



# **CONFIRMED MINUTES**

## **Ordinary Council Meeting Monday, 16 December 2019**

**Date: Monday, 16 December 2019**

**Time: 5.00pm**

**Location: Council Chambers, York Town Hall, York**

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**MINUTES OF SHIRE OF YORK  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS, YORK TOWN HALL, YORK  
ON MONDAY, 16 DECEMBER 2019 AT 5.00PM**

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

**1 OPENING**

1.1 Declaration of Opening

*Cr Denese Smythe, Shire President, declared the meeting open at 5.00pm.*

1.2 Disclaimer

The Shire President advised 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

*Nil*

1.4 Announcement of Visitors

*Mr Gordon Marwick, Freeman of the Shire of York*

1.5 Declarations of Interest that Might Cause a Conflict

*Nil*

1.6 Declaration of Financial Interests

*Cr Denese Smythe – SY180-12/19 – Development Application: Supermarket (Shop), Shops, Medical Centre and Community Purpose Development Lots 3 (880 and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York*

*Cr Pam Heaton - SY180-12/19 – Development Application: Supermarket (Shop), Shops, Medical Centre and Community Purpose Development Lots 3 (880 and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York*

*Cr Kevin Trent - SY180-12/19 – Development Application: Supermarket (Shop), Shops, Medical Centre and Community Purpose Development Lots 3 (880 and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York*

*Cr Stephen Muhleisen – SY181-12/19 – Draft Local Planning Strategy and Local Planning Scheme No. 3*

1.7 Disclosure of Interests that May Affect Impartiality

*Nil*

## 2 ATTENDANCE

### 2.1 Members

*Cr Denese Smythe, Shire President; Cr Denis Warnick, Deputy Shire President; Cr Ashley Garratt; Cr Pam Heaton; Cr Stephen Muhleisen; Cr Kevin Trent;*

### 2.2 Staff

*Allen Cooper, Acting Chief Executive Officer; Suzie Haslehurst, Executive Manager, Corporate & Community Services; Darren Wallace, Executive Manager, Infrastructure & Development Services; Helen D'Arcy-Walker, Council & Executive Support Officer*

### 2.3 Apologies

*Cr David Wallace*

### 2.4 Leave of Absence Previously Approved

*Nil*

### 2.5 Number of People in the Gallery at Commencement of Meeting

*There were twelve people in the Gallery at the commencement of the meeting.*

## 3 QUESTIONS FROM PREVIOUS MEETINGS

### 3.1 Response to Previous Public Questions Taken on Notice

#### **Mr John Tapper**

##### **Question:**

To the Shire of York C.E.O.

Re: Making the easement at 957, 959 & 961 Talbot Rd into a road instead of opening road number 3979 from Talbot Road.

For those that may not be aware it involves myself as well as Angus Jones as it passes through lot number 7522.

Are you aware that any land taken from me will be fully compensated as well as fenced to 20.12 metres?

I am totally against this option, I look forward to the Shire seeing the light and opening up road number 3979.

##### **Response provided by the Acting Chief Executive Officer:**

Yes, Council is aware that compensation may be required to obtain the land.

Fencing of a road reserve is the responsibility of the land owner.

#### **Mr Simon Saint**

##### **Question:**

Section 2.10 of the LGA states that the role of a councillor is to represent the interests of electors, ratepayers and residents of the district.

WALGA is not the body that represents the public interest; WALGA defines itself as, quote "... as the peak industry body WALGA advocates on behalf of the 139 WA Local Governments and negotiates service agreements for the sector".

The definition of a 'service agreement' is an agreement between two parties or businesses (i.e. the SOY and LGIS) where one agrees to provide a specified service to the other. However, WALGA negotiates with no other insurance provider, rather, it promotes only its subsidiary company, Local Government Insurance Scheme (LGIS).

Can councillors claim to be acting in the best interests of the electors, ratepayers and residents of the district if it accepts the recommendation(s) of what is essentially a publicly funded private monopoly that uses its market power to indirectly extract maximum profit from ratepayers?

**Response provided by the Acting Chief Executive Officer:**

The statement is correct that WALGA is a member organisation that advocates for Local Governments and negotiates service agreements for the sector.

However, the statement in isolation does not also include the context of WALGA's procurement compliance requirements that any services offered are to "clearly add value to the operations of Local Governments" and in turn savings for ratepayers.

