



**Swan Hill Rural
City Council**

UNSCHEDULED COUNCIL MEETING

Held on Monday 16 September 2024
at 9:00 AM
Council Chambers
Swan Hill Town Hall
53 – 57 McCallum Street, Swan Hill.
VIC 3585

MINUTES

PUBLIC ACCESS

Open to the public and
Live streaming from Council's
website: www.swanhill.vic.gov.au

Confirmed 15 October 2024

Chairperson.....

Vision Statement

Built on strong foundations that embrace our rich History and natural environment, our region will be a place of progressions and possibility. We are a community that is happy, healthy and harmonious - we are empowered, we are respectful and we are proud.

Our Mission

We will lead, advocate, partner and provide efficient services and opportunities for growth and the wellbeing of our community, environment and economy.

Our Values

Council values our residents and community and will be responsive to their needs. In pursuing our objectives, we believe in, and are committed to, the following values:

Community engagement - We will ensure that our communities are consulted, listened to and informed.

Leadership - We will be at the centre of our community and by actively engaging our community we will form the collective view on strategic issues and will then express our views through strong advocacy and action.

Fairness - We will value and embrace the diversity of our community and ensure that all people are treated equally.

Accountability- We will be transparent and efficient in our activities and we will always value feedback.

Trust - We will act with integrity and earn the community's trust by being a reliable partner in delivering services, projects and providing facilities.

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1 Procedural Matters

1.1 Welcome

Mayor, Councillor Cr King assumed the chair and declared the Unscheduled Council Meeting - 16 September 2024 open at 9:00 am

1.2 Acknowledgement Of Country

Mayor, Cr King read the Acknowledgement of Country.

"Swan Hill Rural City Council acknowledges the traditional custodians of the land on which we meet, and pays its respects to their elders, past and present."

1.3 Opening Declaration

Cr Jeffery read the prayer.

"We, the Councillors of Swan Hill Rural City Council, declare that we will undertake the duties of the office of Councillor, in the best interests of our community, and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement."

1.4 Apologies / Leaves of Absence

CM 2024/164 Motion

That the apologies be accepted.

MOVED Cr McKay

Apology Cr McPhee.

SECONDED Cr Jeffery

The Motion was put and **CARRIED 6 / 0**

1.5 Directors / Officers Present

Scott Barber, Chief Executive Officer
Michelle Grainger, Director Development and Planning
Bhan Pratap, Director of Corporate Services
Leah Johnston, Director of Infrastructure
Natalie Thomson, Communications officer
Hannah Shannon-Kelson, Executive Support

1.6 Disclosures of Conflict of Interest

Nil

2 Notices of Motion

2.1 Notice of Rescission of Council Resolution - 2.1 Re-open Former Drag Strip Site and Lease Options

Having given due notice, I, Councillor Chris Jeffery, hereby give my notice to rescind the Council resolution CM 2024/144 (as attached) made on Tuesday 10 September 2024 for item 2.1 Re-open Former Drag Strip Site and Lease Options.

And replace with the following resolution similar to the motion put forward by Councillor Bill Moar.

That Council delegates authority to the CEO to:

1. Formally advise the Chisolm Reserve Complex Inc. that it seeks to lease that part of the site that was known as the Swan Hill Drag Racing facility.
2. Negotiate a lease of the former Drag Strip facility to the Skid City entity, guided by the following principles:
 - Undertaking normal business due diligence of the Skid City entity
 - A minimum 3 year lease period
 - Council will conduct a consultation process if the lease is extended more than three years
 - A lease fee that is comparable to the other user groups on the Motoplex site
 - Ensure common access is maintained for all users of the Motoplex site
 - Ensure that there is an MOU between the Skid City entity and other Motoplex users
 - Acceptance of the existing conditions of the facility and associated defined areas.
 - Waiving any legal liability of Council in relation to the condition of the drag racing track and associated defined areas.
 - Details of insurance coverage for all proposed activities.
 - Co-operative participation in the Councils strategic review of the Motoplex.

