

## **SY007-02/24 MEMORANDUM OF UNDERSTANDING - YORK & DISTRICT CO-OPERATIVE LTD**

### **Disclosure of Interest – Cr Trent – Financial – SY007-02/24 - Memorandum of Understanding - York & District Co-operative Ltd**

*Cr Trent read the Financial Declaration - ... With regard to the Memorandum of Understanding - York & District Co-operative Ltd, the matter in Item SY007-02/24, I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a shareholder of the York Co-Op. In accordance with the correspondence from the Department of Local Government, Sport and Cultural Industries dated 23 February 2024 Ref E24017860, via authority delegated by the Minister for Local Government, approval has been granted under Section 5.69(3) of the Local Government Act 1995 for me to participate in the debate and vote on the matter.*

### **Disclosure of Interest – Cr Smythe – Financial – SY007-02/24 - Memorandum of Understanding - York & District Co-operative Ltd**

*Cr Smythe read the Financial Declaration - ... With regard to the Memorandum of Understanding - York & District Co-operative Ltd, the matter in Item SY007-02/24, I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a shareholder of the York Co-Op. In accordance with the correspondence from the Department of Local Government, Sport and Cultural Industries dated 23 February 2024 Ref E24017860, via authority delegated by the Minister for Local Government, approval has been granted under Section 5.69(3) of the Local Government Act 1995 for me to participate in the debate and vote on the matter.*

### **Disclosure of Interest – Cr Wright – Financial – SY007-02/24 - Memorandum of Understanding - York & District Co-operative Ltd**

*Cr Wright read the Financial Declaration - ... With regard to the Memorandum of Understanding - York & District Co-operative Ltd, the matter in Item SY007-02/24, I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a shareholder of the York Co-Op. In accordance with the correspondence from the Department of Local Government, Sport and Cultural Industries dated 23 February 2024 Ref E24017860, via authority delegated by the Minister for Local Government, approval has been granted under Section 5.69(3) of the Local Government Act 1995 for me to participate in the debate and vote on the matter.*

*A copy of the correspondence from the Department of Local Government, Sport and Cultural Industries which contains the approval given and any conditions imposed, is presented in Appendix 3.*

<b>File Number:</b>	<b>4.4919</b>
<b>Author:</b>	<b>Anneke Birleson, Administration &amp; Governance Coordinator</b>
<b>Authoriser:</b>	<b>Alina Behan, Executive Manager Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>20 December 2022 (081222) 28 March 2023 (370323) 19 December 2023 (071223)</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Appendices:</b>	<ol style="list-style-type: none"> <li><b>1. Quick Win Project #3 - York CBD Revitalisation Plan Report <a href="#">↓</a></b></li> <li><b>2. Draft Updated MOU - York &amp; District Co-operative Ltd</b></li> <li><b>3. Participation Approval - Ref E24017860 <a href="#">↓</a></b></li> </ol>

## NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

## PURPOSE OF REPORT

This report presents an updated draft Memorandum of Understanding (MOU) with the York & District Co-operative Ltd (York Co-op) to Council for consideration.

## BACKGROUND

York Co-op are the owners of Lot 4 (142) Avon Terrace, York, shown on aerial image below:



The section of Macartney Street between Avon Terrace and Lowe Street has been identified as a Quick Win Project location within the York CBD Revitalisation Plan, prepared by Town Teams. An excerpt from the Plan is presented in Appendix 1.

The demolition of the existing building and Quick Win Project presents an opportunity for York Co-op and the Shire to work together to realise value to the community in activating these spaces.

An application for planning approval to demolish a heritage listed building was considered at Council's March 2023 Ordinary Meeting. Council resolved to approve the demolition with conditions (260323). The building was subsequently demolished, with a completion date of 2 October 2023.

