



SHIRE OF YORK

NOTICE OF MEETING

Dear Councillors

I respectfully advise that the ORDINARY COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Tuesday, 31 March 2020, commencing at 5.00pm.

MEETING AGENDA ATTACHED

Chris Linnell

CHRIS LINNELL
CHIEF EXECUTIVE OFFICER
Date: 20 March 2020

☛ PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING ☛

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

Any statement, comment or decision made at a Council meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the Shire of York must obtain, and should only rely on, written notice of the Shire of York's decision and any conditions attaching to the decision and cannot treat as an approval anything said or done at a Council meeting.

Any advice provided by an employee of the Shire of York on the operation of a written law, or the performance of a function by the Shire of York, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire of York. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire of York should be sought in writing and should make clear the purpose of the request. Any plans or documents in Agendas and Minutes may be subject to copyright.

MISSION STATEMENT
"Building on our history to create our future"

Local Government Act 1995 (as amended)**Part 1 Introductory Matters**

1.3. Content and intent

- (1) This Act provides for a system of local government by —
 - (a) providing for the constitution of elected local governments in the State;
 - (b) describing the functions of local governments;
 - (c) providing for the conduct of elections and other polls; and
 - (d) providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.
- (2) This Act is intended to result in —
 - (a) better decision making by local governments;
 - (b) greater community participation in the decisions and affairs of local governments;
 - (c) greater accountability of local governments to their communities; and
 - (d) more efficient and effective local government.
- (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of the current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Part 2 Constitution of Local Government**Division 2 Local Governments and Councils of Local Governments**

2.7 The Role of Council

- (1) The Council —
 - (a) directs and controls the Local Government's affairs; and
 - (b) is responsible for the performance of the Local Government's functions.
- (2) Without limiting subsection (1), the Council is to —
 - (a) oversee the allocation of the Local Government's finances and resources; and
 - (b) determine the Local Government's policies.

Meetings generally open to the public

- 5.1.** (1) Subject to subsection (2), the following are to be open to members of the public —
- (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



Shire of York

G 2.6 PUBLIC QUESTION TIME

Policy Statement

1.0 "Public Question Time" will be limited to 15 minutes*. The Council may exercise a discretion to extend the time by resolution if required. If there are questions remaining unasked at the expiration of the time allotted members of the public will be asked to submit their questions in writing to the Chief Executive Officer who will provide a written reply with the response placed in the Agenda of the next Ordinary Meeting of the Council.

** A minimum of 15 minutes is provided by Regulation 6(1) of the Local Government (Administration) Regulations 1996 (S.5.24 of the Local Government Act 1995)*

2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire's operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.

3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.

4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.

5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.

6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.

7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.

8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.

9.0 There will be no debate on the answers to questions.

10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013
Amended 17 September 2015
Amended 23 November 2015
Reviewed 24 October 2016

Order Of Business

1	Opening	9
1.1	Declaration of Opening.....	9
1.2	Disclaimer	9
1.3	Standing Orders	9
1.4	Announcement of Visitors	9
1.5	Declarations of Interest that Might Cause a Conflict	9
1.6	Declaration of Financial Interests	9
1.7	Disclosure of Interests that May Affect Impartiality	9
2	Attendance	10
2.1	Members	10
2.2	Staff	10
2.3	Apologies	10
2.4	Leave of Absence Previously Approved	10
2.5	Number of People in the Gallery at Commencement of Meeting	10
3	Questions from Previous Meetings	10
3.1	Response to Previous Public Questions Taken on Notice	10
3.2	Response to Unasked Questions from the Previous Meeting	11
4	Public Question Time	11
4.1	Written Questions – Current Agenda.....	12
4.2	Public Question Time	12
5	Applications for Leave of Absence	12
6	Presentations	12
6.1	Petitions	12
6.2	Presentations	12
6.3	Deputations.....	12
6.4	Delegates' reports.....	12
7	Confirmation of Minutes of Previous Meetings	12
8	Announcements by Presiding Member without Discussion	12
9	Officer's Reports	13
SY024-03/20	Minutes of the Audit and Risk Committee Meeting held on 3 March 2020	13
SY025-03/20	Development Application: Carport for Storage of Business Vehicles & Apiary Accessories (Industry - Light): Lot 341 (33) Suburban Road, York	17
SY026-03/20	Development Application: Camping Ground (Glamping tents) & Ancillary Tourist Use (Canola Walks): Lot 3042 (1625) Qualen West Rd, Talbot	22
SY027-03/20	Development Application: Solar Panels on Heritage Listed Property: Lot 5 (138) Avon Terrace, York	31
SY028-03/20	Reserve Status Of Peace Park.....	38
SY029-03/20	Tender T06 1920 WANDRRA Cyclone Joyce Remediation Works.....	41

SY030-03/20	Container Deposit Scheme Refund Point	45
SY031-03/20	Review of Parking Arrangements within the York Town Centre	50
SY032-03/20	Keeping of Poultry - 32 Bouverie Rd, York	55
SY033-03/20	Disposal Process for St Patricks Convent Building, Old Tennis Courts and Lots 2-6 Avon Terrace and Lot 13 Redmile Road, York.....	57
SY034-03/20	Noongar Standard Heritage Agreement - South West Aboriginal Land & Sea Council and Shire of York	61
SY035-03/20	Appointment of York Honours Reference Group Members.....	64
SY036-03/20	Shire of York Sponsorship Allocations 2019/20	67
SY037-03/20	The York Society - Request for new Multi-Year Funding Agreement	71
SY038-03/20	York Arts & Events Inc - Request for New Multiyear Funding Agreement 2020-2022.....	75
SY039-03/20	Councillor Training and Continuing Professional Development Policy	79
SY040-03/20	Panels of Pre-Qualified Suppliers Policy	83
SY041-03/20	York Men's Shed Inc - Amendment to Lease.....	86
SY042-03/20	Outstanding Rates and Charges - Payment Agreements	90
SY043-03/20	Financial Report for February 2020	93
SY044-03/20	Investments - February 2020.....	98
10	Motions of Which Previous Notice Has Been Given	101
11	Questions from Members without Notice	101
12	Business of an Urgent Nature Introduced by Decision of the Meeting.....	101
13	Meeting Closed to the Public	102
13.1	Matters for which the Meeting may be closed.....	102
SY045-03/20	- Confidential - Request for Write Off - Rates and Charges	102
SY046-03/20	- Confidential - Chief Executive Officer Key Performance Indicators for 2020/21	102
13.2	Public Reading of resolutions to be made public	102
14	Closure	102

The York Shire Council acknowledges the traditional owners of the land on which this meeting will be held.

1 OPENING

1.1 Declaration of Opening

1.2 Disclaimer

The Shire President advises the following:

“I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting today, can be revoked, pursuant to the Local Government Act 1995.

Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received. Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.”

1.3 Standing Orders

1.4 Announcement of Visitors

1.5 Declarations of Interest that Might Cause a Conflict

Councillors/Staff are reminded of the requirements of s5.65 of the Local Government Act 1995, to disclose any interest during the meeting when the matter is discussed and also of the requirement to disclose an interest affecting impartiality under the Shire of York’s Code of Conduct.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

1.6 Declaration of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

1.7 Disclosure of Interests that May Affect Impartiality

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect

their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making process.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

2 ATTENDANCE

- 2.1 Members
- 2.2 Staff
- 2.3 Apologies
- 2.4 Leave of Absence Previously Approved
- 2.5 Number of People in the Gallery at Commencement of Meeting

3 QUESTIONS FROM PREVIOUS MEETINGS

- 3.1 Response to Previous Public Questions Taken on Notice

Mr Simon Saint

Question 1(c)

The SOY recently conceded that the YRCC Forrest Tavern has been undercutting other licensed venues in York, in some cases by as much as 60%. It is able to do this because it has significant competitive advantages over the private sector, for example: (to list but a few)

- exemption from taxes and charges such as rates
- exemption from Corporations Law reporting requirements (although governments typically impose their own slack accountability standards, which are far less onerous than those the private sector are required to produce)
- government guarantees on debts
- the cost of capital is often lower for government businesses
- government businesses may be immune from particular regulatory requirements and as the regulating authority - benefit from permissive application of regulations

To neutralize some of these competitive advantages and to create a more level playing field, would council support exempting licensed venues in York operated by the private sector from paying charges such as rates, and if not, why not?

Response provided by the Executive Manager Corporate & Community Services:

As has been outlined in several reports to Council over the past three years, Council is trying to find a management solution at the YRCC that achieves several outcomes that are not limited to economic factors;

- continued provision of high quality sporting and clubroom facilities for York’s sporting community
- a venue that provides a family-friendly food and beverage option for the broader York community
- a model that limits competition with local businesses

- continued social benefits including health and well-being, social inclusion and positive engagement.

Council will continue to explore options that will achieve these outcomes for the benefit of the community. Council remains committed to providing social infrastructure including the YRCC, but also but not limited to the swimming pool, trails, parks and reserves, the Museum and the York Town Hall.

3.2 Response to Unasked Questions from the Previous Meeting

Nil

4 PUBLIC QUESTION TIME

Public Question Time is conducted in accordance with the Act and Regulations. In addition to this the Shire's Council Meetings Local Law 2016 states –

6.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must identify themselves and register with a Council Officer immediately prior to the meeting.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have 2 minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where any questions remain unasked at the end of public question time they may be submitted to the CEO who will reply in writing and include the questions and answers in the agenda for the next ordinary Council meeting.

(11) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

4.1 Written Questions – Current Agenda

4.2 Public Question Time

5 APPLICATIONS FOR LEAVE OF ABSENCE

6 PRESENTATIONS

6.1 Petitions

6.2 Presentations

6.3 Deputations

6.4 Delegates’ reports

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Ordinary Council Meeting - 25 February 2020

Special Council Meeting - 24 March 2020

Confirmation

That the minutes of the Ordinary Council Meeting held on 25 February 2020 and the Special Council Meeting held on 24 March 2020 be confirmed as a correct record of proceedings.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Shire President Meetings – February 2020

Date	Meeting	Details
3	SP Weekly Resident Forum	Met with two residents
4	Department of Transport	Bike Trails
4	Steve Castledine	York Re Branding
4	Concept Forum	Meeting
5	Annual Electors Meeting	Meeting
6	Access & Inclusion Meeting	Meeting
9	SP Weekly Resident Forum	Met with one resident
14	Photographer for Geoscience	Photo Shoot
17	AROC Meeting Toodyay	Meeting
18	Agenda Briefing	Meeting
20	Meeting with Hon M McCormack & Hon Christian Porter	Working Luncheon
24	Write Newspaper Article	York Community Matters
24	SP Weekly Resident Forum	Met with three residents
25	LEMC Meeting	Meeting
25	Shire Ordinary Council Meeting	Meeting
26	Meeting with YDHS	Meeting

9 OFFICER'S REPORTS

SY024-03/20 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 3 MARCH 2020

File Number: FI.FRP.6

Author: Tabitha Bateman, Finance Manager

Authoriser: Suzie Haslehurst, Executive Manager, Corporate & Community Services

Previously before Council: Not applicable

Appendices: 1. Minutes of the Audit and Risk Committee meeting - 3 March 2020

NATURE OF COUNCIL'S ROLE IN THE MATTER

Legislative

PURPOSE OF REPORT

To receive the minutes and adopt the recommendations of the Audit and Risk Committee Meeting held on Tuesday, 3 March 2020.

BACKGROUND

The minutes of the Audit and Risk Committee meetings are provided for Council and community information.

COMMENTS AND DETAILS

At the meeting of the Audit and Risk Committee held 3 March 2020, the following items were considered:

- Risk Management Update as at 31 December 2019
- Mid Year Budget Review 2019/20
- Compliance Audit Return 2019

Mid Year Budget Review 2019/20

This report presented the results of the Mid Year Budget Review incorporating the results of the quarterly Finance and Costing Review, for the period ending 31 December 2019 for the Audit Committee's consideration and recommendation to Council as follows;

1. *Accepts the Finance and Costing Review Summary for the period ending 31 December 2019 as attached to this report at Appendix 1.*
2. *Adopts the Mid-Year Budget Review as attached at Appendices 2, 3, 4 and 5 to this report.*
3. *Requests the Chief Executive Officer to forward the adopted 2019/20 Mid-Year Budget Review to the Department of Local Government, Sport & Cultural Industries within 30 days of Council's adoption.*

A comprehensive review of the 2019/20 Adopted Budget and year to date actuals to 31 December 2019 was undertaken inclusive of the amendments previously endorsed by Council following the first quarter review. At the time of adopting the 2019/20 Budget, Council also resolved to set the requirement for reporting material variances of 10% for items with a dollar variance of \$5,000 or

more. Officers have reported on major variances in accordance with the Council Resolution and provided comments where applicable.

Some significant changes to the adopted budget, in addition to those reported at the first quarter review, include;

- Bushfire Risk Mitigation Funding Project – increase income and expenditure \$481,250

The Shire received formal notification of a successful application for the new round of Bushfire Risk Mitigation Activity funding for an additional \$481,250. These funds will be used for on-ground works along the Avon River and to support building the fire management capacity and overall resilience of the Shire.

- Avon Park Redevelopment – increase expenditure \$20,000

As detailed in report SY182-12/19 presented to Council in December 2019, it is proposed that \$20,000 be reallocated from GL105105 for water harvesting investigations to the Avon Park Redevelopment project specifically for the installation of new reticulation at the park.

- Road Maintenance – increase expenditure \$50,000

Road maintenance continues to be a major area of concern and a priority for the Shire. Officers have proposed to reallocate \$50,000 from across the organisation to undertake additional winter grading and increased maintenance on our roads. The additional funds have been sought from a number of deferred projects such as the Arts and Cultural Heritage plan and the refurbishment of the Chambers Honour Board.

- Salaries and Wages – net increase to expenditure \$9,000

Responding to a number of requests from the community, the operating hours for the York Swimming Pool were extended by three hours each day over the summer school holidays at a cost of around \$8,000 for additional staff wages. This has been offset by a reduction in the cost of superannuation for the YRCC staff due to a lower than expected take up of the Council superannuation co-contribution scheme.

An increase to wages at the York Visitors Centre is also proposed for this quarter. In 2018/19, the opening hours were extended and the staffing levels increased, however during the 2019/20 financial year there have been unexpected periods of extended staff leave that couldn't be absorbed within the current rostering system.

Including all budget amendments resolved to date, officers have prepared the Mid-Year Budget Review with an expected year end surplus of \$43,470. Following Council consideration, the financial reports will be updated to incorporate budget amendments as adopted. These budget amendments effectively replace the original budgets adopted by Council in July 2019.

Risk Management Update as at 31 December 2019

In August 2017, officers committed to presenting a Risk Management update on a six-monthly basis for June and December each year. The dashboard report was developed incorporating risk improvements aligned with Moore Stephens' recommendations identified as part of the Audit Regulation 17 and Financial Management Regulation 5 reviews and further risks identified throughout the organisation.

The Risk Register Dashboard as presented to the Audit and Risk Committee provides an overview of the progress made to date and prioritises risk improvements moving forward.

Compliance Audit Return

The Compliance Audit Return (CAR) is required to be completed annually and submitted to the Department of Local Government, Sport & Cultural Industries (DLGSCI) in accordance with the requirements of the *Local Government (Audit) Regulations 1996*, in relation to activities undertaken by the local authority in the preceding calendar year.

The return is a checklist of a local government's compliance with the requirements of the *Local Government Act 1995* (the Act) and its Regulations as approved by the Minister. The 2019 CAR content focuses on areas considered high risk and examines whether the Council has complied with each action listed on the return.

The CAR is required to be reviewed by the Audit Committee before being presented for consideration and adoption by Council after which time it must be forwarded to the DLGSCI with a copy of the relevant Council minutes by 31 March 2020.

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport & Cultural Industries

Moore Stephens

Office of the Auditor General

Strategic

Theme 5: Strong Leadership and Governance

5.3 A financially sustainable Shire

5.4 Open and accountable systems

Policy Related

CP1.5 *Compliance*

F1.3 *Significant Accounting Policies*

G4.6 *Risk Assessment and Management*

G4.7 *Internal Control*

Financial

The financial impact of the items considered by the Audit and Risk Committee is detailed within the meeting minutes and the individual attachments to each report - see Appendix 1.

Legal and Statutory

Local Government Act 1995, Part 7

Local Government (Audit) Regulations 1996

Risk Related

It is a legislative requirement for local governments to establish an audit committee. The Audit Committee plays a key role in overseeing the local government's responsibilities in relation to financial reporting, risk management and legislative compliance. This report mitigates the risk of non-compliance with the regulations.

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: Yes

RECOMMENDATION

That Council receives the minutes of the Audit and Risk Committee meeting held 3 March 2020 and adopts the recommendations of the Committee:

That Council:

1. Receives the Shire of York Risk Register Dashboard Report as at 31 December 2019 as attached to this report; and
2. Notes the progress made to date regarding the actions contained in the Risk Register.
3. Accepts the Finance and Costing Review Summary for the period ending 31 December 2019 as attached to this report at Appendix 1.
4. Adopts the Mid-Year Budget Review as attached at Appendices 2, 3, 4 and 5 to this report.
5. Requests the Chief Executive Officer to forward the adopted 2019/20 Mid-Year Budget Review to the Department of Local Government, Sport & Cultural Industries within 30 days of Council's adoption.
6. Adopts the completed 2019 Compliance Audit Return, as attached to this report for certification by the Shire President and the Chief Executive Officer in accordance with Regulation 15(2) of the *Local Government (Audit) Regulations 1996*; and
7. Requests the Chief Executive Officer to submit the 2019 Compliance Audit Return to the Departmental CEO of the Department of Local Government, Sport and Cultural Industries in accordance with Regulation 15(1) of the *Local Government (Audit) Regulations 1996*.

SY025-03/20 DEVELOPMENT APPLICATION: CARPORT FOR STORAGE OF BUSINESS VEHICLES & APIARY ACCESSORIES (INDUSTRY - LIGHT): LOT 341 (33) SUBURBAN ROAD, YORK

File Number:	SU1.9481
Author:	Carly Rundle, Senior Planner
Authoriser:	William Nunn, Co-Ordinator Development Services
Previously before Council:	Not Applicable.
Appendices:	1. Site Plans 2. Site Photos 3. Development Plans

NATURE OF COUNCIL'S ROLE IN THE MATTER

Quasi – judicial.

PURPOSE OF REPORT

For Council to make a determination on a development application received for a carport for storage of business vehicles and apiary accessories (industry – light) at Lot 341 (33) Suburban Road, York.

BACKGROUND

Lot 341 (33) Suburban Road, York is an L shaped lot which has frontage to both Suburban Road and Brook Street and is 4,852m² in area.

The property contains an existing building, which is used for Honey Processing and Packing. There is no dwelling on site, although the owners of the property who operate the business also reside in the dwelling on the adjoining Lot 19 to the north.

A Site Plan and Site Photos are provided in Appendices 1 and 2.