- **No demand on Council for financial contribution towards future development.**
 - **That all activities and events are sanctioned and covered by statutory bodies.**
- 3. Re-open the former Swan Drag Strip facility solely to enable the CEO to hold exclusive negotiations with Skid City on the future use of the facility, addressing Council Resolution 2023/136 from December 2023.**

Preamble

Making any decision as a Councillor is challenging. Changing my mind in the face of a challenging decision often feels like a battle between adhering to the integrity of established processes, trusting my gut instincts, and striving to do the right thing for the community.

While processes provide a structured and fair approach, my gut tells me that I have not made the correct decision. Balancing these elements requires a careful consideration of all perspectives, ensuring that the final decision not only respects procedural integrity but also aligns with the best interests of the community.

While every Councillor votes on every decision with an open mind. Community members advocating from one perspective for private investment and for another perspective for fair and transparent process. Due to this lobbying, I have felt the weight of this position potentially having the deciding vote.

My gut tells me that I have not made the right decision here. The decision puts at risk any future private investment for a very specialised sport.

I have also considered the Council Resolution 2023/136 from the December 2023 Council meeting, and that the former Drag Strip facility is currently permanently closed, regardless of lease status, and have attempted to address this within this Rescission motion as presented.

“CM 2023/136 Motion

MOVED Cr McKay

That Council:

1. Council having considered all the information including the proposal put forward by the Swan Hill Drag Club, resolve to:
 - a. Not proceed with the processes required to gift the land to the Swan Hill Drag Club
 - b. Close the drag strip facility on a permanent basis;
 - c. Waive any outstanding debt to Council.
 - d. Undertake future strategic planning process for the Motorplex complex.

2. Request the Mayor and the Chief Executive Officer meet with the Swan Hill Drag Club Executive to inform them of Council's decision.

SECONDED Cr Moar

The Motion was put and CARRIED 5 / 1"

Hence, I submit this Notice of Rescission to reconsider and make the correct decision.

- Attachments:**
1. Pages from Scheduled Council Meeting Unconfirmed MINUTES 10 September 2024 [2.1.1 - 9 pages]

CM 2024/165 Motion

MOVED Cr Jeffery

Having given due notice, I, Councillor Chris Jeffery, hereby give my notice to rescind the Council resolution CM 2024/144 (as attached) made on Tuesday 10 September 2024 for item 2.1 Re-open Former Drag Strip Site and Lease Options.

And replace with the following resolution similar to the motion put forward by Councillor Bill Moar.

That Council delegates authority to the CEO to:

1. Formally advise the Chisholm Reserve Complex Inc. that it seeks to lease that part of the site that was known as the Swan Hill Drag Racing facility.
2. Negotiate a lease of the former Drag Strip facility to the Skid City entity, guided by the following principles:
 - Undertaking normal business due diligence of the Skid City entity
 - A minimum 3 year lease period
 - Council will conduct a consultation process if the lease is extended more than three years
 - A lease fee that is comparable to the other user groups on the Motoplex site
 - Ensure common access is maintained for all users of the Motoplex site
 - Ensure that there is an MOU between the Skid City entity and other Motoplex users
 - Acceptance of the existing conditions of the facility and associated

defined areas.

- **Waiving any legal liability of Council in relation to the condition of the drag racing track and associated defined areas.**
- **Details of insurance coverage for all proposed activities.**
- **Co-operative participation in the Councils strategic review of the Motoplex.**
- **No demand on Council for financial contribution towards future development.**
- **That all activities and events are sanctioned and covered by statutory bodies.**

- 3. Re-open the former Swan Drag Strip facility solely to enable the CEO to hold exclusive negotiations with Skid City on the future use of the facility, addressing Council Resolution 2023/136 from December 2023.**

SECONDED Cr Moar

The Motion was put and CARRIED 4 / 2

Cr Moar called for a division

For: Cr King, Cr Young, Cr Jeffery and Cr Moar

Against: Cr Kelly and Cr McKay

CM 2024/166 Motion

MOVED Cr Moar

That an extension of time be granted to Cr Jeffery.

SECONDED Cr Young

The Motion was put and CARRIED 6 / 0

Cr Moar asked to make a complaint against Cr Kelly.

Cr King noted that Cr Moar's complaint is noted and will be dealt with by the CEO following normal processes after the meeting.