At its December 2022 Ordinary Meeting, Council resolved (081222):

***“That, with regard to the Memorandum of Understanding - York and District Co-Operative Ltd, Council:***

- 1. Authorises the Chief Executive Officer to progress drafting a Memorandum of Understanding with the York and District Co-Operative Ltd.***
- 2. Requests the Chief Executive Officer to present the draft Memorandum of Understanding with the York and District Co-Operative Ltd to Council at its March 2023 Ordinary Meeting.”***

In accordance with the resolution, Officers met with representatives from the York Co-op on 15 February 2023 to discuss the intention of the agreement and refine the contents of the MOU.

It was agreed the intent of the MOU was to formalise an in-principle agreement with both parties as to the shared objectives and commitments of both parties for the future use of all or part of the land.

At its Ordinary Meeting of Council, held on 28 March 2023, Council resolved (370323):

***“That, with regard to the Memorandum of Understanding – York & District Co-operative Ltd, Council:***

- 1. Authorises the Chief Executive Officer to sign the Memorandum of Understanding between the Shire of York and the York & District Co-operative Ltd, as presented in Appendix 1.***

- 2. Authorises the Chief Executive Officer to make any minor typographical and formatting changes to the Memorandum of Understanding prior to signing.”**

## COMMENTS AND DETAILS

Following Resolution 370323, the MOU was signed by both parties and both parties undertook some works in relation to the agreement, including:

1. Installation of a temporary pop-up community space in front of the old York Home Hardware building.
2. Community engagement by the Shire of York to contribute towards development of a Concept Plan for the future use of the site in line with the Shire’s CBD Revitalisation Plan.
3. Shareholder and community consultation by York Co-op’s Board on the ‘Co-op Vision for the Future’ Concept Plan for development of the York Co-op.
4. The Home Hardware building was demolished.
5. Both Council and the York Co-op Board sign-off on the Concept Plan.

As mentioned at point 5 above, at its December 2023 Meeting Council considered the Concept Plan and resolved (071223):

**“That, with regard to the Concept Plan - York & District Co-operative Ltd - Old Hardware Site - Lot 4 (142) Avon Terrace, York, Council:**

- 1. Accepts the Concept Plan for Lot 4 (142) Avon Terrace, York, as presented in Appendix 1.**
- 2. Directs the Chief Executive Officer to continue working with the York & District Co-operative Ltd to develop detailed designs for the site and determine the legal agreement for the long-term use of the land (Lot 4 (142) Avon Terrace, York).**
- 3. Notes the detailed designs and draft legal agreement(s) will be presented to Council for consideration once developed.”**

York Co-op representatives and the Shire met on 18 January 2024 to discuss progress and the next steps. It was agreed to update the MOU, acknowledging the work completed so far and specify the next steps moving forward.

A draft updated MOU is presented in Appendix 2, with tracked changes. The York Co-op Board have confirmed their endorsement of the draft.

It is important to note, a MOU is not a legally binding agreement.

## OPTIONS

Council has the following options:

- Option 1:** Council could choose to authorise the Chief Executive Officer to sign the updated MOU between the Shire of York and the York Co-op, as presented in Appendix 2.
- Option 2:** Council could choose to reject the request for endorsement of a MOU with the York Co-op.
- Option 3:** Council could choose to provide a different avenue of agreement with the York Co-op and identify what that may be.

Option 1 is the recommended option.

## IMPLICATIONS TO CONSIDER

### Consultative

York Co-op representatives

Community engagement and consultation

**Strategic**Strategic Community Plan 2020-2030

Goal 1: The Place to be

To be a close-knit community, full of life, in a welcoming and accessible place for all.

Goal 4: Our Built Environment

To have a built environment which support community, economy and the environment, respects the past and creates a resilient future.

Goal 5: Strong Leadership and Governance

To have effective and responsive leadership and governance, where a sense of collective purpose and shared direction combine to work together.

**Policy Related**

Nil

**Financial**

There are no direct financial implications created by the updated draft MOU.