A development application has been received which proposes to construct a new carport to the western side of the existing building. The carport will:

- have dimensions of 8m by 20m (160m²) and be located so that it adjoins the western side of the existing building.
- have a skillion roof with wall heights of 4.64m from natural ground level at the highest point which adjoins the existing building, and 3.8m from natural ground level at the lowest point. No site works are proposed.
- have a zincalume roof to match the existing building.
- be setback 11m from the adjoining property to the east, 30m to the adjoining property to the north and 32m from Brook Street.
- be used to store business vehicles and apiary accessories associated with the existing use of the property for Honey Processing and Packing.

Development Plans are provided at Appendix 3.

The application was publicly advertised for 14 days. No submissions were received.

Council is requested to consider the application and determine to either approve with conditions or not approve and list reasons why. The application has been referred to Council for determination because the it is associated with an extension of a 'non-conforming use' which is discussed in further detail below.

COMMENTS AND DETAILS

The application is required to be assessed in accordance with the Shire of York's Local Planning Scheme No. 2 (Scheme) and *Planning and Development (Local Planning Schemes) Regulations 2015* – Schedule 2 Deemed Provisions (Regulations).

Land Use

The property is zoned Residential with a density of R10 and contains an existing building used for Honey Processing and Packing. The use is considered to be consistent with the land use 'industry - light' which is defined as:

"industry – light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed".

"industry – means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes –

- (a) the storage of goods;*
- (b) the work of administration or accounting;*
- (c) the selling of goods by wholesale or retail;*
- (d) the provision of amenities for employees;*
- (e) incidental purposes".*

'Industry - Light' is an 'X' use in the Residential zone, which means that it is a use that is not permitted by the Scheme.

The applicant has submitted sufficient information to demonstrate that the use has been in continuous operation on the property since the 1920's which pre-dates the introduction of the Scheme which designated the use as not permitted. Officers are satisfied that 'non-conforming' use rights apply, where Part 7 of the Scheme recognises that the Scheme shall not prevent the continued use of the land or building for which purpose it was lawfully used at the gazettal date of the Scheme.

Clause 7.2 of the Scheme 'Extension of Non-Conforming' applies which provides that:

"A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without having first applied for and obtained planning consent of the local government under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme"

Development Standards

Development standards and considerations which are relevant to this application include:

- *TPS2: Cl 4.8.1 Residential Objectives*
 - (a) to encourage single houses as the predominant form of residential development.*
 - (b) to require infill residential development in Heritage Precincts to be in accordance with Design Guidelines adopted by the local government.*
 - (c) to achieve a high standard of development and residential amenity*
- *TPS2: Cl 4.8.2 Site Requirements & State Planning Policy 7.3 Residential Design Codes – Volume 1*
- *Local Planning Policy: Outbuildings in Residential Zones*
- *Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, Clause 67 – matters to be given due regard in consideration of any development application*
 - *m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including,*

but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

- *n) the amenity of the locality including the following: (i) environmental impacts of the development, (ii) the character of the locality, (iii) social impacts of the development.*

The proposed carport complies with prescribed setbacks of the Residential Design Codes.

Local Planning Policy: Outbuildings in Residential zones, provides development standards intended for outbuildings ancillary to a dwelling and augments the R-Codes. Whilst this application relates to a non-conforming use (Industry-Light) which is not ancillary to a dwelling, the policy does apply to class 10a buildings and provides guidance as to the size and type of building that would be consistent with the residential amenity of the area.

The proposed carport is 160m² in area, has wall heights of 4.64m and 3.8m, and the existing buildings are approximately 160m² in area. The proposed development exceeds the area and height permitted (105m² and 3.6 in a R10 zone for class 10a buildings (outbuildings)) permitted by local planning policy in a Residential area zoned R10 or lower. The policy also provides that materials should be of low reflectivity. Zinalume is considered a reflective material, although as the building is a carport with no walls and has a skillion roof which is not anticipated to direct glare or reflection to other properties which is acceptable.

The Scheme provides that local planning policies do not bind the local government, but that due regard is to be given to the provisions of the policy and the objectives which the policy is designed to achieve before making its decision. The relevant objectives refer that the policy is designed to ensure that outbuildings are constructed and located in such a way as to minimise their impact on the amenity of the locality.

The Scheme and Regulations also generally require development to be compatible within its setting and not detrimentally impact on the residential amenity of the area.

The existing character and amenity of the locality predominantly consists of single houses, with frontages to Brook Street, and the Residency Museum, which is not residential but has the appearance of a single house to the streetscape. It is considered that the appearance of the existing development is detrimental to the amenity of Brook Street and residential amenity of adjoining properties or amenity anticipated by the objectives of the Residential zone.

It is noted that the existing use is a non-conforming use, which appears to have operated on the property with no records of complaints from adjoining landowners and the carport extension is not anticipated to substantially change the use onsite as materials and vehicles are already being stored on site, just not undercover. However, it is considered that:

- the carport is a substantial extension in comparison to the existing building and is not compliant with the size or scale of outbuildings considered appropriate by the policy on a residential property in this area which is furthering the non-conforming use on the property; and
- the extension will further the industrial appearance of the property which is considered inconsistent with the residential amenity of adjoining properties and the locality.

On this basis, officers are recommending that the development be refused.

OPTIONS

Should Council disagree with the officer's recommendation, the following options are available:

1. Refuse the application and list alternate reasons; or
2. Approve the application, subject to conditions.

IMPLICATIONS TO CONSIDER**Consultative**

In accordance with requirements of the Regulations, the application was advertised by referral to adjoining landowners allowing a period of 14 days to make submissions. No submissions were received.

Strategic

The Shire of York's 2018-2028 Strategic Community Plan provides the following desired outcomes:

Theme 2: A Leader in Cultural Heritage and Environment

2.3 New development is carried out at a scale and in style which retains, is compatible with and does not overshadow, the historic feel and heritage character of the town of York and other settlements.

2.10 The scale, form and timing of development (including the release of development stages and the construction of infrastructure) is to an appropriate standard and minimises and avoids adverse effects and costs on the community and the natural and built environment.

Policy Related

There are no other policy related implications associated with consideration of the subject proposal.

Financial

There are no financial implications for the Shire associated with the officer's recommendation.

Legal and Statutory

The proposal has been assessed by officers in accordance with the statutory requirements of the Shire of York Town Planning Scheme No. 2 and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Risk Related

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion.

On determination of any development application, the applicant/owner has rights to appeal to the decision with the State Administrative Tribunal

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council refuses the development application for Carport for Storage of Business Vehicles and Apiary Accessories (Industry – Light) at Lot 341 (33) Suburban Road, York, for the following reasons:

1. The development is inconsistent with the objectives of the Residential zone set out in clause 4.8.1 of the Shire of York Town Planning Scheme No. 2.
2. The development does not comply with Local Planning Policy: Outbuildings in Residential zones.
3. The development will have a detrimental impact on the amenity of adjoining properties and the locality which is inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2, Clause 67 (m) and (n).

Advice Notes:

Note 1: If an applicant is aggrieved by this determination there is a right of appeal under the *Planning and Development Act 2005*. An appeal must be lodged within 28 days of the determination.

SY026-03/20 DEVELOPMENT APPLICATION: CAMPING GROUND (GLAMPING TENTS) & ANCILLARY TOURIST USE (CANOLA WALKS): LOT 3042 (1625) QUALEN WEST RD, TALBOT

File Number: QU2.1613

Author: Carly Rundle, Senior Planner

Authoriser: William Nunn, Co-Ordinator Development Services

Previously before Council: Not Applicable.

Appendices:

1. Site Plan
2. Site Photos
3. Applicants Submission
4. Development Plans
5. Submissions Recieved
6. Schedule of Submissions

NATURE OF COUNCIL'S ROLE IN THE MATTER

Quasi-judicial.

PURPOSE OF REPORT

For Council to make a determination on a development application received for Camping Grounds (Glamping Tents) & Ancillary Tourist Use (Canola Walks) at Lot 3042 (1625) Qualen West Rd, Talbot.

BACKGROUND

Lot 3042 (1625) Qualen West Rd, Talbot is 40.9ha in area and zoned General Agriculture.

The property fronts both Qualen West Rd & Talbot West Rd and contains an existing dwelling and outbuilding. Uses on site consist of extensive agriculture (cropping and keeping of livestock). Planning approval for 'ancillary tourist uses' was also issued 9 March 2016, which included a coffee van and merry go-round and visitors are able to view the bird aviary, kangaroos and feed animals.

A Site Plan and Site Photos are provided in Appendices 1 and 2.

A development application has been received which proposes to set-up glamping tents on the property for short term accommodation. The application has applied for an area of approximately 3.8ha where glamping tents would be set up, allowing for tourists to be in proximity to animals and crops. The location of tents may vary within the designated area, although the applicant has provided that initially 3-4 tents will be provided onsite, they would eventually like to cater for buses so have applied for a maximum of 20 tents on the property at a time.

The applicant has provided that glamping is only proposed to be offered during the winter and spring periods (during non-prohibited burning periods). The tents and ancillary portable ablutions facilities (one to be provided per 4 tents) are proposed to be erected by the owners, which will remain in place until they are removed at the end of the period when glamping is no longer offered.

The application also provided that the glamping tents were to provide accommodation to tourists visiting the site for canola walks offered on the property during the canola flowering season. The provision of canola walks (unless the Shire has agreed in writing that it is exempt from requiring approval) is not an approved use on the property and as such has also been addressed as part of this application.

Access to the proposed glamping is proposed to occur via the existing sealed crossover from Qualen West Rd, which connects to the glamping area via an internal unsealed road and existing concrete crossing over the Talbot Brook.

The applicant’s submission and development plans are provided at Appendices 3 and 4.

The application was publicly advertised for 14 days. Three submissions were received which objected to the proposal for various reasons. Council is requested to consider the application (and submissions) and determine to either approve with conditions or not approve and list reasons why.

COMMENTS AND DETAILS

The application is required to be assessed in accordance with the Shire of York Town Planning Scheme No. 2 (Scheme) and the *Planning and Development (Local) Planning Schemes Regulations 2015 - Schedule 2 Deemed Provisions (Regulations)*. The following provisions are most relevant to this application.

Clause	Comment
<p>67(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area.</p>	<p>The property is zoned General Agriculture and surrounded by land similarly zoned.</p> <p>The application proposes to offer glamping tents on the property for short term accommodation and canola walks where tourists can enter crops on the property.</p> <p>The canola walks are considered consistent with the land use of ‘Ancillary Tourist Use’ which refers to tourist excursions where they are incidental and directly related to the predominant use of the land. This is an ‘IP’ use which means it is permitted provided it is incidental to the predominant use which is at the discretion of the local government to determine.</p> <p>The canola walks will only be offered during flowering times, which will be for a maximum of 6 weeks per year. Officers are satisfied that the use is incidental to the agricultural uses on the property.</p> <p>The type of glamping tents to be erected are provided in Appendix 4. The tents will each be approximately 4.8m in width (triangular floor shape), with the pitch up to 2.4m in height from the finished floor level. Each tent is proposed to sleep two people and contain lighting and a fan which connects to a battery charged by a solar panel.</p> <p>The tents are to have solid plywood flooring panels with 50 x 50mm support beams to the pitch, which will then be enclosed in razorback canvas (with insulation) attaching to the frame. The tents will be set up by the landowners and remain onsite for a maximum period of 6 months from 1 June to the 30 November (Winter and Spring). The tents will be dismantled and removed at the end of the accommodation period.</p> <p>Officers are satisfied that the tents are ‘portable’ in nature and as such is consistent with the land use of ‘camping grounds’ which is an ‘SA’ use in the General Agriculture zone meaning it may be approved at the discretion of the Shire and is required to be publicly advertised. Relevant objectives of the General Agriculture zone are as follows:</p> <p style="padding-left: 40px;"><i>(a) To ensure the continuation of broad-hectare agriculture as the principle land use in the district encouraging</i></p>

	<p><i>where appropriate the retention and expansion of agricultural activities.</i></p> <p><i>(b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.</i></p> <p><i>(c) To allow for facilities for tourists and travellers and for recreation uses.</i></p> <p>It is considered that the proposal offering facilities for tourists and travellers, based on agricultural uses occurring on the property is consistent with the objectives of the General Agriculture zone.</p>
<p>67(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other planning instrument that the local government is seriously considering adopting or approving.</p>	<p>The Shire has adopted draft Local Planning Scheme No. 3 and Local Planning Strategy and forwarded to the WAPC for approval.</p> <p>The land use permissibility and assessment criteria in the draft scheme remain relatively unchanged. The draft local planning strategy recognises the primacy of agricultural uses on rural land and encourages tourism as a secondary objective where it does not impede agricultural production. Subject to appropriate setbacks (as described below) being provided to avoid land use conflicts, the proposal is considered appropriate having regard to the principles of orderly and proper planning.</p>
<p>67(c) Any approved State Planning Policy</p>	<p>Due regard has been given to the following policies:</p> <ul style="list-style-type: none"> • State Planning Policy 2.5 – Rural Planning • State Planning Policy 2.9 – Water Resources <p>The property is not located within bushfire prone area.</p> <p>The development site is located over 100m from the Talbot Brook. SPP2.9 provides that adequate setbacks between development and waterways should be provided to maintain or improve the ecological and physical function of water bodies.</p> <p>The application was referred to the Department of Water and Environmental Regulation (DWER) who advised that given the current land use and setback proposed to Talbot Brook, that the risk of impact to the waterway by development would be low (if any).</p>
<p>67(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</p>	<p>The glamping tents and ablutions are minor structures which will be in place for 6 months of the year.</p> <p>A buffer of 300m from the accommodation to adjoining agricultural uses is recommended by the Department of Health to avoid land use conflict between tourism and agricultural uses on adjoining properties. The provision of this buffer will be conditioned on approval which will reduce the area able to accommodate glamping tents to approximately 70m by 20m (1,400m²) located centrally on the property. This will require glamping tents to be located in closer proximity than intended by the applicant, although this area is capable of accommodating up to 20 tents which can be spaced in a manner to comply with the Caravan Parks and Camping Grounds Regulations 1997.</p>

	<p>Parking and ablutions which are used intermittently can be located outside of this buffer area, although are required by the Regulations to be located within a certain distance of the tents. An amended site plan which complies with buffer areas will be conditioned on approval.</p> <p>Canola tours will be a temporary use offered for a maximum of 6 weeks per year. Submissions received raised biosecurity and trespassing as an issue which affects adjoining agricultural uses. The application was referred to the Department of Primary Industries and Regional Development (DPIRD) for comment. DPIRD did not object to the proposal, although indicated that there were risks which should be managed such as:</p> <ul style="list-style-type: none"> • Risk of spreading or introducing new weeds or pathogens from vehicles, equipment or people entering the property. Proper clean down facilities should be provided and a visitor’s log maintained; • Risk of trespassing, although acknowledged that a designated area for canola tours is preferred than tourists accessing alternate crops which do not have implemented measures for these risks; • Spraying within the property which may pose a risk to tourists entering crops if residual spray is present; • Contact with and feeding of animals. <p>A management plan which addresses the issues raised by the DPIRD will be conditioned on approval.</p>
<p>67(n) the amenity of the locality including the following:</p> <p>(i) Environmental impacts of the development</p> <p>(ii) The character of the locality;</p> <p>(iii) Social impacts of the development.</p>	<p>The development is centrally located on the property and is not anticipated to have any detrimental environmental or visual impacts on the locality.</p> <p>Canola walks are offered on a temporary basis and do not involve any infrastructure being constructed. Subject to appropriate parking being provided onsite, there are no amenity impacts anticipated.</p>
<p>67(o) the likely effect of the development on the natural environment and any means that are proposed to protect or mitigate impacts on the natural environment or the water resource.</p>	<p>The development is over 100m from the Talbot Brook, which is an appropriate setback is provided to mitigate impacts.</p>
<p>67(p) Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.</p>	<p>With the provision of the increased buffer, the development will be adequately setback from adjoining properties, and will be located onsite for a temporary period each year for 6 months. No landscaping is required. No trees are proposed to be removed.</p>
<p>67(q) the suitability of the land taking into account the possible risk of flooding, tidal inundation,</p>	<p>The development area is not located within a bushfire prone area, although in considering the objectives of SPP3.7, the placement of the tents in proximity to the canola crops may</p>

<p>subsidence, landslip, bush fire, soil erosion, land degradation or any other risk.</p>	<p>present a risk. As such it is recommended that a minimum of 30m around the tents be maintained to a low fuel load, which will ensure the tents remain BAL-Low mitigating this risk.</p>
<p>67(r) the suitability of the land for development taking into account the possible risk to human health or safety.</p>	<p>Aside from the spray residue and tourists entering crops which was raised by the DPIRD and can be managed as a condition of approval, there are no other known risks.</p>
<p>67(s) the adequacy of –</p>	<p>Access will be via the existing sealed crossover to Qualen West Rd and will access the tents and crop via an internal unsealed track. A concrete bridge crossing is existing over the Talbot Brook.</p> <p>Parking areas will be required to be provided onsite. The provision of further details for carparking will be conditioned on approval.</p> <p>Access and egress is generally appropriate although:</p> <ul style="list-style-type: none"> • There are no measures in place to divert traffic to use the existing crossover, where traffic entering the property which does not use this crossover presents safety concerns. Condition on approval details of how traffic will be directed to the sealed crossover. • Internal accessways have capability (with the exception of the bridge) for two-way traffic, although is only sufficient in some places for one-way traffic. Signage may be required on the bridge to notify of passing arrangements. Condition further details on approval. • Further details of carparking and pedestrian access will be conditioned on approval.
<p>67(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and probably effect on traffic flow and safety.</p>	<p>The property fronts Qualen West Rd and Talbot West Rd, both constructed to a sealed standard. Talbot West Rd is a Local Distributor road.</p> <p>Canola walks operated for 6 weeks of the year are proposed to be offered to no more than 10-15 persons at a time, with most tourists staying approximately 90 minutes. The glamping will accommodate a maximum of 20 tents.</p> <p>In accordance with the Western Australian Planning Commission Transport Impact Assessment Guidelines, traffic generated by the development is anticipated to be of 'low impact' where additional traffic information is not required. The existing roads are considered sufficient for the development.</p>
<p>67(u) the availability and adequacy for the development of the following –</p> <ul style="list-style-type: none"> (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste (iv) access for pedestrians and cyclists; 	<p>Further details of disability access will be provided at the building permit stage.</p> <p>The applicant has provided that the tents will be serviced daily by the landowners addressing collection of waste, although details of waste storage and disposal has not been provided. Condition on approval.</p> <p>Water supply to ablution facilities is proposed to be via two 20,000L tanks filled by a bore on the property. Access to potable drinking water (other than bottled water) is not proposed to be provided. Given the comments by DPIRD raising the quality of</p>

<p>(v) access by older people and people with a disability.</p>	<p>water given its proximity to agricultural uses, further details of potable water supply will be conditioned on approval.</p> <p>Tents and ablutions will be serviced with solar power. Night time light and power point requirements will be further confirmed as part of the camping ground licence.</p> <p>An onsite effluent unit is proposed to be provided onsite. Further details will be submitted with an effluent application, although the Shire is satisfied that it can comply with the Government Sewerage Policy 2019.</p>
<p>67(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.</p>	<p>None identified.</p>
<p>67(w) the history of the site where the development is to be located.</p>	<p>No significant history.</p>
<p>67(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals.</p>	<p>No negative impacts anticipated.</p>
<p>67(y) any submissions received on the application.</p>	<p>Three public submissions were received objecting to the application. Refer to Schedule of Submissions at Appendix 6. A copy of submissions received is provided at Appendix 5.</p>
<p>67(za) the comments or submissions received from any authority consulted under Clause 66.</p>	<p>The application was referred to DWER and DPIRD for comment. A copy of submissions received is provided at Appendix 5 and officers comment in response to these is at Appendix 6.</p>

OPTIONS

Should Council disagree with the officer’s recommendation, the following options are available:

1. Refuse the application and list alternate reasons; or
2. Approve the application, subject to conditions.

IMPLICATIONS TO CONSIDER

Consultative

In accordance with requirements of the Regulations, the application was advertised by sending a letter to adjoining landowners, placement of a notice in the local newspaper and making the application available for viewing on the Shire’s website and office. Submissions received are discussed above.