CM 2024/167 Motion

MOVED Cr Kelly

That an extension of time be granted to Cr McKay

SECONDED Cr Jeffery

The Motion was put and CARRIED 6 / 0



2 Officer Reports for Decision

2.1 Re-Open Former Drag Strip Site and Lease Options

Directorate: Development and Planning
File Number: S17-02-49
Purpose: For Discussion

Council Plan Strategy Addressed

1. Liveability - We will be a healthy, connected and growing community supported by a range of infrastructure and services.

1.2 Careful and responsible management of our environment for a sustainable future

1.2.1 Engage, empower and mobilise communities to prepare for, adapt to and mitigate the effects of a changing climate

1.2.2 Accessible open spaces, healthy rivers and lakes

Current Strategic Documents

Council Plan

Declarations of Interest

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

Summary

Council at its 13 August 2024 meeting resolved that a report be prepared for the September 2024 Council meeting, regarding leasing the former Swan Hill Drag Strip to the Skid City Consortium and consider a range of parameters that any lease should be subject to.

Discussion

Since Council resolved in December 2024 to close the Swan Hill Drag Strip there have been approaches to Council to use the facility for a range of motorsport uses not related to drags.

At the 18 June 2024 Council meeting, a resolution was passed to invite all parties who have expressed an interest in re-use of the former drag strip to present their proposal to Council. This occurred at a Council Assembly, with two of the four parties accepting this offer, one party withdrew, and one party was unable to attend.

Subsequent to these presentations a further Council resolution was carried at the 13 August 2024 meeting calling for a report outlining how Council could lease the former drag strip to the Skid City consortium. The resolution specifically stated:



"That a report be brought to Council at the September 2024 meeting in consideration of the following:

That Council re-open the Drag Strip ("the Facility") following the negotiation and entering into a mutually agreeable and acceptable 3 year lease with the Skid City consortium. The lease agreement shall include, but not limited to, the following:

- *Providing access to and usage of the facility for sanctioned events only*
- *Providing access to and usage of areas common to all motorplex users*
- *Acceptance of the existing conditions of the Facility and associated defined areas and infrastructure facilities*
- *A waiver of any current or ongoing legal liability of the Swan Hill Rural City Council in relation to the Facility*
- *A memorandum of understanding between Skid City and other Swan Hill Motorplex user groups*
- *Provision for subletting of the Facility for other uses (subject to Council approval)*
- *Cooperative participation in Council's strategic planning for the Swan Hill Motorplex*
- *No requirements for any financial commitment of Council*

The organisation shall be permitted to undertake capital upgrades and/or improvements to the track and/or facilities at their own expense (subject to Council approval).

Council agrees in principle to support any applications by the organisation for external funding for improvements or expansion, subject to Council's normal processes for such."

The Chisholm Reserve Motorplex is Council owned land and managed by leases rather than User Agreements with other Clubs. The Chisolm Reserve Complex Inc. (CRC) holds the overarching site lease. A schedule of leases is attached to this report and shows that all leases are in overholding as they were set to expire at the end of December 2023. The leases are still considered to be valid and operational whilst they are in overholding. The Occupancy Lease is for a 4 year term.

In order to follow the process set out in the CRC lease, Council will advise the CRC in writing, that it wants to formally lease that part of the site that was known as the Swan Hill drag strip prior to commencing the Expression of Interest process.

Council has a Leasing and Licensing Policy (CPol/CORP257) to assist it in ensuring an equitable and consistent approach is taken when leasing and licensing Council owned or managed land. The policy embeds principles that require it to consider community benefit and social inclusion, good governance and accountability and environmental sustainability.



Having regard to the policy and knowing that there are more than one interested party, it is considered prudent for Council prior to enacting the specific Council resolution of 13 August 2024 to call for Expressions of Interest (EOI) to lease the former drag strip.