**Legal and Statutory**

Nil

**Risk Related**

As a MOU is not legally binding, it does not present as a risk to the Shire.

**Workforce**

The scope of this report can be managed within current operational capacity.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****080224****Moved: Cr Denese Smythe****Seconded: Cr Peter Wright**

**That, with regard to the Memorandum of Understanding – York & District Co-operative Ltd, Council:**

- 1. Authorises the Chief Executive Officer to sign the updated Memorandum of Understanding between the Shire of York and the York & District Co-operative Ltd, as presented in Appendix 2.**
- 2. Authorises the Chief Executive Officer to make any minor typographical and formatting changes to the Memorandum of Understanding prior to signing.**

**In Favour: Crs Kevin Trent, Denis Warnick, Blake Luxford, Kevin Pyke, Denese Smythe and Peter Wright**

**Against: Nil**

**CARRIED 6/0**

**QUICK WIN PROJECT #3**

**McCartney Street Prototype**

**Location: McCartney Street between Avon Terrace and Lowe Street**

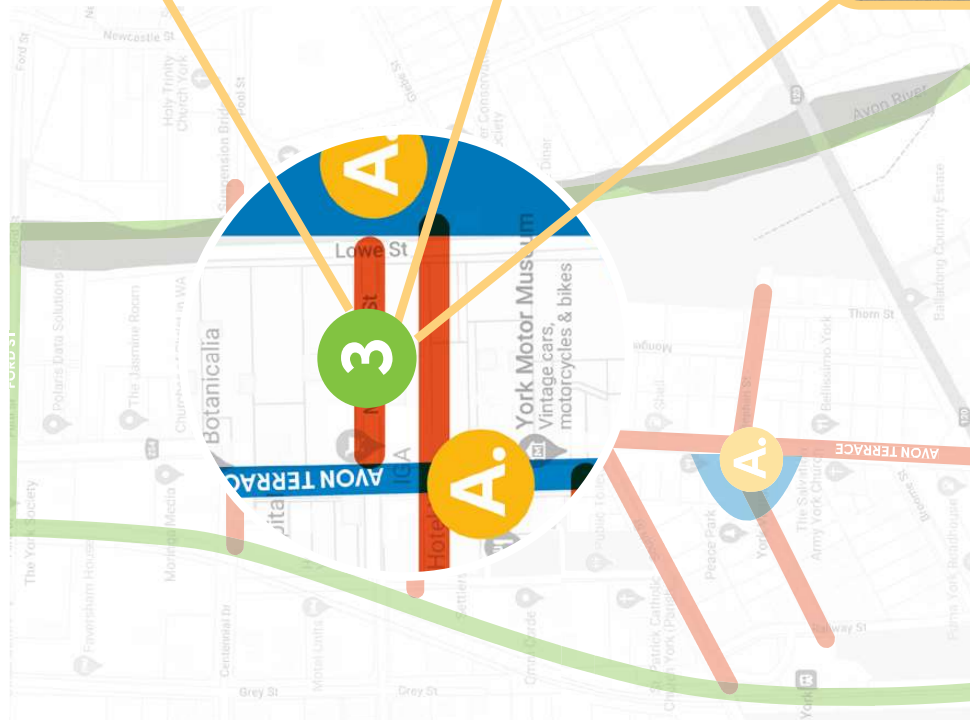
**Core Objectives**

- Implement temporary seating and shade options
- Create a safe, enlivened and playful space which improves connectivity between Avon Terrace and Avon Park
- Trial Road Closure
- Explore opportunities for window activation with building owners (posters or displays)

**Details**

- Opportunity to include additional quick win action items like: bike racks, wayfinding, history and artistic components, containers for change, refillable water station and recycling bins
- Social seating not decorative seating - creating linger nodes is important to activating the CBD and giving visitors a reason to stay there longer.
- Opportunity for children to be involved in the design and ongoing activations / School Art Mural
- Develop connections to Avon Terrace as a more pedestrian friendly environment