Strategic

The Shire of York’s 2018-2028 Strategic Community Plan provides the following desired outcomes:

Theme 2: A Leader in Cultural Heritage and Environment

2.10 *The scale, form and timing of development (including the release of development stages and the construction of infrastructure) is to an appropriate standard and minimises and avoids adverse effects and costs on the community and the natural and built environment.*

Policy Related

There are no other policy related implications associated with consideration of the subject proposal.

Financial

There are no financial implications for the Shire associated with the officer's recommendation.

Legal and Statutory

The proposal has been assessed by officers in accordance with the statutory requirements of the Shire of York Town Planning Scheme No. 2 and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Risk Related

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion. On determination of any development application, the applicant/owner has rights to appeal to the decision with the State Administrative Tribunal.

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council approves the development application for Camping Grounds (Glamping Tents) and Ancillary Tourist Use (Canola Tours) at Lot 3042 (1625) Qualen West Rd, Talbot, subject to the following conditions:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans including any notes placed in red by the Shire and except as may be modified by the following conditions.
3. A maximum of 20 tents, and 5 ablutions buildings is permitted.
4. Glamping tents shall be made available for short term accommodation only which allows for guests to temporarily occupy either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12-month period.
5. The Camping Ground shall only operate between the 1st June to the 30th November annually. All tents and portable structures associated with the camping ground shall be dismantled and removed from the camping ground area outside of the operating timeframe. If materials are stored onsite these shall be stored in a location not visible from adjoining properties or roads.
6. The ancillary tourist use (canola walks) shall only operate for a maximum of 6 weeks per year.
7. Fuel loads shall be maintained to 100mm or less in height within 30m from any glamping tent on the property.
8. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the Shire and have been approved in writing:
 - (a) A site plan being submitted which addresses the following and/or required design changes:
 - (i) Tents shall be located a minimum of 300m from adjoining properties.
 - (ii) The site plan is to show the layout of the camping ground area including tents, structures, parking areas for the camping grounds, water supply infrastructure, reception areas and accessways to the satisfaction of the Shire.
 - (iii) Car parking spaces to be made available for the duration canola walks are offered which shall have sufficient space to accommodate 15 vehicles.
 - (iv) Internal accessways to be suitable for two-way access, or one-way access with passing lanes and appropriate signage.
 - (b) A management plan which addresses risks associated with the following items to the satisfaction of the Shire, in consultation with the Department of Primary Industries and Regional Development:
 - (i) Biosecurity risks, including addressing the risk of spreading or introducing new weeds, or pathogens on vehicles, equipment or people entering or leaving the property.
 - (ii) Contact with and feeding of animals;
 - (iii) Spraying within the property and impact on human health;
 - (iv) Ensuring that visitors remain inside the property boundaries during their visit;
 - (v) Pedestrian access from car parking areas to canola locations.
 - (c) Details of a potable water supply being provided to the satisfaction of the Shire.

(d) Details of solid waste management to the satisfaction of the Shire.

(e) Details of measures to be implemented to direct traffic to use the existing sealed crossover on Qualen West Road to the satisfaction of the Shire.

9. The development hereby approved shall not be occupied or used until all relevant plans, details or works required by Condition(s) 2, 7 and 8 have been implemented.

10. The works undertaken to satisfy conditions 2, 7 and 8 shall be subsequently maintained for the life of the development.

ADVICE NOTES:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.

Note 4: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted

SY027-03/20 DEVELOPMENT APPLICATION: SOLAR PANELS ON HERITAGE LISTED PROPERTY: LOT 5 (138) AVON TERRACE, YORK

File Number: AV1.14240

Author: Carly Rundle, Senior Planner

Authoriser: William Nunn, Co-Ordinator Development Services

Previously before Council: Not Applicable

Appendices:

1. Site Plan
2. Site Photos
3. Development Plan
4. Submissions

NATURE OF COUNCIL’S ROLE IN THE MATTER

Quasi-judicial.

PURPOSE OF REPORT

For Council to make a determination on a development application for solar panels on a heritage listed building at Lot 5 (138) Avon Terrace, York.

BACKGROUND

Lot 5 (138) Avon Terrace is zoned ‘Town Centre’, is 3,642m² in area and is a corner lot which has frontage to Avon Terrace, Macartney Street and Lowe Street. The property contains an existing building, which is used as a shop by the IGA. The place is listed on the State Heritage Register, the Shire’s Heritage List as a Category A building and is located within the York Town Centre Heritage Area, where it is identified as making a considerable contribution to the area.

A Site Plan and Site Photos is provided at Attachments 1 and 2.

A development application has been submitted which proposes to erect solar panels on the roof of the building.

The development plan is provided at Attachment 3.

The application has been referred to Council for determination because of the visibility of the solar panels to Macartney Street.

COMMENTS AND DETAILS

The application is required to be assessed in accordance with the Shire of York’s Local Planning Scheme No. 2 (Scheme) and *Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Deemed Provisions (Regulations)*. The following provisions are those most relevant to the application.

Clause	Comment
67(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme Area.	<p>Lot 5 (138) Avon Tce is zoned ‘Town Centre’ by Shire of York Town Planning Scheme No. 2 (Scheme) and contains an existing building used by the IGA. The property is listed on the State Heritage Register and also located within the Central York Heritage Area and is partly located within the Avon River Flood Fringe.</p> <p>The solar panels are located on the roof (and raised less than 150mm from the existing roof) which does not change the building footprint,</p>

<p>67 (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</p> <p>67(n) the amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development</p>	<p>or the use of the property where most provisions are not applicable except for the following.</p> <ul style="list-style-type: none"> • CL 1.7 Scheme Objectives • CI 4.9.1 Town Centre zone Objectives • CI 4.9.3 (b) Development Requirements • CI 5.1 Heritage Precincts & Places of Cultural Significance • CI 5.3 Avon River Flood Fringe <p>The provisions require consideration be given to preserving the heritage significance of the building, heritage area and avoiding development which will detract from those qualities, and that consideration be given to:</p> <ul style="list-style-type: none"> (i) the colour and texture of external building materials; (ii) building size, height, bulk, roof pitch; (iii) Setback and location of the building on its lot; (iv) Architectural style and design details of the building; (v) Function of the building; (vi) The relationship to surrounding development having particular regard to any impact upon the heritage significance of the York townscape, its streetscapes and any Heritage Place or Heritage Precinct; and (vii) Other characteristics considered by the local government to be relevant. <p>The solar panels will be incidental to the existing building and are located, orientated to match and raised no more than 150cm from the roof which is appropriate. Solar panels are common in the area located to the rear of buildings visible from Lowe Street and side streets and are encouraged where possible to recognise their role as an environmentally friendly and economical solution to power supply.</p> <p>The solar panels are appropriately located to the rear away from Avon Terrace, although does locate panels on the verandah and steeper pitched roof facing Macartney Street which will have higher visibility than existing solar panels in the area and which requires further consideration as to the impact from a heritage perspective. Consideration to the impact of the development on values of the heritage place and area, and advice from the Heritage Council and heritage advisor is discussed further below.</p> <p>CI 5.3 of the Scheme also requires a notification be placed on the title of the land to the effect that the land is subject to inundation during a flood event which will be conditional on approval.</p>
<p>67(c) any approved State Planning Policy</p>	<p>Due regard has been given to the following policies:</p> <ul style="list-style-type: none"> • State Planning Policy 3.5 – Historic Heritage Conservation
<p>67 (g) any local planning policy for the Scheme area.</p> <p>67(k) the building heritage conservation of any place that is of cultural heritage significance.</p>	<p>The building is on the State Heritage Register, which requires the application to be referred to the Department of Planning, Heritage and Lands (DPLH). A response was received (Appendix 4) which provided that overall the proposed solar panels will not have a negative impact on the cultural heritage significance of the place. The DPLH advised that the proposal is supported subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The proposed solar panels shall be reversible and capable of being removed without significantly impact upon the original fabric.

67(l) the effect of the proposal on the cultural heritage significance of the are in which the development is located.

2. Any damage to significance fabric shall be made good, in profile and materials to match the original/existing.

The above advice is in relation to the State Heritage Register listing of the place only and does not consider other local listings. The building, known as Edwards Store (fmr) – York Co-op is on the Shire’s Heritage List as a Grade A and is identified as making a considerable contribution to the York Town Centre Heritage Area because:

“it is significant for its associations with two generations of the Edwards family between 1852 and 1936, and the York and Districts Farm Co-operative since 1956, continuous still in 2019. The Victorian Free Classical architectural face and its floral emblems make a significant contribution to the York Town Centre and Avon Terrace streetscape.”

Local Planning Policy Heritage Conservation and Development applies. The objectives of the policy are to conserve the cultural heritage significance of the places and heritage areas, ensuring new development does not adversely impact this.

A Grade A means it is a place of exceptional significance, which is essential to the heritage of the locality and is a rare or outstanding example. A place making a considerable contribution to the heritage area means it is very important to the heritage of the locality and has a high degree of integrity/authenticity. The desired outcome is that conservation is desirable, and any alterations and extensions should reinforce the significance of the place, in accordance with a conservation plan (if one exists) and there should be minimal impact to the original fabric/form, and a heritage impact statement should be prepared for any additions or proposed impact to original fabric.

The York Town Centre Heritage Area, is listed due to significance of the continuous row of buildings facing Avon Terrace, with this frontage being an important component. Section 4.4.3 of the policy provides that external fixtures are not permitted to be attached to a façade because they are inconsistent with the Avon Terrace streetscape.

The solar panels are appropriately proposed to be located to the rear of the property, away from Avon Terrace, and not visible from the façade from Avon Terrace. Solar panels will be visible from Lowe Street and Macartney Street which is consistent with other buildings who have installed solar panels. The visibility of solar panels to Macartney Street is more than other properties, although is considered consistent with the policy because of its importance placed on the primacy of Avon Terrace, that the solar panels are located away from the Avon Terrace frontage and the recognition of benefit solar panels provide. However, it is recommended that the impact be minimised where possible, and as such it is recommended that the solar panels not be supported on the verandah with a nil setback to Macartney Street. This area is marked on the development plan in red and will be conditioned on approval.

	<p>A heritage impact statement was submitted by the applicant indicating that the solar panels were only be placed on renovated areas, although was not prepared by a qualified consultant.</p> <p>The Shire’s Heritage Advisor has reviewed the application and provided support for the application because:</p> <ul style="list-style-type: none"> • the visual impact from Avon Terrace is negligible; • in the context of Macartney Street and the rear of the hardware opposite, the visual impact of the solar panels on the single-storey 1985 addition to the York Co-op is minimal; and • The physical impact on the 1985/2011 fabric of the roof and structure is negligible to that fabric of little significance. <p>The submission is provided at Appendix 4.</p>
<p>67(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk.</p>	<p>No known risks. A structural report has been submitted with the application which indicates the second storey roof is not suitable for solar panels. The application proposes solar panels on the first storey roofs only.</p>
<p>67(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.</p>	<p>Solar panels should be encouraged where appropriate as they provide a benefit of environmentally sustainable and economical power supply.</p>

OPTIONS

Officers consider that subject to appropriate conditions being implemented, the proposal is consistent with the Shire of York Town Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and have recommended that Council approves the application subject to conditions.

Should Council disagree with the officer’s recommendation, the following options are available:

1. Refuse the application and list reasons; or
2. Approve the application, with modified conditions.

IMPLICATIONS TO CONSIDER

Consultative

The application was advertised by placing a notice in the Avon Valley Advocate, on the Shire’s website, and at the Shire offices. The advertising period was 14 days. No public submissions were received.

Strategic

Subject to conditions being implemented, the proposal and officer’s recommendation is considered to be consistent with the Shire of York’s 2018-2028 Strategic Community Plan and the following desired outcomes:

Theme 2: A Leader in Cultural Heritage and Environment

- 2.2 *Public and privately-owned heritage buildings are adequately maintained and protected for the future and the Shire leads the way in innovative promotion of the historic character.*
- 2.3 *New development is carried out at a scale and in style which retains, is compatible with and does not overshadow, the historic feel and heritage character of the town of York and other settlements.*

Policy Related

There are no policy related implications associated with consideration of the subject proposal other than those discussed above.

Financial

There are no financial implications for the Shire associated with the officer's recommendation.

Legal and Statutory

The proposal has been assessed by officers and subject to conditions being implemented is considered to be in accordance with the statutory requirements of the Shire of York Town Planning Scheme No. 2 and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Risk Related

A risk assessment of the proposal has been undertaken, and there was no medium to high risks identified with the proposal that warrant further discussion.

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council approves the development application for Solar Panels on a Heritage Listed Property: Lot 5 (138) Avon Terrace, York, subject to the following conditions:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans including any notes placed in red by the Shire and except as may be modified by the following conditions.
3. Solar panels are not supported on the verandah with nil setback to Macartney Street, as marked in red on the Approved Development Plans.
4. The proposed solar panels shall be reversible and capable of being removed without significantly impact upon the original fabric.
5. Any damage to significance fabric shall be made good, in profile and materials to match the original/existing.
6. The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2, 3 and 4 have been implemented and/or the following conditions have been complied with:
 - (a) Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended), or similar legal instrument, is to be placed on the Certificates of Title of the lot advising that:

“Part of this land may be subject to inundation during a flood event”.

All costs related to the notification shall be at the cost of the applicant/landowner (Advice Note 5)

ADVICE NOTES:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.

Note 4: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted

Note 5: A copy of the Section 70A application form can be found on the following link:

[https://www0.landgate.wa.gov.au/docvault.nsf/web-new/FREEHOLD_LRFORMS/\\$FILE/FOR_DLI_N1.pdf](https://www0.landgate.wa.gov.au/docvault.nsf/web-new/FREEHOLD_LRFORMS/$FILE/FOR_DLI_N1.pdf)

To satisfy condition 5(a) you are required to complete the Section 70A application form and lodge the original copy with the Shire for signing. Once signed by the Shire, the Section 70a will be returned to yourself to be lodged with Landgate. A copy of the lodgement receipt will need to be provided to the Shire

to satisfy this condition. If a notification already exists on the title, please notify the Shire accordingly.

SY028-03/20 RESERVE STATUS OF PEACE PARK

File Number:	CCP.40
Author:	Carly Rundle, Senior Planner
Authoriser:	William Nunn, Co-Ordinator Development Services
Previously before Council:	21 March 2016 - SY028-03/16
Appendices:	1. SY028-03/16 Council Minutes

NATURE OF COUNCIL'S ROLE IN THE MATTER

Review.

PURPOSE OF REPORT

To provide information to Council on the legal status of Peace Park and consider whether to proceed with resolution SY028-03/16 to cede Peace Park to the Crown to be given formal reserve status.

BACKGROUND

Peace Park is an area of open space in freehold ownership of the Shire of York and managed and developed as public parklands.

Council resolved at its Ordinary Meeting held on the 21st March 2016 that it:

"Directs staff to commence a process to vest Lots 17, 43, 28, 28 CT 2221/547 DP63 (known as Peace Park) as a Reserve under the management of the Shire of York".

The Council Minutes are provided in Appendix 1.

The officer's report refers to the freehold status of the land being raised as a concern by members of the community as part of the 2015/2016 visioning process undertaken for the Strategic Community Plan. The concerns related to a perception that the freehold ownership could allow for the land to be sold or used for other purposes and cease use a public park.

The report then recommended that the ceding the land to the Crown to be given Reserve status affords higher protection for the continued use of the land as a public park.

COMMENTS AND DETAILS

Officers have actioned the Council resolution to the point of having the 'transfer of land' documents prepared for signing which will cede the land free of cost, and for nothing in return to the Crown, where it would then be offered Reserve status and vested back to the Shire to manage.

Whilst transferring the land to the Crown for Reserve status does given an element of higher protection that the land will be retained as open space (noting that even land with Reserve status can be cancelled), officers recommend that this be deferred pending further investigation because:

- The ceding of the land results in the loss of an asset, which does not provide any tangible benefit to the community;
- The ceding of the land to the Crown for Reserve status could occur in a way where there could be a tangible benefit to the community. An example of this could be a land swap, such as the ceding of Peace Park to the Crown for Reserve status in return for alternate Crown Land being converted to Freehold ownership to the Shire. This freehold land obtained as part of the swap could then be used for community needs or potentially be a source of income which is beneficial to the community.

Whilst it is noted that the previous resolution was to address concerns with the amount of protection afforded to Peace Park given its freehold ownership status, it is considered very low risk that the land would be used for alternate uses given that:

- The land is identified in the current Town Planning Scheme No. 2 as Recreation & Open Space and Public Open Space in the draft Local Planning Scheme No.3, and shown as parklands in the Local Planning Strategy, where use and development of the land is limited to these purposes. Whilst the previous council agenda item notes a scheme amendment could be proposed to change the zoning of land, this is a very low risk given the importance of the park to the community and the Shire's Strategic documents (which reflect community views) reflect that it is to be retained as parklands.
- Council actions are guided by Strategic documents which are formulated based on extensive consultation with the community. The disposal or alternate use of the land should this be proposed would also require further extensive community consultation to meet the requirements of the *Local Government Act 1995* and the Shire's local policies.
- Furthermore, the ceding the land to the Crown for Reserve status, does not prohibit development of the site provided it is consistent with the Reserve purpose and management orders. There is also ability to request the DPLH cancel the Reserve status, so the ceding of land whilst adding an additional layer of protection to the use is not definitive.

In summary, whilst officers consider that there is no issue with ceding the land free of cost and for nothing in return should Council wish to progress the existing resolution, there is potential that this could occur in a way which could provide an increased benefit back to the community.

In addition, the risk that is being associated with the land remaining in freehold and being used for alternate purposes is a very low risk.

It is recommended that Council resolves to investigate alternate arrangements (i.e land swap) that would have improved benefits to the community before continuing with the process to vest Lots 17, 43, 28, 27 CT 2221/547 DP 63 (known as Peace Park) as a Reserve.

OPTIONS

Officers' recommendation is to further investigate arrangements for the ceding of land to the Crown to see if an increased benefit to the community could be realised.

Council could choose to resolve to continue with the current resolution SY130316.