The former drag strip area is clearly defined in the Development Plan endorsed under the Special Use Zone 5 of the Swan Hill Planning Scheme as well as being an attachment to the occupancy lease for the Jack Chisholm Reserve Motorplex. The purpose of Schedule 5 to the Special Use Zone is:

- *To provide for the use and development of the land as a motor racing track including associated recreation and entertainment activities.*
- *To encourage the development of a range of motor sports facilities that is consistent with an approved development plan.*
- *To retain and enhance the economic benefits brought to Swan Hill, the municipality and the region by motor sports and allied activities.*

The EOI should incorporate elements of the 13 August 2024 decision in that the terms and conditions of the lease should incorporate:

- A 3-year lease period;
- That the lessee must ensure common access is maintained for all users of the motorplex site;
- That there is a memorandum of understanding between the tenant and other motorplex user groups;
- Acceptance of the existing conditions of the facility and associated defined areas;
- Details of insurance coverage for activities proposed;
- Waiving any legal liability of Council in relation to the use of the facility;
- Co-operative participating in the Council's strategic review of the motorplex; and
- No demand on Council for financial contribution to the lease and use of the site.

Consultation

Calling for EOI to lease the former drag strip is all that is required under the policy, there is no need to carry out a separate consultation process as the proposed lease is for a period of less than 10 years.

Council has received and will continue to receive feedback from the community regarding the drag strip as it is an issue of interest particularly to the users of the motorplex. This issue has attracted interest during the last 10 months.

Financial Implications

Minor costs associated with giving notice of the EOI.

Social Implications

Since the decision to close the drag strip occurred in December 2023 there has been interest from a range of parties to use the facility for a range of sporting and commercial uses.

Economic Implications



Nil.

Environmental Implications

Nil.

Risk Management Implications

Council needs to notify the CRC that it intends to lease a portion of the site through an EOI process.

Following due process by calling for Expressions of Interest reduces risk for Council. Other risks will be addressed when the EOI process has been carried out.

The form and content of the lease and how it relates to overall management of the site will be determined as Council considers the EOI.

Insurance coverage for the use of the site will be considered when assessing any EOI application.

Attachments: 1. Chisholm Motorplex lease table [2.1.1 - 3 pages]

Options

1. That Council commence an Expression of Interest to lease the Swan Hill Drag Strip in accordance with its Leasing and Licensing Policy.
2. That Council take no further action
3. That Council continue to direct negotiate with Skid City to lease the Swan Hill Drag Strip.

Recommendation/s

That Council:

1. **Formally advise the Chisholm Reserve Complex Inc. that it seeks to lease that part of the site that was known as the Swan Hill drag strip using an Expression of Interest process.**
2. **Commence an Expression of Interest process to lease the former Swan Hill drag strip in accordance with its leasing and licensing policy, for a minimum period of 4 weeks. Any Expression of Interest should outline the terms of the lease with regard to:**
 - A 3 year lease period;
 - Must ensure common access is maintained for all users of the motorplex site;
 - Ensuring there is a memorandum of understanding between the tenant and all other motorplex user groups;
 - Acceptance of the existing conditions of the facility and associated defined areas;
 - Waiving any legal liability of Council in relation to the use of the facility;
 - Details of Insurance coverage for activities proposed;
 - Co-operative participating in the Council's strategic review of the motorplex; and



- **No demand on Council for financial contribution to the lease and use of the site.**

CM 2024/143 Motion

MOVED Cr Moar

That Council delegates authority to the CEO to:

- 1. Formally advise the Chisholm Reserve Complex Inc. that it seeks to lease that part of the site that was known as the Swan Hill Drag Racing facility.**
- 2. Negotiate a lease of the former Drag Strip facility to the Skid City entity, guided by the following principles:**
 - Undertaking normal business due diligence of the Skid City entity
 - A minimum 3-year lease period
 - Council will conduct a consultation process if the lease is extended more than three years
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 - Ensure that there is an MOU between the Skid City entity and other Motoplex users
 - Acceptance of the existing conditions of the facility and associated defined areas.
 - Waiving any legal liability of Council in relation to the condition of the drag racing track and associated defined areas.
 - Details of insurance coverage for all proposed activities.
 - Co-operative participation in the Councils strategic review of the Motoplex.
 - No demand on Council for financial contribution towards future development.