Specifically, for the Shire of York - for the 2018/19 financial year - the Shire accessed \$430,279 of supplier contracts for a saving on market rates of \$75,000.

The Shire's WALGA Membership fee was \$9,085.

In addition, in regard to the LGIS insurance service, the Shire will receive a surplus distribution of \$23,528 - funds which under a commercial arrangement would have been retained by the insurer as profit.

As to LGIS, WALGA initiated the provision of the member insurance mutual in response to Local Governments being unable to secure adequate cover from insurers given the individual risks.

Most recently WALGA has completed a process involving three independent reviews of LGIS governance, performance and operations to help ensure the scheme is offered most efficiently.

The competitiveness of the scheme has been further demonstrated in that 15 Local Governments in recent years have tendered their insurance services and remained or returned to LGIS.

The only WA Local Government that does not use LGIS is the City of Nedlands which is not a member of WALGA and as such does not access any member services. A recent item to the City of Nedlands regarding the insurance service detailed that staff had identified that Nedlands would save \$138,000 if it returned to LGIS however the Council decided to remain with the alternative provider and consequently continue the additional cost to ratepayers.

All WALGA members use LGIS with three Councils who left the scheme returning after one year due to a combination of exorbitant cost increases in the second year with their alternative provider; poor claims and customer experiences; and in some cases having insufficient cover to meet their obligation under various legislation.

Therefore, Council does believe it is working in the best interests of the electors, ratepayers and residents of the district in purchasing and utilising the services of WALGA and LGIS.

**Question:**

I would like to point out that the following question has been put to the administration department, but to date no response has been provided.

**Question:** Where is the logic in the SOY 'events committee' (which consists of SOY staff) holding a meeting just one working day before an event to discuss whether or not there is any need to write to adjoining land owners, clearly this leaves insufficient time for adjoining landowners to be notified, certainly it leaves insufficient time for adjoining landowners to make any comments?

**Response provided by the Acting Chief Executive Officer**

I understand that a number of questions regarding an event held in Peace Park on Sunday the 13<sup>th</sup> of October have been responded to.

In regard to the timing of the meeting of the internal events committee. The Public Events Guide March 2019 states:

**CONSULTATION WITH THE COMMUNITY**

*Approximately four weeks prior to your event, you may need to contact surrounding businesses and residents to let them know the event is taking place and outline any potential affects, particularly if your event is deemed as a large event or requires a 'Approved Non-Complying Event' (Regulation 18) permit. You must provide a copy of the letter drop undertaken with your event application, including the addresses of the residents notified and if any return responses have been received. Depending on the location, timing, size and scale of the event, the Events team may also advise that you need to notify:*

- WA Police
- Fire & Emergency Services (FESA)
- St John's Ambulance Service & York Hospital

I agree and will endeavour to ensure that the internal events committee meet in adequate time (pending receipt of the events application) to determine if the applicant needs to undertake any consultation with the community.

**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.

Public Question Time Commenced at 5.02pm.

4.1 Written Questions – Current Agenda

**Sally Anne Hasluck**

**Question:**

In a situation in which the Shire Planner’s report on the SY180-12/19 Development Application noted that there will be an extra 300 cars a day using the proposed exit into Monger Street with headlights presenting a problem for the residents of the street (eg 22 Monger Street) can the Council now confirm that the problem has been solved by condition 11(a)(ii) of the recommendation which calls for plans providing that vehicular access to Monger Street is not permitted?

**Response provided by the Acting Chief Executive Officer:**

Council does believe that the issue has been resolved by not having any vehicular access to Monger Street (condition 11(a)(ii)).

4.2 Public Question Time

*Nil*

As there were no further questions – Public Question Time concluded at 5.04pm.