IMPLICATIONS TO CONSIDER

Consultative

No consultation undertaken.

Strategic

Nil. The resolution does not propose any changes to uses of the Reserve.

Policy Related

Nil.

Financial

To date \$559.90 has been expended on legal services to prepare the transfer of land forms. A total of \$1,500 was allocated to implement the current resolution of SY130316 and there is sufficient budget available to complete the transfer.

Legal and Statutory

Nil.

Risk Related

Risk is discussed under comments and details. The previous resolution SY130316 was progressed on the basis that there was a community perception that the freehold ownership of Peace Park presented a risk that it may cease use as public parklands. There is a risk that delaying proceeding with the resolution may result in a negative community attitude because of this. Although the risk of Peace Park being used for alternate purposes, which is discussed under comments and details is very low, and the resolution only proposes to defer the ceding of land pending further investigation into transfer arrangements which may have an improved community benefit.

In this respect, it is considered that risks associated with the officer's recommendation are low.

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council with respect to Peace Park

1. Not proceed with the resolution of at its Ordinary Meeting held on the 21st March 2016, "*Directs staff to commence a process to vest Lots 17, 43, 28, 28 CT 2221/547 DP63 (known as Peace Park) as a Reserve under the management of the Shire of York*", at this time pending a further report to Council.
2. Requests the Chief Executive Officer to investigate alternate arrangements (i.e land swap) that would have improved benefits to the community for Lots 17, 43, 28, 27 CT 2221/547 DP 63 (known as Peace Park) as a Reserve and report back to Council as soon as practicable.

SY029-03/20 TENDER T06 1920 WANDRRA CYCLONE JOYCE REMEDIATION WORKS

File Number: AS.TEN.74

Author: Darren Wallace, Executive Manager, Infrastructure & Development Services

Authoriser: Darren Wallace, Executive Manager, Infrastructure & Development Services

Previously before Council: Not Applicable

Appendices: 1. Tender Evaluation - Confidential

NATURE OF COUNCIL’S ROLE IN THE MATTER

Executive.

PURPOSE OF REPORT

Council is requested to consider the tenders received in response to Request for Tender T06-1920 WANDRRA Cyclone Joyce Remediation Works.

BACKGROUND

The Shire suffered considerable storm damage as a result of the tail of Cyclone Joyce. The damage consisted of a large number of trees falling across roads and some damage to surface and drains on some roads. At the time, fallen trees were pushed off the roads and road surfaces made safe.

The Shire has secured WANDRRA funding to repair the damage and clean up the fallen trees.

One of the roadsides, Greenhills South Road, has already been cleaned up by a contractor working for the Shire.

Initially, it was thought that Shire staff would undertake the works with the assistance of subcontractors who had access to the appropriate plant and experienced operators.

Due to works program constraints, the Shire engaged a local contractor to undertake the clean-up of one of the WANDRRA projects, Greenhills South Road.

The works were completed to an acceptable standard and it was therefore decided to contract out the remainder of the WANDRRA works and free up staff for other projects.

As the works were estimated at over \$150,000 the Shire is required to call tender for the works.

The tender was advertised on Saturday 25 January 2020 in The West Australian, the Shire website and Tenderlink. The tenders closed on Tuesday 11 February. Tenders were received from three Tenderers;

Tenderer	Tendered Price
R.C.A. Civil Group	\$489,026.85
A K Evans Group	\$97,288.81
Bush Contracting	\$280,000
BUDGET	\$268,550

COMMENTS AND DETAILS

Of the three tenders received, one did not include a completed tender response form or supply information requested to allow a full consideration of their Tender and were therefore a non-conforming tender offer and not evaluated.

The two remaining Tenders meet the Compliance criteria as set out in the RFT.

The Tenders were then evaluated by a two person Shire Officer panel using the following pre-determined criteria as detailed in the Tender documents.

- Relevant Experience. 15%
- Key Resources. 15%
- Proposed Methodology. 15%
- OSHE Management. 5%
- Price. 50%

A full copy of the tender evaluations are attached as Confidential Appendix 1.

After the evaluation was undertaken, one of these Tenderers withdrew their Tender due to underestimating the cost of the works required.

The price of the only remaining tender was significantly higher than the Council's budget (the budget has been adjusted to allow for the design and supervision consultant costs and the expenditure already incurred in completing the Greenhills South Road clean-up).

Due to there being no suitable Tender offer and the wide variation in price of the Tender offers, it was considered prudent to check the cost of the works if undertaken with Shire day labour supplemented with local contractors. It is estimated that the works would cost approximately \$250,000 if performed in-house. This is slightly less than the original budget.

By supplementing Shire staff with subcontractors (from the recently accepted Plant Hire Tender), it is considered that the works could be done in-house while still completing the other projects on the Shire's 2019/20 works program.

As the only remaining tender is considerably higher than the Budget it is therefore recommended that the Shire applies to undertake the works in house, with support from subcontractors.

OPTIONS

Council can;

- Determine not to accept any tender offer and undertake the works using a combination of day labour and sub-contractors as recommended by Officers.
- Accept the offer from R.C.A. Civil Group and increase the budget for the project.
- Not accept any offer and not do the works and adjust the budget accordingly. If the works are done at a later date, no WANDRRA funds will be available to the Shire for the project.

IMPLICATIONS TO CONSIDER

Consultative

No consultation has been undertaken in respect to awarding this Tender.

Strategic

BUILDING RESILIENCE

- 4.1 The value of assets is protected.
- 4.4 Rural roads are safe and easy to use

Policy Related

Policy F 1.2 Procurement has been adhered to.

Financial

The Shire is required to contribute 25% of the actual cost to a maximum of approximately \$150,000 with WANDRAA funding 75% of the actual final cost. It is estimated that there would be a slight saving if the Shire undertook the works using a combination of day labour and sub-contractors.

If the offer from R.C.A. Civil Group is accepted, an additional \$55,119 will be required in the budget.

Legal and Statutory

Section 3.57 of the *Local Government Act 1995* requires a Local Government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and services. Part 4 (Tenders) of the *Local Government (Functions and General) Regulations 1996* require that tenders are to be publicly invited for such contracts where the estimated costs of providing the total service exceeds \$150,000

Risk Related

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Although the Shire is only responsible for 25% of the expenditure on this project. A significant project cost increase would be a significant impact on the budget	High	Undertaken the works inhouse
Health & Safety	Injury to the public or contractors.	Moderate	All Sub-Contractors are required to comply to the Shires OHS practices and all plant is to be roadworthy and suitable for the proposed use.
Reputation	Should a contractor not act in a way that the community expects or the plant not be to the standard that the community expects, this could affect the Shire's reputation.	Moderate	Contractor will normally be working with or under the direct supervision of Shire staff. All plant is to be presented in a neat and tidy condition
Service Interruption	Should planned works or maintenance not be delivered adequately this could affect the Shire's reputation.	Moderate	Supplementing the Shire workforce with subcontractors reduces the likelihood of service interruption.
Compliance	Works and Maintenance are required to be procured in accordance with policy and legislation.	Moderate	By undertaking the recent Plant Hire RFT process the Shire is complying with its statutory obligations.
Property	Damage to Council property such.	Moderate	All Sub-Contractors will be working with and under the direct supervision of Shire staff.

Environment	Poor operations could result in damage to the environment.	Low	All Sub-Contractors will be working with or under the direct supervision of Shire staff.
-------------	--	-----	--

Workforce

It was originally intended that Shire staff would undertake the WANDRRA works with substantial assistance from subcontractors. The recently accepted plant hire tender will allow our existing workforce to be supplemented to the point that they will still be able to deliver all other projects included in the Shire’s 2019/20 capital works program.

VOTING REQUIREMENTS

Absolute Majority: No

<p>RECOMMENDATION</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Due to there being no suitable tender offer, determines not to award Tender T06-1920 WANDRRA Cyclone Joyce Remediation Works to any tenderer. 2. Resolves to undertake the Cyclone Joyce Remediation Works in-house with the use of subcontractors.

SY030-03/20 CONTAINER DEPOSIT SCHEME REFUND POINT

File Number:	HS.WDL.3
Author:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Authoriser:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Previously before Council:	Not Applicable
Appendices:	1. WARRRL Agreement 2. Preferred Location & Possible Layout

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

To seek Council approval to enter into an agreement with Western Australia Return Recycle Renew Limited, WARRRL, to provide a Container Refund Point in York.

BACKGROUND

Containers for Change, Western Australia's container deposit scheme, will launch in June 2020 to help increase recycling rates and reduce litter.

A 10-cent refund will be provided for each eligible container, encouraging recycling and creating a cleaner Western Australia for everyone.

As part of the process, Western Australia Return, Recycle Renew, sought expressions of interest for the operation of a Container Refund Point.

Container refund points are required to accept, count and arrange payment of the 10 cents for all eligible containers received. In return, the Refund Point operator receives 6 cents per eligible container for processing and is reimbursed the 10 cents paid to the person who dropped off the container. The containers are then picked up by another contractor and taken to be recycled.

Shire officers submitted an expression of interest to provide a Container Refund Point in York in October 2019. We were informed that we were successful on the 17 December 2019. The Shire has been requested to enter into a Refund Point Agreement with WARRRL. A copy of the agreement is attached as Appendix 1.

COMMENTS AND DETAILS

There are significant community benefits in having a local Container Refund Point;

- **ENVIRONMENTAL** - Litter reduction. Improving the overall look of the Shire.
- **SOCIAL**
 - Generate jobs. (Refund Points and transport companies).
 - Benefit to Community Groups (income as a donation Point).
 - Not having to travel to a refund point. Taking people out of Town.
- **ECONOMICAL** - Reduced litter clean-up costs.
- **EDUCATIONAL** - Learning that waste has value.

The importance of the look and feel of the Town and the natural environment (particularly the Avon River) cannot be overstated for York with its reliance on events and tourism.

There are a number of different models for a Container Refund Point, ranging from a portable setup that can be moved from site to site, a permanent site with staff to receive the containers, through to fully automated reverse vending machines.

It is considered that a permanent site with staff would be the best option for York. An afterhours drop-off could be catered for, for pre-registered individuals/organisations.

Two locations were identified as being suitable for the refund point, the Transfer Station and the Shire Depot.

The integration of all waste/recycling receivals at the Transfer Station has benefits, one drop-off point for all recyclables/waste and possible integration, therefore reduced staff costs, with existing operation.

The Depot is closer to the town centre and the general public, it allows flexibility in operation with staff being on hand if needed. The hours of operation can be different to the Transfer Station and not cause confusion and it would be easier to cater for afterhours drop off. The approximate site location is shown in Appendix 2.

WARRRL has inspected both sites and considers both suitable, but prefers the Depot location as it is closer to the town.

Therefore, the Shire Depot is the preferred site.

It is recommended that casual staff be employed to staff the Container Refund Point initially. Once the work load can be quantified, the Shire can explore the possibility of working with community groups to provide staffing. Until there is an understanding of the workload involved it is hard to engage in meaningful discussions with community groups.

Depending on the final layout of the Container Refund Point it is likely to cost between \$50,000 and \$150,000. The Shire has \$185,380 in a Refuse Site Development Reserve "To be used for ongoing maintenance and development of Council's waste management facilities". The Container Refund Point would be part of Council's waste management facilities even if not located at the existing Transfer Station site. The existing Transfer Station is generally in a reasonable condition and apart from a few access road repairs and signage replacements, will not need additional expenditure in the foreseeable future.

Therefore, it is considered reasonable to use part of the reserve for the development of the Container Refund Point.

The Container Refund Point can be built in stages allowing basic operation initially and upgrading to a better standard for both customers and employees in the future. However, there is likely to be reworking/modification costs in the staged approach. It is probable that building to the higher standard initially will be less costly in the long run. Both options will be looked at as part of the design process.

A basic operational cost estimate shows that the Shire should cover its costs.

Income (excluding the 10c refunded to customers).

- Based on a population of 3606 (total Shire population) and a redemption rate of 50% (1 container per person per day) equates to 3606 containers per day or 25,242 containers per week.
- At 6 cents per container, this equals \$1,514.52 per week.

Expenditure (excluding the 10c refunded to customers).

- Based on operation 3 hrs Saturday and 8 hours during the week the labour cost is \$1,052.69 per week (existing Staff, other options such as casual or new staff would be less).
- Allow \$160 per week for insurance, building maintenance, services and depreciation.

Bottom line

- Gives a profit of \$301.83.

However, there are a significant number of unknowns and assumptions in these figures and no allowance has been made for the community benefits outlined earlier in this report.

Given that the operation of the Container Refund Point is likely to be cost neutral and the overall benefits to the community are significant, it is recommended that the Shire accepts the offer to provide a Container Refund Point in York.

OPTIONS

Council can;

- Accept WARRRL's offer to be a Container Refund Point and enter into an agreement with WARRRL to provide a Container Refund Point as recommended or;
- Decline WARRRL's offer to be a Container Refund Point. WARRRL will look for other options in providing York with a Container Refund Point.

IMPLICATIONS TO CONSIDER

Consultative

There has been no consultation on the recommendation of this report. If Council agrees to operate a container refund point, consultation with community groups outlining their opportunities for fund raising will be undertaken.

Strategic

Theme 1: The Place to Live: To be a place which is attractive and accessible for the young and elderly, and attracts people in the age groups in between to work and settle in the Shire.

1.8 The Shire has a clean, nuisance free and safe living environment.

Theme 2: A Leader in Cultural Heritage and Environment: To be a place which is renowned for its cultural heritage and the quality of its natural environment, and for the care taken by the community of both.

2.5 The Avon River and the river edges are restored to health, have high levels of biodiversity and people are able to use and enjoy both.

Policy Related

There are no Policy implications in relation to the recommendation of this report.

Financial

It is estimated that it is likely to cost up to \$150,000 to set up the Container Refund Point with costs to be finalised when a design is completed.

Council has \$185,380 in a reserve "To be used for ongoing maintenance and development of Council's waste management facilities". The Container Refund Point would be part of Council's waste management facilities even if not located at the existing Transfer Station site.

Therefore, it is recommended that this reserve be used to fund the development of the Container Refund Point.

Legal and Statutory

Nil

Risk Related

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The proposed RFT submissions are subject to individual project budgets.	Moderate	Nil
Health & Safety	Injury to the public, staff or contractors.	Moderate	The design will eliminate as much of the Health and safety risk as possible. Staff will be issued with appropriate PPE.
Reputation	Should there be no provision of a Container Refund Point or if another Municipality provides the service to York, this could affect the Shire's reputation.	Low	By the Shire providing the Container Refund Point this risk is eliminated.
Service Interruption	Should planned works or maintenance not be delivered adequately this could affect the Shire's reputation.	Moderate	Employing casual staff with the backup of existing staff allows for greater flexibility reducing the possibility of service interruption
Compliance	Purchases are required to be procured in accordance with policy and legislation. Operation are required to meet the compliance requirements of the agreement with WARRRL	Moderate	Shire procurement processes ensure the Shire complies with its statutory obligations. Staff will be trained in the operation of the software that is required to meet the compliance requirements of the agreement with WARRRL
Property	Damage to Council property.	Low	Access to Shire property will be under supervision reducing the likelihood of damage to Council property
Environment	The operations could result in damage to the environment.	Very Low	The overall Containers for change project will have significant environmental benefits

Workforce

Additional staff will be needed to carry out the duties at the Refund Point. It is

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council:

1. Agrees to provide a Container Refund Point at the Shire Depot.
2. Authorises the Chief Executive Officer to enter into a Refund Point Agreement with WARRRL, incorporating minor amendment as required.
3. Approves the use of the Refuse Site Development Reserve to fund the construction of a Container Refund Point.

SY031-03/20 REVIEW OF PARKING ARRANGEMENTS WITHIN THE YORK TOWN CENTRE

File Number:	RS.VEC
Author:	John Goward, Ranger
Authoriser:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Previously before Council:	N/A
Appendices:	<ol style="list-style-type: none">1. Community Flyer-Review of Parking Arrangements within the Town Centre2. Survey completed by residents of the Town Centre in relation to the proposals3. Plans of proposed parking bays

NATURE OF COUNCIL'S ROLE IN THE MATTER

Legislative

PURPOSE OF REPORT

The purpose of this report is for Council to consider a review of parking arrangements within the town centre.

BACKGROUND

The parking issues identified within the town centre are outlined below and are recommended for review:

Issues and recommendations identified by officers:

- Increase the existing 2-hour parking bays by 8 to compensate for the loss of bays as a result of the construction of new alfresco nibs.
- Increase of the 10-minute time restricted bays located outside the York Post Office from 10 minutes to 30-minute parking.
- The increase of additional motorcycle parking bays within the town centre.

Issues and recommendations identified by community members:

- To no longer identify parking bay in front of 53 Christie Retreat as a Parking for Persons with Disabilities Bay

COMMENTS AND DETAILS

According to the (Guide to Traffic Management Part 11: Parking Austroads 2008)

“Efficient Time Limits

Generally with adequate enforcement and an efficient time limit results in some parking bays being vacant at any given time, in business districts parking limits of increasing duration are usually applied at increasing distances from the heart of the district. This ensures the highest turnover for the highest demand areas while allowing longer term parking at greater walking distances.”

Maps of proposed parking amendments are attached at Appendix 3 to this report.

The determination of additional 2-hour time restricted parking bays

The construction of 2 alfresco nibs in Avon Terrace has resulted in the loss of a number of 2-hour time restricted parking bays.

It is recommended that Council considers determining 8 existing non-restricted parking bays located in Avon Terrace as 2-hour parking bays to compensate for the loss of the original 2-hour parking bays.

These bays are located in Avon Terrace between Harvey Road and Christie Retreat.

Changing the determination of the current short-term time restricted parking bays from 10 minutes to 30 minutes

The increased use of the post office and other facilities within the Town Centre has resulted in longer short term waiting times than the current 10-minute time restricted parking bays allow. It is recommended that Council considers increasing the current 10-minute time restriction to 30 minutes on the three short term parking bays located on Avon Terrace near the post office.

The determination of more motorcycle parking bays within the York Town Centre

It is only legal for a person to park a motorcycle in a car parking bay where there is no bay marked "M/C" in the parking region.

At times, it has been noticed that more motorcycles have arrived at Avon Terrace than can be legally parked.

It is recommended that Council considers making a determination that the motor cycle bays located outside of The Palace Hotel in Avon Terrace be extended by a further 3 bays.

The removal of the Parking for Persons with Disabilities Bay in front of 53 Christie Retreat, York

It is recommended that Council considers that this parking bay should not continue to be identified as a parking of persons with disabilities bay. No Shire records of the determination of this bay exist.

It is an offence under the *Local Government Act 1995; Local Government (Parking for People with Disabilities) Regulations 2014*, Regulation 8 to identify a parking bay as a permit parking area without written authority of Local Government. This bay was allegedly put in place when Senses (a disabilities services group) was renting the building. A physiotherapist and agricultural consultant are now renting the building.

As this bay was never determined by the Shire, it is recommended that the person with disabilities parking signage be removed and that it revert back to an unrestricted parking bay.