**Quick Win Items Addressed: 1, 2, 5, 6, 8, 10, 11, 12**



**Potential Features**



Window Displays on Empty Walls / Window



Local Food Vendor Pop Ups  
Food Truck / Coffee Van Cafe



Trial new wayfinding incorporating Shire QR code



Playful, temporary and moveable



Kid friendly and prioritises people  
linear park and play area



Natural, accessible and green



## Memorandum of Understanding

Shire of York

-and-

York & District Co-operative Ltd



Property: Lot 4 (142) Avon Tce, York WA 6302

1. The Agreement

This Memorandum of Understanding (MOU) is an interim agreement between the Shire of York and the York & District Co-operative Ltd for the period 1 February 2024 to 31 December 2024 until either party provides thirty (30) days' notice to terminate the agreement herewith.

Deleted: 1 April 2023 to 30 June 2023

This is the second MOU for this project, with the original MOU being in place between 1 April 2023 to 30 June 2023, and the Concept Plan being presented to Council in December 2023.

2. Description of the Land and Premises

The agreement relates to the property addressed as 142 Avon Tce, comprising the whole of the land described as Lot 4 on Deposited Plan 223261, Certificate of Title Volume 1105, Folio 182, owned by York & District Co-operative Ltd. Consideration will also be given to the future functionality of Macartney Street (between Avon Tce and Lowe St).

3. Objective

This agreement is an in-principle agreement to work together towards a more formal agreement as to the use of a portion of the described land for future community projects within York's Central Business District. The intention being to utilise a portion of the land described for future placemaking as part of the Shire's Avon Terrace Revitalisation Plan.

This agreement is not intended to create any legally binding obligations for either party.

4. Acknowledgement of Work Completed

The following activities have taken place since establishment of the original MOU:

- Installation of temporary pop-up community space in front of old York Home Hardware building.
- Community Engagement by Shire of York to contribute to development of Concept Plan for future use of site in line with Shire of York's CBD Revitalisation Plan.
- Shareholder and Community Consultation by York & District Co-operative Ltd's Board 'Co-op Vision for the Future' Concept Plan for development of York Co-op.
- Home Hardware building demolished.
- Both Shire Council and York Co-op Board sign-off on the Concept Plan.

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5. York & District Co-operative Ltd's Commitment

The York & District Co-operative Ltd agrees to:

- Work in cooperation with the Shire of York regarding future use of the land described, including Parking Plan developed by certified traffic engineers.
- Work in cooperation with the Shire of York towards formalising an agreement regarding the ownership and management of the land

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- Allow access to the property by Shire of York representatives, for the purposes of planning future site activation.
- Financial contribution towards the cost of implementing this MOU.
- Adoption of detailed designs by York Co-op Board.

**6. Shire of York's Commitment**

The Shire of York agrees to:

- Work in cooperation with the York & District Co-operative Ltd regarding future use of the land described, including Parking Plan developed by certified traffic engineers.
- Undertake community engagement.
- Notify York & District Co-operative Ltd of any site visits.
- Investigate formation of a Working Group and consult with York & District Co-operative Ltd regarding any proposals for the use of the land.
- Work in cooperation with York & District Co-operative Ltd towards formalising an agreement regarding the ownership and management of the land.
- Adoption of Detailed Designs by Council.

**7. Output**

- Delivery of a Detailed Design for the activation of the site described in Part 2, which will be presented to the Shire of York Council and the York & District Co-operative Ltd Board for endorsement and future staging.
- Formation of Working Group.
- Formalise an agreement between the Shire of York and the York & District Co-operative Ltd regarding ownership and/or management of the land.

**8. Duration of Agreement**

This agreement is valid for the period 1 February 2024 to 31 December 2024.

**9. Acknowledgement and Agreement**

By signing this Memorandum of Understanding the Shire of York and York & District Co-operative Ltd acknowledge this agreement.