SECONDED Cr Young

Cr King asked for a nomination of an Acting Chair so that he could debate the motion. Cr Kelly nominated Cr McPhee, Cr McPhee accepted the nomination. The Mayor Cr King vacated the Chair at 2.29pm and Cr McPhee assumed the Chair. After Cr King debated the motion returned to the Chair at 2.32pm.

The Motion was put and LOST 3 / 4

Cr Moar called for a division

For: Cr King, Cr Young and Cr Moar

Against: Cr Kelly, Cr McKay, Cr McPhee and Cr Jeffery



CM 2024/144 Motion

MOVED Cr McPhee

That Council:

- 1. Formally advise the Chisholm Reserve Complex Inc. that it seeks to lease that part of the site that was known as the Swan Hill drag strip using an Expression of Interest process.**
- 2. Commence an Expression of Interest process to lease the former Swan Hill drag strip in accordance with its leasing and licensing policy, for a minimum period of 4 weeks. Any Expression of Interest should outline the terms of the lease with regard to:**
 - A 3 year lease period;**
 - Must ensure common access is maintained for all users of the motorplex site;**
 - Ensuring there is a memorandum of understanding between the tenant and all other motorplex user groups;**
 - Acceptance of the existing conditions of the facility and associated defined areas;**
 - Waiving any legal liability of Council in relation to the use of the facility;**
 - Details of Insurance coverage for activities proposed;**
 - Co-operative participating in the Council's strategic review of the motorplex; and**
 - No demand on Council for financial contribution to the lease and use of the site.**

SECONDED Cr Jeffery

The Motion was put and CARRIED 7 / 0

Organisation/Club	Lease Type
Chisholm Recreation Reserve Committee	Occupancy Lease
Swan Hill Motorcycle Club	Sub Lease with CRC
Swan Hill Kart Club	Sub Lease with CRC
Swan Hill 4wd Club	Sub Lease with CRC
Swan Hill Motor Racing Club	No agreement in place
Swan Hill Sporting Car Club	No agreement in place
Swan Hill Drag club	No agreement in place

Chisholm Motorplex

Commencement Date	Expiry Date	Extra Terms	Rental Costing
1/1/2020	12/30/2023	1 x 4 years	\$0.00
1/1/2020	12/31/2023	1 x 3 year + 364 days	\$1.00 per annum 100% build insurance prem
1/1/2020	12/31/2023	1 x 3 year + 364 days	\$1.00 per annum 100% build insurance prem
1/1/2020	12/31/2023	1 x 3 year + 364 days	\$1.00 per annum 100% build insurance prem

Complex

Date Signed	Notes
12/17/2020	
12/17/2020	
12/17/2020	
12/17/2020	Club handed back keys no longer an occupant

UNCONFIRMED

3 In-Camera Items

RECOMMENDATION

That, in accordance with sections 66(1) and 66(2)(a) of the *Local Government Act 2020*, the meeting be closed to members of the public for the consideration of the following confidential items:

Tender Evaluation and Recommendation Report Swan Hill Tourism and Cultural Hub

CONFIDENTIAL ITEM This item is to be considered at an In Camera meeting in accordance with Section 3(1) (a) of the Local Government Act 2020, this item is to be considered in an in-camera meeting on the grounds that the item concerns Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

CM 2024/168 MOTION

MOVED Cr Moar

That Council, resolve to close the meeting at 9:30 am to members of the public to consider the following items:

Tender Evaluation and Recommendation Report Swan Hill Tourism and Cultural Hub

SECONDED Cr Jeffery

The Motion was put and CARRIED 6 / 0

CM 2024/170 MOTION

MOVED Cr Moar

That the meeting move out of closed session at 9:55am.

SECONDED Cr Jeffery

The Motion was put and CARRIED 6 / 0

Decisions made in-camera

Tender Evaluation and Recommendation Report Swan Hill Tourism and Cultural Hub

CM 2024/170 Motion

MOVED Cr Young

That Council:

- 1. Award the contract for the Construction of Swan Hill Tourism and Cultural Hub Contract 25 504 01 to Keystone Building Group Pty Ltd.**

SECONDED Cr Kelly

The Motion was put and CARRIED 6 / 0

4 Close of Meeting

There being no further business the Mayor, Cr King closed the meeting at 9:56 am