OPTIONS

1. Maintain the current number of 2-hour bays within Avon Terrace and keep the short-term parking in front of the post office at 10 minutes.
2. Council may suggest other options to compensate for the loss of numerous 2-hour parking bays and to compensate for what appears to be an inadequacy in the 10-minute timeframe for short term parking bays.
3. Council may wish to make a determination to keep the Parking for Persons with Disabilities Bay in Christie Retreat, however it appears to be unnecessary for the clientele of the nearby businesses and no records exist indicating that it has been authorised by the Shire as such a bay.

IMPLICATIONS TO CONSIDER

Consultative

Community consultation was carried out by the Shire's Community Ranger who visited 20 commercial premises located in Avon Terrace.

A Review of Parking arrangements flyer was given to each retailer (see Appendix 1).

The Flyer was accompanied by a survey form to ascertain those in favour or against the proposed parking determinations.

The Ranger explained each proposal in detail and answered questions.

Other than one person objecting to increasing the number of motorcycle parking bays, there was total support from the residents spoken to for the other proposals.

As there is no record of a determination of the parking of persons with disabilities bay located in front of 53 Christie Retreat, this matter was not included in the overall community consultation as it is recommended that this bay be removed.

The residents within the Town Centre were also advised both verbally and on the flyer that further comments could be emailed to records@york.wa.gov.au by 4.00pm Monday 3 February 2020.

No emailed comments were received by the due date.

A survey form was also given to the York Country Women's Association which was received by the Shire on 17 February 2020 (refer Appendix 2). This form was completed by 17 members who were unanimously in favour of extending the 2-hour parking area and increasing the 10-minute parking bays to 30 minutes, however 5 members objected to increasing the motorcycle bays as proposed.

Strategic

The place to live.

1.7 Positive, active involved community.

Strong leadership and governance.

5.1 Effective and informed decision making.

Policy Related

No current policy.

Financial

The financial implications to Council are the cost of removal of existing signage and the subsequent installation of new signage, the road marking of new parking bays and the continuation of regular parking patrols of the area. It is estimated that these costs will be between \$1,000 & \$2,000 and will be covered within existing maintenance budgets.

A small amount of revenue may be generated with the issue of infringement notices from time to time.

Legal and Statutory

Increasing 2-hour parking bays in Avon Terrace by 8 bays:

Shire of York Parking and Parking Facilities Amendment Local Law 2013

Determination of Parking Stalls

Part 2-Parking Stalls and Parking Stations, Section 2.1 Determination of Parking Stalls and Parking Stations, Sub Section 1. Part b and Sub Section 2 of the Councils Parking Local Laws have statutory implications for this proposal as indicated below:

- 1. The local government by resolution constitute, determine and vary-*

- a. *Parking stalls;*
 - b. *Permitted time and conditions and parking in parking stalls which may vary with the locality;*
 - c. *Permitted classes of vehicles which may park in parking stalls*
 - d. *Permitted classes of persons who may park in specified parking stalls; and*
 - e. *The manner of parking in parking stalls*
2. *Where the local government makes a determination under subsection (1), it shall erect signs to give effect to the determination.*

Increasing Motorcycle Parking by 3 bays:

Shire of York Parking and Parking Facilities Amendment Local Law 2013

3.2 Restrictions on parking in particular areas

- (2) *A person shall not park a vehicle—*
- (c) *in a bay marked “M/C” unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.*
- (3) *A person shall only park a motorcycle, without a sidecar or a trailer, or a bicycle, in a parking bay where there is no bay marked “M/C” in the parking region.*

The removal of the Parking for Persons with Disabilities Bay in front of 53 Christie Retreat, York:

Local Government (Parking for People with Disabilities) Regulations 2014

7. Standing or parking in permit parking area

A person must not, in a permit parking area, stand or park a vehicle other than an authorised vehicle.

Penalty: a fine of \$2 000.

Risk Related

Reputational risk may exist from failing to provide efficient time limits by not replacing the 2-hour parking bays lost by the creation of the alfresco nibs. This may result in a reduced turnover of clients for the central businesses and increased parking congestion.

Failing to recognise that the existing 10-minute short term parking bays need to be designated as a longer term 30-minute restricted parking to meet a changed in community needs may incur some community criticism.

As there is no record of the determination of the Parking Bay for Persons with Disabilities, to allow it to remain in front of 53 Christie Retreat, York may incur some community criticism. As no records exist to indicate that this bay was originally authorised by the Shire of York, it's possible that this bay was not been legally determined.

Workforce

Installation of signage and road markings to designate the additional time restricted 2-hour bays.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council determines, in accordance with *Shire of York Parking and Parking Facilities Amendment Local Law 2013*;

1. To extend the 2-hour restricted parking bays, hours 8am-5pm Monday to Friday and 8am-12noon Saturday to the Western side of Avon Terrace between Harvey Road and Christie Retreat in Appendix C.
2. To change the existing time restriction of three parking bays located on the eastern side of Avon Terrace near the York Post Office from 10-minute parking to 30-minute parking within the already stipulated hours of 8am-5pm Monday to Friday and 8am-12noon.
3. That the parking bay located in front of 53 Christie Retreat, York is no longer identified as a Parking Bay for Persons with Disabilities and authorises officers to remove this bay and relevant signage.

SY032-03/20 KEEPING OF POULTRY - 32 BOUVERIE RD, YORK

File Number:	BO2.9340
Author:	George Johnson, Environmental Health Officer
Authoriser:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Previously before Council:	N/A
Appendices:	1. Objections

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

For Council to consider a request to keep poultry (one rooster) at 32 Bouverie Road, York owned by Mr Peter Olsson.

BACKGROUND

The applicant's land is zoned Residential R5 and is 2,413 square metres in area.

Following a written noise complaint received by the Shire on 16 January 2020, Officers investigated the complaint and found the complaint to be justified.

Correspondence was subsequently forwarded to Mr Olsson on 21 January 2020 advising that a complaint had been received and was found to be justified as Mr Olsson had been noted to be keeping roosters without having first obtained Council approval as required by the Shire of York's Health Local Laws.

A search of the Shire's records found that Mr Olsson did apply to keep roosters at his property in 2014. The application process lapsed after a request for further information was sent and no further correspondence was received from Mr Olsson.

A new application to keep one rooster at 32 Bouverie Road, York was received from the owner of this property on 13 February 2020.

COMMENTS AND DETAILS

In support of the application, Officers were informed that the rooster has been fitted with a collar which will result in noise attenuation of the rooster in the future.

In order to ascertain the impact of Mr Olsson's request to keep one rooster at 32 Bouverie Road, York, all properties within a 75-metre radius were contacted for comment. This totalled 13 surrounding properties.

Of the 13 property owners contacted, 4 objections were received to this application. Objections are contained in Appendix 1 attached to this report.

Council last considered a similar request in October 2015. At the time, Council refused the application for keeping of any roosters at a larger residential property which was also within the York town site.

Considering the number of objections received and Council's previous decision not to approve a similar application, it is recommended that approval not be given to keep any roosters at 32 Bouverie Road, York.

OPTIONS

1. Approve the keeping of one rooster at 32 Bouverie Road, York subject to the Rooster always wearing a restrictive crowing collar.
2. Refuse the application to keep a rooster at 32 Bouverie Road, York.

IMPLICATIONS TO CONSIDER**Consultative**

In order to ascertain the impact of Mr Olsson's request to keep one rooster at 32 Bouverie Road, York, all properties within a 75-metre radius were contacted for comment. This included 13 surrounding properties.

Of the 13 property owners contacted, 4 objections were received to this application. Objections are contained in Appendix 1 attached to this report.

Strategic

Theme 1: The Place to Live Policy Related.

1.8 The Shire has a clean, nuisance free and safe living environment.

Financial

Failure to comply with Council approval may result in legal costs to enforce compliance.

Legal and Statutory

Health Act 1911

Shire of York, Health Local Laws 2007.

- *Council approval conditional or otherwise is required to keep any rooster.*
- *An owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of Council, on any one lot of land.*

Risk Related

Reputational risk,

- If Council does not approve the request, the Shire could be seen not to support self-sufficiency (breeding of chickens) and property owners' rights.
- If Council approves the request the Shire could be seen not to consider the amenity of neighbours.

Workforce

Nil

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council, after considering the community consultation and taking into account the amenity of the area, decline the application to keep one rooster at 32 Bouverie Road, York.

SY033-03/20 DISPOSAL PROCESS FOR ST PATRICKS CONVENT BUILDING, OLD TENNIS COURTS AND LOTS 2-6 AVON TERRACE AND LOT 13 REDMILE ROAD, YORK

File Number: SO1.60562 & SO1.60563, GL1.50048, AV1.60050

Author: Chris Linnell, Chief Executive Officer
Natasha Brennan, Administration and Governance Coordinator

Authoriser: Chris Linnell, Chief Executive Officer

Previously before Council: OCM 29 April 2019

Appendices: Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

To provide Council with an update on the following properties:

- St Patrick's Convent Building
- Old Tennis Courts
- Lots 2-6 Avon Terrace and 13 Redmile Road

This report seeks Council approval to extend the selling agency agreement for the above properties until 30 June 2020. This will provide a further time period for any offers to be received and considered as well as time for Council to consider the future of these properties in line with the review of the Strategic Community Plan and the 2020/21 Budget.

BACKGROUND

At the Ordinary Council Meeting, on 29 April 2019, Council considered the disposal process for the above-mentioned parcels of land and resolved the following:

"Resolution 090419

That Council:

1. *Notes that no tenders were received during the tender period for the following tenders:*
 - (a) *Tender T01-1819 – Disposal of Property – St Patrick's Convent School*
 - (b) *Tender T02-1819 – Disposal of Property – Old Tennis Courts*
 - (c) *Tender T03-1819 – Disposal of Property – Vacant land (Lots 2-6 Avon Terrace and Lot 13 Redmile Road).*

which brings this tender process to a close.
2. *Agrees that the late submission received was non-conforming for the reasons outlined in this report and therefore is not accepted.*
3. *Notes that any future sale will need to be considered in accordance with Section 3.58 (3) of the Local Government Act 1995.*
4. *Requests the Chief Executive Officer to continue to advertise the properties for sale (noting that any offers received will need to be considered in accordance with Section 3.58 (3) of the Local Government Act 1995) with the only advertising being the signage on the properties and website remaining in place until 30 June 2019.*

5. *Requests the Chief Executive Officer to present any offers received for any of the three properties to Council for consideration in accordance with Section 3.58 (3) of the Local Government Act 1995.*"

In reference to point four (4) above, it is noted that the advertising period for the properties expired on 30 June 2019. The signage is still in place and the properties remain listed on Ray White Commercial (WA) website.

COMMENTS AND DETAILS

Having undertaken a tender process to attempt disposal of the above properties, Council may now use the provisions of Section 3.58 (3) of the *Local Government Act 1995* (the Act) to dispose of the properties, if it so chooses.

Ray White Commercial was Council's chosen real estate agent to act on behalf of the Shire during the tender period. The selling agency agreement expired on 12 July 2019. However, Ray White Commercial (WA) has continued to take enquiries regarding the three properties. They have now requested an update from the Council, so that they can appropriately respond to any potential buyers.

Considering that enquiries are still being received, officers are recommending extending the selling agreement with Ray White Commercial (WA) to the end of this financial year.

OPTIONS

Council has a few options in relation to these properties.

Option 1

Extend the advertising period with Ray White Commercial (WA) to the end of the financial year and consider any offers received in accordance with Section 3.58(3) of the Act.

Option 2

Extend the advertising period but handle enquiries in-house. Council owns the existing signage and it would be easy to remove Ray White Commercial's details, replacing them with the Shire of York. Officers could also advertise the properties on the Shire of York Website. As with Option 1, Council can then consider any offers received in accordance with Section 3.58(3) of the Act. This option would have some impact on the existing workforce as enquiries would need to be dealt with by officers.

Option 3

Not extend the advertising period, remove all signage and formally end the agreement with Ray White Commercial (WA). Council could still consider offers received as long as Section 3.58 of the Act is complied with. Choosing to no longer advertise the properties means Council will have to consider the future of these properties, building them into the Strategic Community Plan and 2020/21 Budget.

IMPLICATIONS TO CONSIDER

Consultative

Ray White Commercial

Strategic

Implementing the outcome of the future use review of the St Patrick's Convent Building is an action in the Council's Corporate Business Plan and is also reflected in the Shire's budget for the 2018/19 financial year which also indicates proceeds received from this sale going towards repaying the loan to acquire the building.

The disposal of the Old Tennis Courts is not identified in the Corporate Business Plan but is included in the 2018/19 financial year budget with proceeds received from the sale going towards repaying loans associated with the development of the York Recreation and Convention Centre.

The disposal of the Lots on Avon Terrace is not identified in the Corporate Business Plan or the Shire's budget for the 2018/19 financial year.

Policy Related

F1.2 Procurement

Financial

In the 2018/19 financial year budget the following is included:

- \$49,115 in GL 144181 – Property Settlement Costs
- \$6,000 in GL 144181 for valuation fees
- \$15,435 in GL 42185 for organisational advertising
- \$10,000 in GL 42195 for Legal Expenses – Administration

The following costs have been incurred to date:

- \$7,700 (incl GST) to prepare the three current valuations.
- \$13,581 (incl GST) to Ray White Commercial to market all three properties including signage, print advertising and online advertising. This was higher than initially budgeted however is proposed to be offset by an agent's commission fee of 2.5% as opposed to 3.5% budgeted if the properties sell.
- Advertising costs of the three tenders in the West Australian (\$1,938) and the Community Matters (\$746).

Legal fees from McLeod's including preparation of tender documentation and advice has cost \$13,500 to date however there are expected to be some further minor costs.

Legal and Statutory

Local Government Act 1995

3.58. Disposing of property

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

(a) it gives local public notice of the proposed disposition —

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Risk Related

The Compliance Risk is Insignificant (1)

The Likelihood of Recurrence is Rare (1)

The overall Risk Rating is Low (1)

Workforce

Retaining Ray White Commercial (WA) to manage any enquiries regarding the three properties.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council

1. Requests the Chief Executive Officer to extend the selling agency agreement with Ray White Commercial (WA) for the following properties, until 30 June 2020:
 - St Patrick's Convent School
 - Old Tennis Courts
 - Vacant Land (Lots 2-6 Avon Terrace and Lot 13 Redmile Road), York.
2. Authorises the Chief Executive Officer to further extend the selling agency agreement period if required for a further 6 months.
3. Notes that any offers received will need to be considered in accordance with Section 3.58 (3) of the *Local Government Act 1995*.

SY034-03/20 NOONGAR STANDARD HERITAGE AGREEMENT - SOUTH WEST ABORIGINAL LAND & SEA COUNCIL AND SHIRE OF YORK**File Number: CS.LCS.13****Author: Carol Littlefair, Arts and Cultural Heritage Officer****Authoriser: Chris Linnell, Chief Executive Officer****Previously before Council: SY082-06/19 DRAFT TRAILS MASTERPLAN REPORT 24 June 2019****Appendices: 1. Noongar Standard Heritage Agreement between South West Aboriginal Land and Sea Council and Shire of York****NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

PURPOSE OF REPORT

This report puts forward a proposal that the Shire of York enters into a Standard Noongar Heritage Agreement with the South West Aboriginal Land & Sea Council, the peak body representing the Ballardong People in this area, to formalise consultation processes and preserve places of Aboriginal cultural significance.

BACKGROUND

Under the Aboriginal Heritage Act 1972 (WA) The Minister for Aboriginal Affairs and his delegated officers have the responsibility for recording, preserving and protecting places that are of significance in Western Australia. There are responsibilities under the Act for undertaking activities on land that may have Aboriginal cultural significance, with Government Due Diligence Guidelines that should be followed.

https://www.dplh.wa.gov.au/DepartmentofPlanningLandsHeritage/media/Documents/Information_services/Aboriginal%20heritage/AH-Due-diligence-guidelines.pdf

The Shire of York owns land, leases land and is responsible for and manages on behalf of the Crown, a number of Reserves and areas of public open space that are likely to have Aboriginal cultural significance. With the creation of the new Trails Masterplan highlighting possible increased use and changes to use of such land, these responsibilities have been brought sharply into focus. On 24 June Council passed a resolution to undertake a Noongar Cultural Heritage Survey on Wongborel/Mt.Brown.

Although some informal consultation has taken place with the local Noongar community about various matters, it is necessary to formalise this process, utilising the proper existing structure of a Standard Noongar Heritage Agreement.

COMMENTS AND DETAILS

The Agreement covers the types of Activity which need to be notified through an Activity Notice. Where no previous Aboriginal Heritage Survey has been conducted, there is a presumption that a Survey is required. Most of the Shire-managed or owned open spaces will fall under this category.

There is a standardised procedure for notifying SWALSC of proposed works, applying for permissions, issuing of Activity Notices and undertaking Heritage Surveys, including the selection of Aboriginal Heritage Service Providers [anthropologists/archaeologists/liaison officers] and the members of survey consultation teams. These are generally selected by and/or contracted through SWALSC. Reports must be issued in a standardised format and payments made at standard rates. SWALSC will also hold all intellectual property rights to material generated, but grants the proponent [in this case the Shire of York] licences to use the material. There are a number of other matters

described fully in the document, but in essence this Agreement formalises and standardises all dealings with land use in relation to Aboriginal cultural heritage matters.

In relation to the Trails Master Plan, this recommends under Objective 1 (1.4) Ensure appropriate engagement with Aboriginal stakeholders is undertaken in all stages of trail development, consistent with relevant legislation and the South West native title settlement. In addition, the National Trust (WA) publication 'We're a Dreaming Country' Guidelines for Interpretation of Aboriginal Heritage (2012) provides ethical guidelines for interpretation processes. Cultural considerations, such as areas for secret/sacred ritual, landmarks with particular significance and oral histories associated with a site are likely to be part of the intangible Noongar heritage of the area and no trails development should take place without full consultation. Undertaking the proper, formal processes of consultation and surveying under a Noongar Standard Heritage Agreement will provide the structure upon which to build better relationships with the Noongar community and protection of Aboriginal heritage. Information which the Noongar community are happy to make available in the public domain [not all information will be so] can then contribute to the broader public understanding of Aboriginal heritage and can empower Noongar tourism-related enterprises.

OPTIONS

Option 1 - Enter into a Noongar Standard Heritage Agreement with SWALSC

Option 2 - Not enter into a Noongar Standard Heritage Agreement with SWALSC

Option 1 is recommended as this will ensure the Shire of York is complying with its obligations under the Aboriginal Heritage Act [and any subsequent review of the Act, pending]

Option 2 is not recommended

IMPLICATIONS TO CONSIDER

Consultative

Officers have consulted with the Senior Legal Officer at SWALSC and the Senior Heritage Project Officer, Aboriginal Heritage, Department of Planning Lands and Heritage for advice regarding the process.

Strategic

The Corporate Business Plan:

Economic Development: Theme 3: Prepare a comprehensive Trails Master Plan that incorporates walk, bike, drive, bridle trails, signage and interpretation, 2019/20

Priority Budgeted Strategic Capital Projects; Open Space Assets: Theme 4: Improvement Programme – Mt. Brown, planning phase 2019/20, delivery phases 2020/21, 2021/22

The Strategic Community Plan:

Revitalisation: Driving the York Economy Forward, in the context of: 'a programme to use the town's strengths, including heritage' and the Key Challenge of Leveraging the 'Leap Forward' in Heritage and Tourism.