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

*Nil*

**6 PRESENTATIONS**

6.1 Petitions

*Nil*



6.2 Presentations

**Best Decorated Business –**

*The Shire President announced and presented the awards for the winner and runner up of the Best Decorated Business:*

*Runner Up – York Newsagency*

*Winner – York Community Resource Centre*

*Mr Gordon Marwick, Chairperson of the CRC thanked the Shire for the Best Decorated Business competition. Also thanked all the staff of the CRC who have done a great job in decorating the CRC for this years competition.*

6.3 Deputations

*Nil*

6.4 Delegates' reports

*Nil*

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**RESOLUTION**

**011219**

**Moved: Cr Kevin Trent**

**Seconded: Cr Pam Heaton**

**That the minutes of the Special Council Meeting held on 8 November 2019 be confirmed as a correct record of proceedings.**

**CARRIED: 6/0**

**RESOLUTION**

**021219**

**Moved: Cr Denis Warnick**

**Seconded: Cr Kevin Trent**

**That the minutes of the Ordinary Council Meeting held on 25 November 2019 be confirmed as a correct record of proceedings.**

**CARRIED: 6/0**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

*Nil*

## 9 OFFICER'S REPORTS

### SY179-12/19 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 2 DECEMBER 2019

**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 held 2 December 2019

#### 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 Monday, 2 December 2019.

#### BACKGROUND

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

#### COMMENTS AND DETAILS

At the meeting held 2 December 2019, the Audit and Risk Committee was presented with information regarding the following;

1. Finance and Costing Review for the period ending 30 September 2019
2. Annual Financial Report for the period ending 30 June 2019

##### Finance and Costing Review for the period ending 30 September 2019

In accordance with the Shire's procedure for Finance and Costing Reviews, responsible officers reviewed their assigned accounts following the close of the first quarter ending 30 September 2019. Officers reviewed actuals against the adopted budget and presented a summary of proposed budget amendments resulting in an expected year end deficit of \$3,041.

The summary of amendments also seeks to allocate the additional surplus of \$140,893 determined following the annual financial audit for the year ending 30 June 2019. The report further provided an update on the progress of the capital works programme and grants and contributions received to date.

##### Annual Financial Report for the period ending 30 June 2019

This report presented documents relating to the finalisation and audit of the Shire's financial statements for the year ended 30 June 2019. The Audit Committee recommended that Council;

1. Accepts the Annual Financial Report for the year ended 30 June 2019 and;
2. Requests the CEO to finalise the annual report and present it to the December Council meeting along with a proposed date for the annual electors meeting.

In March 2019, an entrance meeting for the 2018/19 annual financial audit was held between the Audit and Risk Committee, Shire officers and the Office of the Auditor General (OAG). The meeting outlined the scope of the audit which commenced in April 2019.

Due to 2018/19 being the first year of having the OAG in-house, the OAG commenced the audit with a comprehensive and in-depth review of the Shire's policies, procedures and internal controls to gain an understanding of the Shire's processes and control environment. For this reason, the audit work took longer than in previous years.

A formal exit meeting was held during the Audit and Risk Committee meeting on 2 December 2019. Two staff from the Office of the Auditor General attended the Audit and Risk Committee meeting providing an opportunity for committee members to ask questions about the annual financial report. They further provided an overview of the results of the audit, highlighting key issues for the committee's information and congratulating the Shire on the results of the audit.

Following the end of the audit, formalised by the exit meeting, the Auditor General will provide her Independent Opinion for inclusion in the Annual Report to be presented at the Annual General Meeting of Electors. This meeting is planned to be held Wednesday 5 February 2020, if approved by Council, and is the subject of another report presented for Council's consideration at the Ordinary Council Meeting for December 2019.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

Office of the Auditor General

Moore Stephens

### **Strategic**

*Theme 5: Strong and Effective Leadership*

5.3 A financially sustainable Shire

5.4 Open and accountable systems

### **Policy Related**

CP1.5 *Compliance*

G4.6 *Risk Assessment and Management*

### **Financial**

### **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**

**RESOLUTION****031219****Moved: Cr Kevin Trent****Seconded: Cr Denis Warnick**

**That Council receives the minutes of the Audit and Risk Committee meeting held 2 December 2019 and adopts the following recommendations of the Committee:**

**That Council:**

- 1. Accepts the Finance and Costing Review Summary for the period ending 30 September 2019.**
- 2. Notes the progress to date in relation to the 2019/20 Capital Works Program.**
- 3. Notes the year to date position in relation to Grants and Contributions forecasted.**
- 4. Adopts the proposed budget amendments and requests the CEO to implement the changes.**
- 5. Accepts the Annual Financial Report for the year ended 30 June 2019 and;**
- 6. Requests the CEO to finalise the annual report and present it to the December Council meeting along with a proposed date for the annual electors' meeting.**

