Separable Portion 2, and allocate a portion of 2019/2020 Unallocated Surplus to facilitate completion of Abernethy Road Separable Portion 4. Please note \$172,264 of the \$672,264 unallocated surplus derives from additional grant funds received for the Abernethy road project but was never budgeted for, therefore the additional budget request to finalise the Abernethy Road project is \$500,000.

3. DOES NOT AGREE to not tendering for railway consultancy services and DOES NOT APPROVE appointing *Calibre Professional Services One Pty Ltd* in accordance with Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* as a Sole Supplier.

Option 1 is recommended.



Conclusion

Separable Portions 1, 2 and 3 of the Abernethy Road Upgrade Project are now complete. Significant change in the construction value to SP4 is anticipated. The delay to this project has caused significant issues in the community. These issues are now being resolved with a date agreed between all parties for when the works can occur. However, to complete the project, a total additional budget allocation of \$1,238,453 and the variations detailed within **Confidential attachment 1** is required.

Attachments (available under separate cover)

- **10.2.3 – CONFIDENTIAL attachment 1** – Abernethy Road Upgrade Separable Portion 4 (Works within Rail Boundary) (E21/1377)
- **10.2.3 – CONFIDENTIAL attachment 2** – Abernethy Road Upgrade Separable Portion 4 (SP4) - McLeods Legal Advice - proposed variations to contract (IN21/3110)

Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live
Strategy 1.3.3	Enhance community safety
Outcome 3.3	An innovative, connected transport network
Strategy 3.3.1	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Asset Management Plans
Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources

Financial Implications

The financial implications are detailed in this report.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Additional expenditure on the project carries reputation risk	Nil	Reputation	Possible	Moderate	MODERATE	Nil
2	Funds not approved will mean that the project will not be completed	Nil	Reputation	Possible	Major	HIGH	Accept Officer Recommendation
2	Failure to secure rail shutdown as planned to progress and complete project	Engagement with PTA	Reputation	Possible	Moderate	MODERATE	Continued engagement with PTA

Voting Requirements: Recommendation 1 & 3 -Simple Majority

Recommendation 2 – Absolute Majority

Officer Recommendation

That Council:

- APPROVES the additional contract variations to the – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) as outlined in Confidential attachment 1 by the estimated value of \$1,077,318.
- APPROVES the budget variation detailed in the table below:

Account	Type	Description	Debit	Credit
6400-80048-6600-0000	Increase Expenditure	Abernethy Road – Separable Portion 4	1,238,453	



6400-80047-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2	563,781
6400-80049-6610-0000	Reduce Expenditure	Abernethy Road – Separable Portion 2 (Black Spot)	2,408
		Change in Net Current Assets – Unallocated surplus from the 19/20 Financial year.	672,264
<p>Reason: Reallocation of existing funding from Abernethy Road Separable Portion 2, and allocate a portion of 2019/2020 Unallocated Surplus to facilitate completion of Abernethy Road Separable Portion 4. Please note \$172,264 of the \$672,264 unallocated surplus derives from additional grant funds received for the Abernethy road project but was never budgeted for, therefore the additional budget request to finalise the Abernethy Road project is \$500,000.</p>			

3. Resolves NOT to tender for railway consultancy services and APPROVES appointing *Calibre Professional Services One Pty Ltd* in accordance with Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* as a Sole Supplier.



SCM042/02/21

COUNCIL RESOLUTION

Moved Cr Byas, seconded Cr Denholm

That Council:

1. **APPROVES** the additional contract variations to the – Abernethy Road Upgrade - Separable Portion 4 (Works within Rail Boundary) as outlined in Confidential attachment 1 by the estimated value of \$1,077,318.
2. **APPROVES** the budget variation detailed in the table below:

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3. Resolves **NOT** to tender for railway consultancy services and **APPROVES** appointing *Calibre Professional Services One Pty Ltd* in accordance with Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* as a Sole Supplier.
4. **REQUESTS** the Chief Executive Officer to present a report on lessons learnt for the Abernethy Road construction project and a final financial audit report for Separable Portion 4 to the Audit, Risk and Governance Committee upon completion of Separable Portion 4.

CARRIED BY ABSOLUTE MAJORITY 7/0

Reason for difference to Officer Recommendation

To ensure the Shire is best placed to be a high quality service provider going forward.



7. Motions of which notice has been given:

Nil.

8. Urgent business:

Nil.

9. Closure:

There being no further business, the Presiding Member declared the meeting closed at 7.12pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on the 15 March 2021.

Presiding Member – Councillor Rich

24/03/21. Date