Theme 2: A leader in Cultural Heritage and the Environment, particularly:

- 2.1 Aboriginal culture is respected and showcased under the guidance of the Aboriginal community,
- 2.5 The Avon River and river edges are restored to health, have high levels of biodiversity and people are able to use and enjoy both,
- 2.6 The Shire's wildflower and at-risk habitats are protected,
- 2.9 There is a high level of community involvement in heritage and environmental conservation.

Theme 3: Driving the York Economy forward, particularly:

- 3.4 Visitor based economic activity is flexible, self-supporting, resilient, innovative and growing.

Policy Related

CP 1.1 Execution of Documents and Use of the Common Seal

This document requires the Use of the Common Seal. As there is a financial implication it may be considered a Category 1 document under:

Deeds of Agreement and Release in respect of the sale, purchase or **other commercial dealing relating to the Shire's assets, including equitable assets;**

or a Category 2 document, under:

General and legal service agreements not already listed in this policy;

Financial

In the Agreement, Schedule 5 – Costs for Conduct of a Survey indicate the standard rates for various providers and survey participants. Examples are:

Aboriginal Heritage Service Providers [anthropologists/archaeologists etc] – approx. \$1000 per day

Principal Aboriginal Heritage Consultant [often the senior Elder of the area] – approx. \$1000 per day

Other Aboriginal Heritage Consultants [Elders/others with local knowledge] – approx. \$500 per day

Please see the Agreement Schedule 5 for fuller details.

Legal and Statutory

Destruction damage or alteration (impact) to an Aboriginal site without the prior consent of the Minister for Aboriginal Affairs (Minister) is an offence under section 17 of the Aboriginal Heritage Act.(1972). (Any ground disturbing works to land can be classified as destruction, damage or impact).

Risk Related

Without a formal consultation and survey process in place the Shire of York runs a major Reputational risk if works are undertaken in areas of public open space that are likely to be culturally sensitive.

It could be possible to cause catastrophic, irreversible damage to an Aboriginal heritage site, which if, as is likely, is a natural landscape feature, so running a critical Environmental risk of irreversible damage.

Workforce

There will be an additional workload for Officers as the liaison processes and administration of Activity Notices, Surveys, etc, are quite complex and time-consuming, although these will be intermittent and project – based and can be managed as such.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council resolves to enter into a Noongar Standard Heritage Agreement with the South West Aboriginal Land & Sea Council.

SY035-03/20 APPOINTMENT OF YORK HONOURS REFERENCE GROUP MEMBERS

File Number:	CS.CCS.3
Author:	Helen D'Arcy -Walker, Council and Executive Support Officer
Authoriser:	Chris Linnell, Chief Executive Officer
Previously before Council:	28 October 2019
Appendices:	1. Nominations Received for the York Honours Reference Group - Confidential 2. Updated Terms of Reference

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

The purpose of this report is to consider the nominations and appointment of community members to the York Honours Reference Group following the disbandment of the group on 27 January 2020.

BACKGROUND

Following local government elections in October 2019, Council is asked to consider membership of all Committees and Working Groups at the November 2019 Ordinary Council Meeting. The Shire's policy G2.5 Reference Groups also requires a call for nominations for community representatives.

At the Ordinary Council Meeting in October 2019 Council was requested to re-instate the York Honour Reference Group with the current members until 27 January 2020.

COMMENTS AND DETAILS

Following Australia Day 2020, Officers sought nominations from community members for the York Honours Reference Group in accordance with Council's policy G2.5 Reference Groups by advertising in the York Community Matters newspaper, on the Shire's website and via the Shire's Facebook page.

Four nominations were received from community members for the four available places.

Nominations were received from:

- Mrs Margaret Wallace
- Mrs Bev Penny
- Mrs Gwen Gentle
- Mrs Elaine Ashford

Mr Wayne Collins did not re-nominate for a place on the York Honours Reference Group.

OPTIONS

Council can accept or reject the Officers recommendation. However, if Council rejects any of the nominations then the Shire will need to re-advertise the positions.

IMPLICATIONS TO CONSIDER**Consultative**

As outlined above, nominations for the vacant positions were sought via public advertising in the Community Matters newspaper, on the Shire's website and via Facebook.

Strategic

This report addresses the following outcomes of the Shire's Strategic Community Plan

Theme 5: Strong Leadership and Governance

- 5.1 The Council supported by the administration of the Shire of York is effective and informed in its decision-making and exhibits good practice in its governance role.
- 5.5 There is a strong collective voice on key issues of concern to the community.
- 5.6 There are high levels of community engagement in decision-making.
- 5.7 The Shire and community exhibit a 'can-do' philosophy.
- 5.8 Communication between the Shire and the community is open, smart, and efficient, uses a range of methods including social media, is factually informative and makes use of collaborative community networks.
- 5.9 Community networks are supported and promoted as a way of increasing people's involvement in civic life.

Policy Related

G2.5 Reference Groups

Financial

Nil

Legal and Statutory

The York Honours Reference Group is not a formally constituted Committee under Section 5.8 of the *Local Government Act 1995*.

Risk Related

Nil

Workforce

Nil

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That with regard to the York Honours Reference Group, Council:

1. Appoints the following Community Member representatives:
 - Mrs Margaret Wallace
 - Mrs Bev Penny
 - Mrs Gwen Gentle
 - Mrs Elaine Ashford
2. Thanks Mr Wayne Collins for his contribution to the York Honours Reference Group over many years
3. Adopts the updated Terms of Reference for the York Honours Reference Group.

SY036-03/20 SHIRE OF YORK SPONSORSHIP ALLOCATIONS 2019/20

File Number:	FI.DON; LE.CNT.3
Author:	Suzie Haslehurst, Executive Manager, Corporate & Community Services Esmeralda Harmer, Events and Economic Development Officer
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not applicable
Appendices:	1. Multi-year Funding Agreement Template 2. Sponsorship Allocations 2019-20

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report provides an overview of the sponsorship allocations adopted as part of the 2019/20 Budget to inform decisions regarding requests for renewal of multi-year sponsorship agreements to be considered as separate items in this agenda and those to be considered in the future.

BACKGROUND

Council has historically provided support for activities, organisations and events that contribute to the Shire's community, social and economic objectives and align with Council's Strategic Community Plan.

Support for community led activity contributes to York's vision as;

"A vibrant and inviting agricultural, heritage and tourist town and a Shire community that is focused on and works collaboratively to improve and promote the town and the Shire of York as a destination and a wonderful place to live."

Most local governments in Western Australia provide a mechanism for the support of community, business and economic activities. Shire of York policies C1.3 *Community Funding: Grants and Sponsorship* and C1.4 *Sponsorship of Tourism Events* provide the parameters for considering applications for support. Two rounds of sponsorship are open to the community each year. These are usually for one-off activities and are promoted via Community Matters, the Shire website and via social media with the application forms and guidelines available on the Shire's website and in hard copy at the Administration Office.

Applications are considered against the criteria contained in Council policies and the guidelines and recommendations are approved by Council.

In certain circumstances Council has resolved to provide multi-year funding to organisations and or/events that have a demonstrated capacity to contribute to the Shire's objectives annually over an extended period. In 2016, this was formalised through a written multi-year funding agreement document that outlines the obligations of each of the parties to the agreement ie amount, payment terms, acknowledgement and acquittal requires. The template agreement is attached as Appendix 1 to this report (Note: minor amendments may be made to the agreement to reflect the amount of sponsorship and the level of risk associated with the activity).

Multi-year funding agreements are for a maximum of three years. Several agreements previously entered have either expired or are due for expiry this year.

COMMENTS AND DETAILS

The following table outlines the status of the Shire's current multi-year funding agreements.

Recipient	Start	Expiry	Provisions (All amounts are ex GST)
York Arts & Events	1-Mar-17	31-Oct-19	\$22,000 annually paid as milestone payments Financial contribution to the York Festival Hire of Shire buildings & reserves not included (charged to YAE each year at NFP rate)
York Society	1-May-17	30-Nov-19	\$4,500 annually paid as milestone payments increased to \$6,500 in 2019 by Council resolution. Financial contribution to support the annual Art & Craft awards, one heritage week event and previously the welcome to York bags given to new residents Hire of Shire buildings & reserves not included (charged to YS each year at a NFP rate)
Avon Valley Motor Museum Association	1-Jan-18	31-Dec-20	\$18,000 per annum - 50% in January, 50% in June each year
York Agricultural Society	1-Jul-18	1-Oct-20	\$11,000 annually paid as milestone payments (50%, 40% & 10% on receipt of acquittal) Financial contribution for the annual York Show Hire of Shire buildings & reserves not included Charged to YAS each year as an exclusive hire fee of \$1,000 for the YRCC complex as per fees & charges
Premiere Events	1-Mar-19	30-Jun-21	\$22,500 annually paid as milestone payments Financial contribution for the annual York Motorcycle Festival Agreement includes extending Saturday activities of the Festival Hire of Shire buildings & reserves not included – charged separately at a NFP rate subject to the hire area being free to the public (Council Resolution 130219)

In addition, in 2012 Council resolved to support Voice of the Avon 101.3FM (York Community Radio) for the following three years. This support was continued informally through the annual budget process until June 2017. In February this year, Council resolved to honour the allocation of \$3,000 to York Community Radio included in the adopted 2019/20 budget. However, there is no formal agreement in place.

Several activities, organisations and events have received funding on an annual basis either through the Community Sponsorship rounds or via Council resolution over several years and included in the budgeting process each year. However, no formal agreement is in place. These include:

- York District High School - Book Awards (\$2,000)
- York Motor Show (\$6,000)
- York Christmas Festival (\$12,000)

In addition, the following have received funding more than once via the Shire's community sponsorship funding rounds but are currently unallocated funds;

- The Medieval Fayre (\$5,000)
- Seniors Appreciation Day (\$2,000)
- York Community Resource Centre – varying amounts for youth activities

Officers have received several requests for renewal of multi-year funding agreements and recommend that these are considered individually on their merits and in accordance with Council's

policies and the sponsorship guidelines. However, officers are also seeking direction from Council regarding entering into further multi-year agreements with those activities, events and/or organisations that are required to apply annually through the community funding rounds offered.

Attached at Appendix 2 to this report is an outline of the funds budgeted for support in the 2019/20 adopted budget. Councillors will note that the funding pool currently available to service the two community sponsorship rounds is \$75,500.

Should Council wish to formalise the funding arrangement with all of the above, Council would need to either allocate further funds or choose to reduce the amount available for the two community sponsorship rounds.

OPTIONS

Council could choose to:

1. Continue to support annual activities/events through the annual budget process. However, this means that there are no documented obligations on either party, providing no certainty for activities, organisations and events that continue to occur on an annual basis and limited accountability for the Shire.
2. Determine that the amount allocated annually to sponsorship and grants is sufficient, request the Chief Executive Officer to negotiate and enter into a multi-year funding agreement with all or certain annual activities/events and reduce the pool available for community sponsorship rounds accordingly. This option reduces the amount available for new and emerging activities, organisations and events that could contribute to the Shire's community, social and economic objectives.
3. Consider investing a further amount up to \$5,000 in sponsorship and grants as part of the 2020/21 budget process, request the Chief Executive Officer to enter into a multi-year funding agreement with all annual activities/events and retain the currently allocated amount available for community sponsorship rounds. This option maintains the current amount available for the community sponsorship rounds while providing certainty and a framework for support of annual events that are held on a recurring basis.

Officers are recommending Option 2 and propose that officers consult with the following to negotiate a multi-year agreement;

- York District High School - Book Awards (\$2,000pa)
- York Motor Show (\$3,000pa)
- York Christmas Festival (\$12,000pa)

Council could, if it wished, requests that a multiyear agreement is entered into for the Medieval Fayre. However, it is noted that there is uncertainty regarding who will coordinate this event in the future.

IMPLICATIONS TO CONSIDER

Consultative

Should Council choose to enter into further multi-year funding agreements, consultation with the organisations and individuals involved will be required.

Strategic

The Place to Live

1.7 *Positive, active and involved community*

Strong and Effective Leadership

5.1 *Effective and informed governance and decision-making*

5.4 *Open and accountable systems*

Policy Related

C1.3 *Community Funding: Grants and Sponsorship*

C1.4 *Sponsorship of Tourism Events*

Financial

The financial implications have been discussed earlier in this report.

Legal and Statutory

Nil

Risk Related

Should Council choose not to enter into multi-year funding agreements for recurring activities and event, this poses a reputational risk which is considered moderate (6) and a potential financial risk which is also rated moderate (6). Entering into agreements ensures that the expectations on both parties are clear and reduces the risk to ratepayer funds.

Workforce

The officer time to administer and monitor the new multi-year agreements can be managed within existing resources.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council:

1. Requests the Chief Executive Officer to negotiate multi-year funding agreements for the following activities and events that occur on an annual basis to commence following the adoption of the 2020/21 annual budget;
 - York District High School - Book Awards (\$2,000)
 - York Motor Show (\$3,000)
 - York Christmas Festival (\$12,000)
2. Authorises the Shire President and Chief Executive Officer to engross the final agreements.

SY037-03/20 THE YORK SOCIETY - REQUEST FOR NEW MULTI-YEAR FUNDING AGREEMENT

File Number:	CS.LCS.5; FI.DON
Author:	Suzie Haslehurst, Executive Manager, Corporate & Community Services Esmeralda Harmer, Events and Economic Development Officer
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not applicable
Appendices:	1. The York Society Multiyear Funding Proposal

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report presents a request from The York Society Inc. for a new three-year funding agreement commencing 1 July 2020.

BACKGROUND

The York Society Inc. (TYS) was established in 1968 with the aim of promoting the History, Heritage, Culture, and Arts in York. Membership based and operated entirely by voluntary support, TYS endeavours to involve the community in its work and through its cultural events promote a much wider awareness of York throughout the state.

As a not for profit entity, TYS is financed through a mix of membership fees, facility hire and income generated through events and activities run by the organisation throughout the year.

Prior to 2017, the Shire supported TYS-driven events through a mixture of cash and in-kind contributions on an ad-hoc basis. At the Ordinary Council Meeting held in April 2017, Council resolved to enter into a multi-year funding agreement with TYS, providing \$4,500 per annum for three years, expiring on 30 June 2020.

In September 2019, following a review of and significant increase to, the fees and charges for the hire of the York Town Hall, TYS requested a variation to the agreement. At the Ordinary Council Meeting held 23 September 2019, it was resolved:

That Council:

- 1. Agrees to vary the existing multiyear agreement between the Shire of York and the York Society to reflect an increase from \$4,500 per annum to \$6,500 for the 2019/20 financial year of the agreement from GL132150 Festivals Assistance.*
- 2. Agrees to the change of events to be delivered under the existing agreement by the York Society to include co-delivery of (2) two Heritage Week events in partnership with the Residency Museum and the York Library.*
- 3. Authorises the Shire President and Chief Executive Officer to engross the amended agreement on behalf of the Shire of York.*

Since this time TYS has elected a new executive and do not wish to co-deliver Heritage Week events in partnership with the Residency Museum and York Library. TYS intends to deliver its own events during this time and has provided a proposal outlining these events which is attached as Appendix 1

to this report. This proposal includes a request to renegotiate a new funding agreement commencing 1 July 2020.

Officers are requesting Councillors to consider this request based on the following points contained in the Shire of York C1.3 *Community Funding, Grants and Sponsorship Policy*:

- *In exceptional circumstances, the Council may consider support for a project for a maximum period of three years where it considers the project presents major benefits to the community and it is consistent with strategic direction.*
- *Consideration must include the cost/benefit of effectively reducing the available funding pool for other applicants over this period.*
- *Where Council sees significant benefit to the community of maintaining support for a project or activity on an on-going basis, it may resolve to consider, via the Integrated Planning and Reporting Framework review cycle or the Annual Budget process, inclusion as a Multiyear Funding Agreement.*

Officers have met with TYS on two occasions to discuss the proposal which includes a request for \$10,000 per annum for the next three years to support activities that in 2020 include;

- York Big Dance – fundraising event for the Royal Flying Doctor Service (March)
- Photographic Awards (April)
- 2 events during the Australian Heritage Festival (April/May)
 - Hidden Memories: an alternative history of York
 - Private York: access to private residences not normally open to the public
- Welcome to York event (June)
- Christmas in July annual dinner (July)
- Arts & Craft Exhibition with an Open Studios weekend and Wheatbelt Art Trail (October)
- Improvements to the Sandalwood Gallery

A proposal provided to officers in February is attached at Appendix 1. Officers have not been provided with an acquittal for the 2018/19 funding year.

COMMENTS AND DETAILS

As outlined above, Council increased the allocation to TYS in 2019 from \$4,500 to \$6,500 primarily to cover the cost of hiring the Town Hall but also in recognition of the co-delivery of two events as part of National Heritage Week.

TYS has requested \$10,000 per annum for three years which is an increase of nearly 54% on the amount provided in 2019 and 122% on the previously agreed amount of \$4,500 per annum. Although both the Art and Craft Awards and the Photographic Awards have a demonstrated history of success, without a detailed acquittal and projection of anticipated targets, it is difficult to determine the benefits to the community of the entire program proposed.

OPTIONS

The following options are proposed for Council's consideration;

1. Not support TYS on a multiyear basis. However, TYS is a small, volunteer-run organisation that benefits from the surety of a multiyear funding agreement.
2. Not provide funding to TYS at all. This would potentially jeopardise the operations of the organisation and imply a lack of recognition of the work of TYS to contribute to the social and cultural objectives of the Shire.

3. Support TYS to the full extent of the request received (\$10,000). Without a detailed outline of the outcomes to be provided, it is difficult to determine the specific benefits to justify such an increase.
4. Provide support to a maximum of \$6,500 per annum subject to all the conditions of the agreement being met on an annual basis.

Officers are proposing option 4 as the preferred option based on the proposal received.

IMPLICATIONS TO CONSIDER

Consultative

The York Society Inc

Strategic

The Place to Live

1.7 Positive, active and involved community

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.4 Open and accountable systems

Policy Related

C1.3 Community Funding: Grants and Sponsorship

Financial

There is an allocation in the 2019/20 adopted budget of \$6,000 for TYS (GL132150 – Festivals and Events). Council could choose to increase the amount of sponsorship but would need to consider increasing the allocation to this account or reduce the amount of funding available for the community sponsorship rounds provided bi-annually. It is also recommended that any payment is subject to all conditions of the agreement being met on an annual basis.

Legal and Statutory

Nil

Risk Related

Should Council choose not to accept the Officer's recommendation, there is a reputational risk that is considered moderate (8). Should Council choose to increase the sponsorship amount there will be a moderate (5) financial impact.