***CARRIED BY ABSOLUTE MAJORITY: 6/0***

**Declarations of Interest:****Cr Denese Smythe – Financial – Shareholder of York Co-Op (IGA)****Cr Pam Heaton – Financial – I am a shareholder in the York Co-Op****Cr Kevin Trent – Financial – I am a shareholder in the York Co-Operative and the Co-Operative have made a submission on the proposed development**

*The Acting Chief Executive Officer read the following letter received from the Department of Local Government, Sport and Cultural Industries dated 16 December 2019:*

*Dear Mr Cooper – I refer to your correspondence dated 13 December 2019 and advise that, in accordance with authority delegated by the Minister for Local Government, I have approved your application, under section 5.69(3)(a) of the Local Government Act 1995 (the Act).*

*This approval allows disclosing members Cr Smythe, Cr Trent and Cr Heaton to fully participate in the discussion and decision making relating to the below mentioned item at the Shire's Ordinary Council Meeting on 16 December 2019:*

***SY180-1/19 – Development Application: Supermarket (Shop), Shops, Medical Centre and Community Purpose Development: Lots 3 (88) and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York (Copy attached)***

*Subject to the following conditions:*

- 1. The approval is only valid for the 16 December 2019 Ordinary Council Meeting when agenda item SY180-12/19 is considered;*
- 2. The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. The CEO is to provide a copy of the Department's letter of approval to the abovementioned Councillors;*
- 4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
- 5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval, and*
- 6. The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

*Michael Connolly, Deputy Director General - Regulation*

Councillors can now consider the item.

**SY180-12/19 DEVELOPMENT APPLICATION: SUPERMARKET (SHOP), SHOPS, MEDICAL CENTRE AND COMMUNITY PURPOSE DEVELOPMENT: LOTS 3 (88) AND 820 (94) AVON TERRACE AND LOT 25 (19) MONGER STREET, YORK**

**File Number:** AV1.60439, AV1.60573 & MO2.60574

**Author:** Carly Rundle, Senior Planner

**Authoriser:** William Nunn, Co-Ordinator Development Services

**Previously before Council:** N/A

**Appendices:**

1. Site Plan
2. Advertised Development Application
3. Amended Development Plans
4. Transport Impact Statement
5. Flood Risk Mitigation Plan
6. Officer Assessment: Local Planning Policy Heritage Conservation and Development
7. Heritage Advisor Comments
8. Schedule of Submissions
9. Copy of Submissions Received

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Quasi-judicial.

**PURPOSE OF REPORT**

For Council to make a determination on a development application for a supermarket (shop), shops and medical centre development at Lots 3 (88) and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York.

**BACKGROUND**

Lots 3 (88) and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York have a combined area of 5,220m<sup>2</sup> and has frontage to Avon Terrace, South Street and Monger Street.

The property is currently vacant of development and contains an existing open drainage channel servicing a wider catchment area. It was previously the location of the 'Royal Hotel' which was damaged by an earthquake and subsequently demolished in 1968.

A development application has been submitted which originally proposed to develop a supermarket, shops, medical centre, community purpose building and associated car parking, which was publicly advertised allowing for submissions to be made. The advertised version of the application is provided in Appendix 2.

On receipt of the application, additional information was requested including a traffic impact statement and drainage plan. The applicant acknowledged information was required prior to consideration by Council, although requested advertising commence without these. This approach was requested on the basis that if there was a need to modify the development plans in response to submissions, that changing the Finished Flood Level (FFL) or other aspects influences the traffic impact statement and drainage plans which was considered acceptable given these documents were more technical in nature.

As a result of the advertising period, 12 submissions were received; seven from authorities and five from the public. Of the five public submissions, four raised objections and one of these submissions contained a schedule at the rear, which included an additional 74 signatures objecting to the proposal. Copies of submissions are provided at Appendix 9.

The applicant subsequently submitted amended plans (Appendix 3) in response to submissions, preliminary discussions with officers and to incorporate outcomes of the stormwater plan and traffic impact statement.