\_\_\_\_\_  
Chris Linnell  
Chief Executive Officer  
Shire of York

\_\_\_\_\_  
Glen Scott  
Chief Executive Officer  
York & District Co-operative Ltd

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**Appendices**

Appendix 1 - Council Resolution 081222

[Appendix 2 – Council Resolution 370323](#)

MOU – York & District Co-operative Ltd

Page 4 of 4

## **Appendix 1 – Council Resolution 081222**

### **Meeting Details:**

Ordinary Meeting of Council – 20 December 2022

### **Report Details:**

SY138-12/22 Memorandum of Understanding – York & District Co-operative Ltd

#### **RESOLUTION 081222**

**Moved: Cr Ashley Garratt**

**Seconded: Cr Peter Wright**

**That, with regard to the Memorandum of Understanding - York and District Co-Operative Ltd, Council:**

- 1. Authorises the Chief Executive Officer to progress drafting a Memorandum of Understanding with the York and District Co-Operative Ltd.**
- 2. Requests the Chief Executive Officer to present the draft Memorandum of Understanding with the York and District Co-Operative Ltd to Council at its March 2023 Ordinary Meeting.**

## Appendix 2 – Council Resolution 370323

### Meeting Details:

Ordinary Meeting of Council – 28 March 2023

### Report Details:

SY030-03/23 Memorandum of Understanding – York & District Co-operative Ltd

**RESOLUTION  
370323**

**Moved: Cr Kevin Trent**

**Seconded: Cr Denis Warnick**

**That, with regard to the Memorandum of Understanding – York & District Co-operative Ltd, Council:**

- 1. Authorises the Chief Executive Officer to sign the Memorandum of Understanding between the Shire of York and the York & District Co-operative Ltd, as presented in Appendix 1.**
- 2. Authorises the Chief Executive Officer to make any minor typographical and formatting changes to the Memorandum of Understanding prior to signing.**

***CARRIED: 6/0***



Our ref Y1-1#010; E24017860  
Enquiries Kimberley Craik  
Phone (08) 6552 1408  
Email [legislation@dlgsc.wa.gov.au](mailto:legislation@dlgsc.wa.gov.au)

Mr Chris Linnell  
Chief Executive Officer  
Shire of York

Email: [records@york.wa.gov.au](mailto:records@york.wa.gov.au)

Dear Mr Linnell,

I refer to your correspondence dated 21 February 2024 and advise that, in accordance with the authority delegated by the Minister for Local Government, I have approved your application, under section 5.69(3) of the *Local Government Act 1995* (the Act).

It has been noted that the Shire requires a minimum approval of at least one council member in order to successfully achieve a quorum.

As the three disclosing councillors have disclosed equal interests it is not possible to rank them by order of magnitude.

Accordingly, approval has been granted for all three members to fully participate in the discussion and decision making relating to the following agenda items at the Shire's Ordinary Council Meeting, to be held on 27 February 2024.

**SY007-02/24 – MEMORANDUM OF UNDERSTANDING – YORK & DISTRICT CO-OPERATIVE LTD**

- Cr Smythe, Cr Trent and Cr Wright

Conditions of the approval:

1. *The approval is only valid for the 27 February 2024 Ordinary Council Meeting when agenda item SY007-02/24 is considered;*
2. *The above-mentioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
3. *The Chief Executive Officer (CEO) is to provide a copy of the Department of Local Government, Sport and Cultural Industries (DLGSC's) letter of approval to the abovementioned councillors;*
4. *The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*

5. *The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to DLGSC, to allow DLGSC to verify compliance with the conditions of this approval; and*
6. *The approval granted is based solely on the interests disclosed by the abovementioned councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

Should you require further information in relation to this matter, please contact Kimberley Craik, A/Senior Legislation Officer, via the details provided above.

Yours sincerely



TIM FRASER  
EXECUTIVE DIRECTOR LOCAL GOVERNMENT

23 February 2024

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