Workforce

The officer time to administer and monitor the new multi-year agreement can be managed within existing resources.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council:

1. Receives the request for multiyear funding from the York Society as attached at Appendix 1 to this report.
2. In recognition of the York Society's contribution to the Shire's community, social and cultural objectives, requests the Chief Executive Officer to negotiate a multiyear funding agreement with the York Society under the following conditions;
 - a) The Agreement will commence 1 July 2020 and expire on 30 June 2023.
 - b) The amount of sponsorship will be a maximum of \$6,500 per annum (excluding GST) sourced from GL 132150 – Festivals and Events.
 - c) Payment will be subject to all conditions of the Agreement being met on an annual basis.
3. Authorises the Shire President and the Chief Executive Officer to engross the final agreement.
4. Requests the Chief Executive Officer to include the above amount in the 2020/21 budget process.

SY038-03/20 YORK ARTS & EVENTS INC - REQUEST FOR NEW MULTIYEAR FUNDING AGREEMENT 2020-2022

File Number: FI.DON; CS.CEV; LE.CNT.3

Author: Suzie Haslehurst, Executive Manager, Corporate & Community Services
Esmeralda Harmer, Events and Economic Development Officer

Authoriser: Suzie Haslehurst, Executive Manager, Corporate & Community Services

Previously before Council: Not Applicable

Appendices: 1. YAE Multiyear funding proposal 2020-22

Declaration of Interest – Ms Joanna Bryant, Project Officer – Impartiality - I am Chair of York Arts & Events Inc

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report presents a request from York Arts and Events Inc to enter into a new multiyear funding agreement for Council's consideration.

BACKGROUND

In December 2016, it was resolved;

That Council;

1. *Receives the acquittal of the 2016 York Festival.*
2. *Requests the Chief Executive Officer to negotiate a draft three Year Funding Agreement with the organisers of the York Festival subject to the following conditions:*
 - (a) the York Festival becoming an incorporated body;*
 - (b) a maximum of \$22,000 per annum to be provided as a cash contribution to the Festival;*
 - (c) any works undertaken by the Shire to be charged as private works;*
 - (d) promotion and acknowledgement of the Shire's contribution; and*
 - (e) provide acquittal requirements as per the C1.3 Community Funding: Donations, Grants, Sponsorship, and Waiver of fees Policy.*
3. *Requests the Chief Executive Officer to present the draft Agreement to Council for consideration prior to execution.*

The above agreement was entered into in February 2017 following incorporation of York Arts and Events Inc (YAE). YAE has delivered the annual York Festival since 2014.

COMMENTS AND DETAILS

Following a meeting with officers in mid-February this year, YAE has provided a proposal for multi-year funding of \$39,500 per annum from 2020-2022. The proposal is attached at Appendix 1.

The York Festival has gained significant momentum as an arts and cultural event since 2014. Each year has seen an increase in the activities included in the Festival and attendances. YAE reports that community engagement has grown from 10% in 2015 to 32% in 2019 and overall attendees are reported to have exceeded 20,000 across the three weekends and two weeks of the Festival in 2019.

There has been some conjecture regarding the collection and reporting of attendance data. Officers have been informed that YAE uses methodology provided by Tourism WA to calculate both attendance numbers and the economic impacts of the event. Notwithstanding, the York Visitor Centre has reported significant increases in visitation during the Festival period particularly during the past three years. Indeed, the addition of the Wara art activities has seen an influx of international visitors, increased profile for York and has resulted in the development and promotion of the Wara Art Trail which is proving highly successful.

While the request for funding from the Shire is to support the annual York Festival, YAE has indicated that it will explore other initiatives during the term of the proposed agreement to build the sustainability of the organisation including:

- Skills development for locals
- Initiation of a Wheatbelt art trail
- Investigation into the feasibility of an arts and culture centre
- Further development of relationship between Wara art Japan and York with participation in the Indian Ocean Triennial in 2021.

The proposed Festival program for 2020 offers a diverse range of activities including but not limited to theatre, sand sculpture, a writer's festival, circus performance and activation of Avon Terrace shopfronts. The proposal includes targets for local attendance, visitors, estimated spend by visitors to York and the multiplier effect of the Shire's contribution.

While the proposal request of \$39,500 represents a 79.5% increase on the amount previously provided under the existing multi-year agreement, it represents just 13.9% of the total festival budget.

OPTIONS

The following options are proposed for Council's consideration;

1. Not support YAE on a multiyear basis. However, it is argued that the York Festival makes a significant contribution to the Shire's community, social, cultural and economic objectives and entering into a multiyear agreement is in accordance with Council's policy *C1.3 Community Funding: Grants and Sponsorship*.
2. Not provide funding to YAE at all. This would jeopardise the provision of one of the largest events in the York calendar which brings significant numbers of visitors to town and imply a lack of recognition of the event's contribution to the community, social, cultural and economic objectives of the Shire.
3. Support YAE to the full extent of the request received (\$39,500). Based on reported attendances, this represents a contribution of \$1.97 per attendance. Based on 50% of reported attendances, the amount represents a contribution of \$3.95 per attendance.
4. Provide support to a lesser amount per annum in recognition of the Shire's capacity to contribute.

Officers are proposing option 4 as the preferred option based on the fact that the event already receives the second highest amount of sponsorship provided on an annual basis by Council. However, in recognition of the growth of the event and its significant contribution to tourism and the Shire's community, social, cultural and economic objectives, officers are proposing an increase to \$30,000 per annum which represents a maximum contribution of \$3.00 per attendance.

IMPLICATIONS TO CONSIDER**Consultative**

York Arts and Events Inc.

Strategic

The Place to Live

1.7 Positive, active and involved community

A Leader in Cultural Heritage and Environment

2.4 Performance and arts are a strong part of the Shire's image

Driving the Economy Forward

3.4 Innovative growing and self-reliant tourism sector

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.4 Open and accountable systems

Policy Related

C1.3 *Community Funding: Grants and Sponsorship*

C1.4 *Sponsorship of Tourism Events*

Financial

Should Council approve the Officer recommendation, a further \$8,000 will need to be considered as part of the 2020/21 budgeting process and subsequent budgeting processes to honour the three-year term of the proposed agreement. Additional funds to support the increased amount could be considered from GL132150 Festivals & Events, however this would mean a reduced funding pool available to consider applications received through the Shire's community funding rounds offered twice yearly.

Financial acquittals would still be required each year of the agreement, detailing how the monies were spent in accordance with Council's *C 1.3 Community Funding: Grants & Sponsorship Policy & C1.4 Sponsorship of Tourism Events Policy, Clause 4, Acquittal.*

Legal and Statutory

Nil

Risk Related

Should Council choose not to enter into a multi-year funding agreement with YAE for the York Festival, this poses a reputational risk which is considered High (12) and a potential financial risk which is rated moderate (6). Entering into an agreement ensures that the expectations on both parties are clear and reduces the risk to ratepayer funds.

Should Council choose to provide the full amount requested there will be a moderate (8) financial impact.

Workforce

The officer time to administer and monitor the new multi-year agreement can be managed within existing resources.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council:

1. Receives the request for multiyear funding from York Arts and Events for the York Festival as attached at Appendix 1 to this report.
2. In recognition of the York Festival's contribution to the Shire's community, social, cultural and economic objectives, requests the Chief Executive Officer to negotiate a multiyear funding agreement with York Arts and Events under the following conditions;
 - a) The Agreement will commence 1 July 2020 and expire on 30 June 2023.
 - b) The amount of sponsorship will be a maximum of \$30,000 per annum (excluding GST) sourced from GL 132150 – Festivals and Events.
 - c) Payment will be subject to all conditions of the Agreement being met on an annual basis.
3. Authorises the Shire President and the Chief Executive Officer to engross the final agreement.
4. Requests the Chief Executive Officer to include the above amount in the 2020/21 budget process.

SY039-03/20 COUNCILLOR TRAINING AND CONTINUING PROFESSIONAL DEVELOPMENT POLICY

File Number: OR.CLR.2; OR.CMA.4

Author: Suzie Haslehurst, Executive Manager, Corporate & Community Services

Authoriser: Suzie Haslehurst, Executive Manager, Corporate & Community Services

Previously before Council: 28 January 2016
24 October 2016
25 February 2019

Appendices: 1. Marked Up Draft G1.2 Councillor Training and Continuing Professional Development

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

Following changes to legislation, this report presents proposed amendments to the Shire of York Policy *G1.2 Councillors: Professional Development*.

BACKGROUND

On 27 June 2019, the *Local Government Legislation Amendment Act 2019* was proclaimed which included the addition of universal training for elected members. Section 5.128(1) states:

A local government must prepare and adopt a policy in relation to the continuing professional development of council members. * Absolute majority required.*

Amendments to the *Local Government (Administration) Regulations 1996* prescribe the type of training required to be undertaken and conditions under which an exemption can be applied.

Council first adopted Policy *G1.2 Councillors: Professional Development* in October 2016 and amended the policy in February 2019. This report proposes further minor amendments to reflect the changes in legislation outlined above.

COMMENTS AND DETAILS

The current policy provides for an annual program of training to be developed. However, this has been done on an ad-hoc basis with an annual budget allocation of \$3,000 for each elected member to take advantage of training opportunities of their choice and to attend the WA Local Government Association Conference. Members are required to provide a report on each professional development activity undertaken which is presented to Council.

As part of the 2019/20 budget process, the overall allocation was increased in recognition of changes to legislation requiring universal training for elected members.

In July 2019, a *Good Governance in Local Government* workshop was held with elected members and senior officers and in August 2019, six elected members and the Chief Executive Officer attended the WALGA Conference in Perth. The Shire has also supported Cr Trent in completing a Diploma of Local Government.

The draft policy attached at Appendix 1 to this report proposes the following changes;

- Minor wording changes to better reflect legislative requirements;

- Removal of the \$3,000 allocation per Councillor to enable the budget to be set annually depending on the professional development program developed and to take into account the election cycle; and
- Reference to the new sections of the *Local Government Act 1996* and new regulations added to the *Local Government (Administration) Regulations 1996*.

OPTIONS

Council could choose not to adopt the amendments proposed by officers. However, these changes have been included to ensure the policy reflects legislative requirements.

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport and Cultural Industries

WA Local Government Association

Strategic

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

Policy Related

G1.2 *Councillors: Professional Development*

G4.8 *Legislative Compliance*

Financial

An allocation of \$40,000 was included in the adopted 2019/20 annual budget (GL 41102 Members of Council – Conference Expenses) to reflect the need for mandatory training for elected members. Councillors have completed several free, online programs as well as attending the WALGA Conference.

Legal and Statutory

Local Government Act 1995

5.126. Training for council members

- (1) *Each council member must complete training in accordance with regulations.*
- (2) *Regulations may —*
 - (a) *prescribe a course of training; and*
 - (b) *prescribe the period within which training must be completed; and*
 - (c) *prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and*
 - (d) *provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5 000 for the offence.*

[Section 5.126 inserted: No. 16 of 2019 s. 61.]

5.127. Report on training

- (1) *A local government must prepare a report for each financial year on the training completed by council members in the financial year.*

- (2) *The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.*

[Section 5.127 inserted: No. 16 of 2019 s. 61.]

5.128. Policy for continuing professional development

- (1) *A local government must prepare and adopt* a policy in relation to the continuing professional development of council members. * Absolute majority required.*
- (2) *A local government may amend* the policy. * Absolute majority required.*
- (3) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*
- (4) *The CEO must publish an up-to-date version of the policy on the local government's official website.*
- (5) *A local government —*
- (a) *must review the policy after each ordinary election; and*
 - (b) *may review the policy at any other time.*

[Section 5.128 inserted: No. 16 of 2019 s. 61]

Local Government (Administration) Regulations 1996

35. Training for council members (Act s. 5.126(1))

- (1) *A council member completes training for the purposes of section 5.126(1) if the council member passes the course of training specified in subregulation (2) within the period specified in subregulation (3).*
- (2) *The course of training is the course titled Council Member Essentials that —*
- (a) *consists of the following modules —*
 - (i) *Understanding Local Government;*
 - (ii) *Serving on Council;*
 - (iii) *Meeting Procedures;*
 - (iv) *Conflicts of Interest;*
 - (v) *Understanding Financial Reports and Budgets; and*
 - (b) *is provided by any of the following bodies —*
 - (i) *North Metropolitan TAFE;*
 - (ii) *South Metropolitan TAFE;*
 - (iii) *WALGA.*
- (3) *The period within which the course of training must be passed is the period of 12 months beginning on the day on which the council member is elected.*

[Regulation 35 inserted: Gazette 9 Aug 2019 p. 3022-3.]

36. Exemption from Act s. 5.126(1) requirement

- (1) *A council member is exempt from the requirement in section 5.126(1) if —*
- (a) *the council member passed either of the following courses within the period of 5 years ending immediately before the day on which the council member is elected —*
 - (i) *the course of training specified in regulation 35(2);*
 - (ii) *the course titled 52756WA — Diploma of Local Government (Elected Member); or (*

- b) *the council member passed the course titled LGASS00002 Elected Member Skill Set before 1 July 2019 and within the period of 5 years ending immediately before the day on which the council member is elected.*
- (2) *A person who is a council member on the day on which the Local Government Regulations Amendment (Induction and Training) Regulations 2019 regulation 8 comes into operation is exempt from the requirement in section 5.126(1) until the end of their term of office.*

[Regulation 36 inserted: Gazette 9 Aug 2019 p. 3023.][37-39. Deleted: Gazette 9 Aug 2019 p.3022.]

Risk Related

Should Council choose not to adopt the proposed amendments to the policy, the risk of non-compliance is moderate with a moderate reputational risk resulting.

Workforce

There are no workforce implications resulting from the officer recommendation.

VOTING REQUIREMENTS

Absolute Majority: Yes

RECOMMENDATION

That Council:

1. Adopts the amended policy G1.2 *Councillors: Training and Continuing Professional Development* as attached to this report.
2. Requests the Chief Executive Officer to publish the amended policy on the Shire's website and make the policy available in alternative formats upon request.

SY040-03/20 PANELS OF PRE-QUALIFIED SUPPLIERS POLICY

File Number:	OR.CMA.4
Author:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not applicable
Appendices:	1. Draft Policy: Panels of Prequalified Suppliers

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report presents a new policy *Panels of Pre-Qualified Suppliers* for Council's consideration and adoption.

BACKGROUND

In July 2019, Officers presented the outcomes of a Procurement Review to the Audit and Risk Committee and then to Council. Part of the review recommended changes to policy *F1.2 Procurement* with the following reported to Council:

Panels of Pre-Qualified Suppliers

The PMG reviewed the purchasing history of several suppliers to the Shire and noted that some suppliers (particularly trades such as plumbing, electrical etc.) may reach the tender threshold within a certain period of time. However, the Department of Local Government (DLGSC) advise that there are a number of variables to consider when determining the threshold amount such as the period during which the purchases were made, the type of purchases and whether the purchases could reasonably be considered separate contracts.

The Shire may choose to establish a panel of Pre-Qualified Suppliers in accordance with Part 4 – Division 3 of the *Local Government (Functions and General) Regulations 1996*. However, it is proposed that a separate policy is developed to govern the use of Pre-Qualified Suppliers and ensure compliance with legislation.

A policy has now been drafted in accordance with the WALGA template and is presented for Council's consideration.

COMMENTS AND DETAILS

At the February Ordinary Council Meeting, Council was asked to consider a panel tender for the provision of Plant Hire. In the absence of a policy, Council resolved to adopt the following criteria as a basis of awarding this work to one of eight tenderers.

Officers noted that it is time consuming for officers and frustrating for contractors to have to provide quotations for the same works and services on a recurring basis. This adds to 'local government red tape' and often results in smaller, local contractors being unwilling or unable to be competitive. Establishing a Panel of Pre-qualified suppliers means that local contractors can be appointed to a panel without having to continually provide quotations for required works. Properly managed, panels are an efficient way of;

- a) Ensuring compliance with purchasing policy and regulations;
- b) Providing opportunities for local suppliers; and

- c) Ensuring the Shire can secure the goods and services required in an efficient and timely manner.

The *Local Government (Functions and General) Regulations 1996* provide for the establishment of panels of pre-qualified suppliers under certain conditions. One of these is that a policy is adopted setting out how the panel(s) will be operated. The attached policy has been drafted to satisfy Regulation 24AC.

OPTIONS

Council could choose not to adopt the draft policy and determine that no panels will be established. However, as outlined above there are benefits to establishing a Panel where it can be demonstrated that there will be a need to procure particular goods or services on an on-going basis.

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport and Cultural Industries

WA Local Government Association

Strategic

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

Policy Related

F1.2 *Procurement*

G4.8 *Legislative Compliance*

Financial

All goods and services procured using a Panel will be in accordance with adopted budgets.

Legal and Statutory

Local Government (Functions and General) Regulations 1996

24AC. Requirements before establishing panels of pre-qualified suppliers

- (1) *A local government must not establish a panel of pre-qualified suppliers unless —*
- (a) *it has a written policy that makes provision in respect of the matters set out in subregulation (2); and*
 - (b) *the local government is satisfied that there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers.*
- (2) *The matters referred to in subregulation (1)(a) are —*
- (a) *how the local government will procure goods or services from pre-qualified suppliers, including any process for obtaining quotations from them; and*
 - (b) *how the local government will ensure that each pre-qualified supplier on a panel of pre-qualified suppliers will be invited to quote for the supply of the goods or services that the pre-qualified suppliers will be expected to supply; and*
 - (c) *how the local government will ensure clear, consistent and regular communication between the local government and pre-qualified suppliers; and*
 - (d) *any factors that the local government will take into account when distributing work among pre-qualified suppliers; and*

- (e) *the recording and retention of written information, or documents, in respect of —*
 - (i) *all quotations received from pre-qualified suppliers; and*
 - (ii) *all purchases made from pre-qualified suppliers.*

[Regulation 24AC inserted in Gazette 18 Sep 2015 p. 3808-9.]

Risk Related

Should Council choose not to adopt the proposed policy, the following risks will apply;

Risk	Risk Type	Rating
Extra time taken to procure goods and or services	Service Interruption	Moderate (9)
Repeated requests for quotations for same or similar goods or services	Reputational	Moderate (8)
Project timeframe overruns	Project – Time	Moderate (6)

Workforce

There are no workforce implications other than potentially saving time during the procurement process for recurring goods and services.

VOTING REQUIREMENTS

Absolute Majority: Yes

<p>RECOMMENDATION</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Adopts the proposed policy F1.9 <i>Panels of Pre-Qualified Suppliers</i> as attached to this report. 2. Requests the Chief Executive Officer to publish the amended policy on the Shire’s website and make the policy available in alternative formats upon request.
--

SY041-03/20 YORK MEN'S SHED INC - AMENDMENT TO LEASE

File Number:	LE.CNT.1.10
Author:	Natasha Brennan, Administration and Governance Coordinator
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	29 July 2019
Appendices:	1. McLeod's Letter of Advice - Confidential 2. Draft Deed of Variation - Confidential 3. Draft Deed of Partial Surrender - Confidential

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive
Review

PURPOSE OF REPORT

The York Men's Shed Inc currently has a lease for the whole of Reserve 9203, Lot 85 Carter Road. This report presents to Council the proposed partial surrender of excess land currently leased by the York Men's Shed back to the Shire and it also proposes a deed of variation to the terms of the lease to clarify insurance obligations.

BACKGROUND

Council at the Ordinary Council Meeting 29 July 2019 resolved:

Resolution 230719

"That Council, in recognition of the fact that there may be other community uses for the land that is excess to the needs of the Men's Shed, requests the Chief Executive Officer to:

- 1. Negotiate with the Men's Shed to amend the current lease to relinquish the surplus land; and*
- 2. Bring a report back to Council to determine a process for lease of the land to another community organisation."*

This report addresses Point 1 of the Council Resolution.

COMMENTS AND DETAILS

Following a review of the current lease between the Shire of York and the York Men's Shed Inc, there are two (2) items that require Council's consideration:

1. Surrendering of Excess Land

The process of relinquishing the excess land from the current lease, back to Council, requires the Shire to prepare a Deed of Partial Surrender (Appendix 3 refers) and a Deed of Variation of Lease documents (Appendix 2 refers).

These documents are subject to and conditional on the Minister for Lands consent, pursuant to the provisions of the *Land Administration Act 1997*.

Once Ministerial approval has been granted, these documents must be lodged with Landgate.

Officers met with representatives from the York Men's Shed Inc on 16 September 2019 and identified matters that needed to be addressed. Following the meeting, additional

correspondence was received from the York Men's Shed Inc, agreeing to the matters raised and providing further clarification.

A summary of the outcomes is provided below:

- The York Men's Shed Inc provided the building, fencing, water / electricity connections & gates on the vacant leased land at its own cost
- The York Men's Shed Inc has no objections to the proposed area of land referred to in Annexures 2 and 3 of the lease documents, being surrendered back to the Shire and has pegged out the area
- The York Men's Shed Inc wishes to be kept informed of any prospective community groups who wish to utilise this land
- The York Men's Shed Inc has agreed to maintain the entire site, but only until the transfer of the land is finalised, at which stage the responsibility would be taken over by the Shire until another community group takes up occupation. The Men's Shed Inc may consider by agreement with the Shire to continue to maintain the site with a donation being met by the Shire
- The Shire will be responsible for maintaining the excess land including firebreaks, once the surrender of land has been finalised
- If the Shire provides the cost of the materials to erect the new dividing fence, the Men's Shed Inc agrees to erect the fence at no extra cost to the Shire
- The current water meter, which was established at the cost of the York Men's Shed Inc is located on the excess land. It is noted that once the site is leased to another community group, a separate water meter will need to be installed. The York Men's Shed Inc requests confirmation from Council that the York Men's Shed Inc will bear no financial responsibility for moving or establishing a new meter
- The land may need to be surveyed by a qualified surveyor
- The process will take time to finalise
- The Men's Shed Inc has requested that all costs associated with document preparation, lodgement & legal fees in amending the existing lease to be borne by the Shire, as it is the Council that has initiated the request to surrender the excess land
- The insurance obligations need to be amended in the lease – this can be done at the same time, through the deed of variation and is addressed below

Map

It is noted that Landgate has confirmed that the sketch map of the surrendered portion of land provided in Annexure 2 and Annexure 3 of the lease documents is acceptable and does not need to be surveyed by a qualified surveyor.

Surrender Date

The surrender date is proposed to be 31 December 2020. Officers propose this date to allow enough time for the lease documentation to be executed and lodged with Landgate and allow for the installation of the fence by the York Men's Shed.

If the fence is not completed by the surrender date, then the Shire will still take over the responsibility of the surrendered portion of land, while the fence is still being finished.

2. Deed of Variation

Following a review of the lease, it was noted that the Shire does not insure the building or contents on the land. The York Men's Shed Inc has confirmed that they carry building and contents insurance for the building constructed on the premises.

Clause 6.4.1 and Item 11(f) of the Schedule to the Lease appear to contradict each other and Item 11(f) of the Schedule does also not define what the appropriate insurances are.

The Shire's solicitors have advised that the original lease template used to prepare the lease was not for a ground lease arrangement and many clauses in the lease assume that the Council has leased the building to the lessee, whereas when the lease was originally entered into, there was no infrastructure on the land, therefore the lease was for the land only.

A copy of the advice from McLeod's is attached as Appendix 1 to this report.

As the current lease already requires changes to be made in relation to the area of land being surrendered, officers propose that it would be in the best interests of both parties to make these changes at the same time.

Appendix 2 provides the Draft Deed of Variation for consideration. Also included in the deed is a copy of the existing lease (Annexure 2) and the proposed surrendered portion of land (Annexure 3).

OPTIONS

There are two (2) lease amendment options being requested to be approved by Council that are addressed in this Council report.

Council has already agreed to Item 1 - Surrendering of Excess Land, which was resolved at the Ordinary Council Meeting 29 July 2019. This report provides the first step in the process of acquiring the excess land, through negotiations with the York Men's Shed Inc, preparing the Deed of Partial Surrender and obtaining the Minister for Lands approval.

Item 2 – Deed of Variation provides the opportunity for Council to amend the lease at the same time to provide clarity to both parties regarding their insurance obligations, thereby resolving any issues that may arise in the future over insurance responsibilities.

If the Council decides not to proceed then this could place the Shire in a precarious situation, given the inconsistencies in the lease. There is no budget allocation if an insurance claim was to arise and the Shire has an obligation to repair the building and structures on the land.

IMPLICATIONS TO CONSIDER

Consultative

McLeod's Barristers & Solicitors
York Men's Shed Inc

Strategic

Theme 5: Strong Leadership and Governance

5.1 The Council supported by the administration of the Shire of York is effective and informed in its decision making and exhibits good practice in its governance role.

Policy Related

CP1.5 Compliance
G2.9 Community Engagement and Consultation
G4.6 Risk Assessment and Management

Financial

There have already been legal costs associated with preparing the Deed of Variation and Deed of Partial Surrender, amounting to just under \$3,000. There will be further costs to lodge the documents with Landgate. It is estimated that these costs will be under \$300.

Extra expenditure to consider in the current and future budgets:

- Cost of materials for dividing fence (Men's Shed will provide labour to erect the fence)
There are no funds allocated for the fence in the 2019/20 Budget.
- The Shire will need to provide for a new water meter or move the existing water meter when the need arises in the future. This cost may be reimbursed as part of the lease negotiations with any future community groups.
- Once the surrender date has expired, the Shire will be responsible for maintaining the land until such a time as a community group takes over a lease. Costs to be incorporated into future budgets would need to include firebreaks / slashing.

Legal and Statutory

The Shire has a management order with power to lease over the land in question which is a reserve owned by the Crown.

The current lease is for the whole of the land comprised Reserve 9230, Lot 85 Carter Road, York.

Surrendering part of the land requires Minister for Lands approval and lodgement of a Deed of Partial Surrender with Landgate.

The deed of variation also requires Minister for Lands approval and lodgement with Landgate.

Risk Related

At this stage, the risk rating is minor, considering the Shire does not have any future plans for the use of this reserve.

Once the surrender date has expired, the Shire will be responsible for the surrendered portion of land.

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: Yes

RECOMMENDATION

That Council:

1. Agrees to enter into the Deed of Variation of Lease: Reserve 9203, Lot 85 (No.11) Carter Road, York attached as Appendix 2 to this report.
2. Agrees to enter into the Deed of Partial Surrender of Lease, Pt Reserve 9203 – Lot 85 (No.11) Carter Road York, as attached in Appendix 3 to this report, with a surrender date of 31 December 2020.
3. Requests the Chief Executive Officer to seek the consent of the Minister for Lands on both Deeds – Deed of Partial Surrender and Deed of Variation of Lease.
4. Once consent has been received from the Minister for Lands, authorises the Shire President and Chief Executive Officer to engross the deed documentation and lodge the Deeds with Landgate.
5. Notes the York Men's Shed Inc will not be responsible for any legal fees or costs associated with the document preparation & lodgement with Landgate.
6. Requests the Chief Executive Officer to include an allocation for Council's consideration in the draft 2020/21 Budget to provide materials for the dividing fence.
7. Notes the York Men's Shed Inc has agreed to install the fence at no extra cost to the Council.

SY042-03/20 OUTSTANDING RATES AND CHARGES - PAYMENT AGREEMENTS

File Number: FI.DRS.3.1

Author: Anneke Birleson, Finance Officer (Rates & Debtors)

Authoriser: Suzie Haslehurst, Executive Manager, Corporate & Community Services

Previously before Council: 25 February 2020

Appendices: 1. Summary of Payment Agreement Applications - Confidential

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

The purpose of this report is to provide Council with details regarding two payment arrangement applications the Shire has received, that do not qualify under Delegation DE3-3.

This report seeks Council's approval to accept the officer recommendation regarding the proposed arrangements, as detailed in Confidential Appendix 1.

BACKGROUND

At the Ordinary Council Meeting held on 25 February 2019, Council resolved to accept a revised Finance Policy F1.1 Revenue Collection.

The Policy and Delegation 3-3 authorises the Chief Executive Officer to accept payment arrangements, for outstanding rates and charges where there are no arrears and the balance will be paid in full by 30 June of the relevant financial year. Any applications outside this scope must be presented to Council for review and acceptance or rejection. Any application for a payment arrangement relating to sundry debtor charges must be referred to Council as there is currently no delegation.

COMMENTS AND DETAILS

Council has considered thirty four (34) applications for the 2019/20 financial year.

The Shire has received a request to modify one of these arrangements and one (1) further application for the 2019/20 financial year that does not qualify under DE3-3 and therefore, requires Council consideration.

The applicants are claiming financial difficulties as a result of their current circumstances.

Confidential Appendix 1 details the current debts and a brief reason why the debtors cannot meet the standard payment options. The table also provides officer recommendations for the applications.

Applications are assessed on a case by case basis, taking into consideration people's circumstances, in accordance with policy F1.1 Principle (c).

Any application that is approved is subject to the condition where any default may result in legal action for debt recovery without further notice. Debtors (excluding pensioners and sundry debts) are also made aware that interest continues to accrue.

OPTIONS

Council could elect to approve or reject the officer recommendation. However, officers have worked with the applicants regarding their current financial circumstances and ability to pay. One of the principles of the revenue collection policy is that people's circumstances are taken into account.

IMPLICATIONS TO CONSIDER**Consultative**

Not Applicable

Strategic

Theme 5: Strong Leadership and Governance

5.3 The Shire's public finances are sustainable in the short and long-term.

Policy Related

F1.1 Revenue Collection

DE3-3 Agreement as to Payment of Rates and Service Charges

Financial

The total debt associated with the payment arrangements relating to rates and charges, as at 29 February 2020 is \$9,014.58.

This represents approximately 0.45% of the outstanding rates and charges as at 29 February 2020.

Legal and Statutory***Local Government Act 1995******6.49. Agreement as to payment of rates and service charges***

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Risk Related

The Financial Risk is Minor (2).

The Likelihood of Recurrence is Possible (3).

The overall risk rating is Moderate (6).

The risk can be considered acceptable as there is a policy in place to control and manage the risk. Should any debtors default on their arrangement, legal action can be taken to recover the due amounts.

The financial risk reduces as debts are paid.

Workforce

The scope of this report will have a minor impact on the workforce, relating to ongoing monitoring of payments.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council approves the applications for a payment agreement as detailed within Confidential Appendix 1, with the condition that any default may result in legal action.

SY043-03/20 FINANCIAL REPORT FOR FEBRUARY 2020

File Number:	FI.FRP
Author:	Tabitha Bateman, Finance Manager
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not Applicable
Appendices:	<ol style="list-style-type: none">1. Monthly Financial Statements - February 20202. Creditors Payments Listing - February 20203. Business Card Statement and Transaction Summary

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Legislative
- Review

PURPOSE OF REPORT

The purpose of financial reporting and the preparation of monthly financial statements is to communicate information about the financial position and operating results of the Shire of York to Councillors and the community and monitors the local government's performance against budgets.

BACKGROUND

Local governments are required to prepare general purpose financial reports in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the *Australian Accounting Standards*.

A statement of financial activity and any accompanying documents are to be presented to the Council at an ordinary meeting of the Council within two months after the end of the month to which the statement relates. The Statement of Financial Activity summarises the Shire's operating activities and non-operating activities.

COMMENTS AND DETAILS

The Financial Report for the period ending 29 February 2020 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 29 February 2020
- List of Creditor Payments
- Business Card Statement and Transaction Summary

The following information provides balances for key financial areas for the Shire of York's financial position as at 29 February 2020;

Outstanding Rates and Services

The total outstanding rates balance at the end of February was \$ 1,999,043 compared to \$2,160,599 as at 31 January 2020. The final instalment is due 20 March 2020 and represents approximately \$512,000 of the outstanding balance.

Current Year	Properties	29/02/2020	%	Properties	28/02/2019	%
3 years and over	87	\$455,960.88	23%	68	\$415,726.14	20%
2 years and over	94	\$187,586.32	9%	96	\$209,596.25	10%
1 year and over	135	\$268,601.64	13%	150	\$266,993.43	13%
Total Prior Years outstanding		\$912,148.84	46%		\$892,315.82	44%
Current Rates	1225	\$1,086,893.68	54%	1214	\$1,147,132.77	56%
Total Rates Outstanding		\$1,999,042.52			\$2,039,448.59	

In accordance with Council's Revenue Collection policy, requests for payment arrangements are presented to Council for consideration. Officers are currently managing a number of payment arrangements outside of the ordinary payment options adopted by Council as presented to Council from time to time. In the event a payment arrangement is not entered into, outstanding balances are referred for debt collection.

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 29 February 2020 were \$95,437 compared to \$98,357 reported at 31 January 2020. Of the \$18,995 outstanding in the 90 days and over category, four debtors have current payment arrangements and two have been referred for debt collection representing \$17,948 in total. The significant variance between years relates to a long outstanding debt written off by Council resolution in June 2019.

Current Year	29/02/2020	%	28/02/2019	%
90 days and over	\$18,994.91	20%	\$272,335.95	93%
60 days and over	\$707.48	1%	\$2,748.34	1%
30 days and over	\$37,550.54	39%	\$14,456.50	5%
Current	\$38,183.63	40%	\$3,046.05	1%
Total Debtors Outstanding	\$95,436.56		\$292,586.84	

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Not applicable

Strategic

Theme 5: Strong and Effective Leadership

- 5.1 Effective and informed governance and decision-making
- 5.3 A financially sustainable Shire
- 5.4 Open and accountable systems

Policy Related

Policy F1.2 Procurement
Policy F1.6 Credit Cards

Policy F1.5 Authority to make payments from Trust and Municipal Funds

DE 3.1 Authority to make Payments from Trust and Municipal Funds

Financial

This report and its appendices provides a summary of the financial position of the Shire at the end of the reporting period.

Legal and Statutory

Local Government Act 1995

6.10. *Financial Management Regulations may provide for —*

- (a) *the security and banking of money received by a local government; and*
- (b) *the keeping of financial records by a local government; and*
- (c) *the management by a local government of its assets, liabilities and revenue; and*
- (d) *the general management of, and the authorisation of payments out of —*
 - (i) *the municipal fund; and*
 - (ii) *the trust fund, of a local government.*

Local Government (Financial Management) Regulations 1996

13. *Payments from municipal fund or trust fund by CEO (Act s. 6.10)*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
 - (a) *the payee's name; and*
 - (b) *the amount of the payment; and*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*

34. *Financial activity statement required each month (Act s. 6.4)*

(1A) *In this regulation —*

committed assets *means revenue unspent but set aside under the annual budget for a specific purpose.*

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) *budget estimates to the end of the month to which the statement relates; and*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*

- (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
 - (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

Risk Related

It is a requirement of the *Local Government (Financial Management) Regulations 1996* that local governments prepare a Statement of Financial Activity within two months after the end of the reporting period. This report mitigates the risk of non-compliance with the regulations.

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 29 February 2020 as summarised below:

Feb-20

MUNICIPAL FUND	AMOUNT
Cheque Payments	100,223.06
Payroll Debits	205,169.88
Electronic Funds Payments	591,391.71
Payroll Debits - Superannuation	42,888.45
Bank Fees	954.35
Corporate Cards	-
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	<u>452.54</u>
Sub total - Municipal	941,316.61
TRUST FUND	
Electronic Funds Payments	1,786.86
Cheque Payments	-
Direct Debits Licensing	<u>129,266.00</u>
Sub total - Trust	131,052.86
TOTAL DISBURSEMENTS	1,072,369.47

SY044-03/20 INVESTMENTS - FEBRUARY 2020

File Number:	FI.FRP
Author:	Tabitha Bateman, Finance Manager
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not applicable
Appendices:	1. Investment Register - February 2020

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Legislative
- Review

PURPOSE OF REPORT

To report to Council the balance and distribution of investments held by the Shire of York as at 29 February 2020.

BACKGROUND

Council's policy F1.4 - *Investment* requires Council to review the performance of its investments on a monthly basis. In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York.

COMMENTS AND DETAILS

The Shire of York Investment Portfolio includes the following items that highlight Council's investment portfolio performance:

- a) Council's Investments as at 29 February 2020
- b) Application of Investment Funds
- c) Investment Performance

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Standard and Poor's Australia - Global ratings

Financial institutions

Strategic

Not applicable

Policy Related

Policy F1.4 *Investment*

DE 3-2 Invest Money Held in Municipal and Trust Funds

Financial

Revenue from investments is a funding source for the Shire and assists in maintaining the value of reserve funds. Policies and procedures are in place to ensure appropriate, responsible and accountable measures are in place to protect the Shire's funds.

Legal and Statutory

Local Government Act 1995

6.14. Power to invest

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may —*
 - (a) *make provision in respect of the investment of money referred to in subsection (1); and*
 - [(b) deleted]*
 - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*
 - (d) *provide for the application of investment earnings; and*
 - (e) *generally provide for the management of those investments.*

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

- (1) *A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.*
- (2) *The control procedures are to enable the identification of —*
 - (a) *the nature and location of all investments; and*
 - (b) *the transactions related to each investment.*

19C. Investment of money, restrictions on (Act s. 6.14(2)(a))

- (1) *In this regulation —*

authorised institution means —

 - (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
 - (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*

foreign currency means a currency except the currency of Australia.
- (2) *When investing money under section 6.14(1), a local government may not do any of the following —*
 - (a) *deposit with an institution except an authorised institution;*
 - (b) *deposit for a fixed term of more than 3 years;*
 - (c) *invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
 - (d) *invest in bonds with a term to maturity of more than 3 years;*

(e) *invest in a foreign currency.*

Risk Related

Funds are invested with various financial institutions in accordance with the global credit framework outlined in the Shire's investment policy to reduce risk.

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council receives and notes the Shire of York Investment Portfolio attached to this report.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

12 BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

13 MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the Meeting may be closed

RECOMMENDATION

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23(2) of the Local Government Act 1995:

SY045-03/20 - Confidential - Request for Write Off - Rates and Charges

This matter is considered to be confidential under Section 5.23(2) - e(ii) and e(iii) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government and a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government.

SY046-03/20 - Confidential - Chief Executive Officer Key Performance Indicators for 2020/21

This matter is considered to be confidential under Section 5.23(2) - a of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a matter affecting an employee or employees.

13.2 Public Reading of resolutions to be made public

14 CLOSURE