The amended plans have:

- increased the finished floor level from 173.7 to 173.9m AHD;
- removed the community purpose building from the development, replacing this area with car parking and bin store and slightly increased the supermarket/specialty store floor area;
- proposed a reduction in height of parapet walls facing adjoining properties, awning underside and width and a slight reduction in the overall height of parapet façades;
- increased the detailing on parapet façades;
- identified front entries from South St/Avon Tce intersection and Avon Tce;
- included a recessed area on Avon Terrace to accommodate stormwater infrastructure; and
- provided further detail on footpath, car parking and finishes in the verges, and stormwater plans.

The modifications are generally in response to submissions or minor alterations which do not require further re-advertising to be undertaken.

Council is requested to consider the application (based on amended plans), submissions received, and determine to approve with conditions or not to approve.

**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).

Lots 3 (88), 820 (94) Avon Tce and Lot 25 (19) Monger Street is partly zoned ‘Town Centre’ and ‘Residential’ with a density of “40” annotated on the Scheme maps.



The property is located within the York Central Heritage Area and within the Avon River Flood Fringe.

*Land Use*

The application (as amended) proposes to develop a supermarket, speciality stores, and medical centre (including pharmacy).

A supermarket, specialty stores and pharmacy is considered consistent with the land use of a ‘shop’ which is defined as: *“means premises other than bulky goods showroom, a liquor store – large or liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.”* A shop is a ‘P’ land use in the ‘Town Centre’ zone, and ‘X’ use in the Residential zone.

A medical centre is defined as *“means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for*

*general outpatient care.*” A medical centre is a ‘P’ use in the ‘Town Centre’ zone and an ‘SA’ use in the Residential zone.

‘P’ means that the use is permitted by the Scheme, ‘SA’ means that the use is not permitted unless the local government has exercised its discretion and has granted planning consent after giving special notice in accordance with clause 7.2 and ‘X’ means that the use is not permitted by the Scheme.

The supermarket and medical centre buildings are located fully within the Town Centre zone (permitted), with car parking for these uses extending onto Lot 25 Monger St and within the Residential zone. Whilst a ‘Shop’ is an ‘X’ use, car parking ancillary to the medical centre is an ‘SA’ use. It is therefore considered that there is discretion to consider the ancillary car parking to the overall development on the portion of land zoned Residential.

In determining whether to exercise discretion for the land uses, consideration to the objectives of the zone should be given. The objectives for the Residential zone are:

- (a) *to encourage single houses as the predominant form of development*
- (b) *to require infill 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.*

The incidental car parking to the development is associated with the medical centre/shop land uses and is located within an area surrounded to the north and west designated for commercial/town centre uses. The location of the car parking to the rear of the site is in accordance with the Council’s design guidelines (local planning policy heritage precincts and places) requiring car parking to be behind buildings away from Avon Terrace. With the erection of solid boundary fencing, it is considered that the provision of car parking to the rear of the site to Monger Street keeps the bulkier buildings to the Avon Terrace frontage which is an appropriate response to reduce amenity impacts of adjoining residences. The development is generally considered compatible with the objectives of the zone.

Whilst the uses proposed in the Town Centre zone are already permitted and considered appropriate, consideration is required to be given to the form of development and consistency with objectives of the Town Centre zone.

*4.9.1 Objectives*

- (a) *To retain the town centre of York as the principle place for retail, commercial, civic, and tourist-orientated uses in the District.*
- (b) *To preserve the unique qualities of the town centre as a heritage place, including the conservation of existing heritage buildings, and to avoid development which will detract from those qualities.*
- (c) *To ensure development complies with Design Guidelines adopted by the local government for the town centre.*
- (d) *To encourage a high standard of development of commercial facilities to service the residents, the farming sector, tourists and travellers.*
- (e) *To encourage a high standard of landscaping in and around the town centre; the local government will undertake planting of shade trees in road reserves and public carparks where appropriate.*

Subject to conditions being implemented relating to the built form as discussed below and in Appendix 6, the development is generally consistent with the objectives of the town centre.

*Site & Development Requirements*

<b>Scheme Provision</b>	<b>Officer Comment</b>
<p><u>4.8 Residential Zone</u></p> <p><u>4.8.2 Site Requirements</u></p> <p>In accordance with R-Codes.</p>	<p>N/A – R-Codes apply to residential development and car parking area does not contain buildings.</p>
<p><u>4.9 Town Centre Zone</u></p> <p><u>4.9.2 Site Requirements</u></p>	<p>A nil street setback is proposed to Avon Terrace and the southern lot boundary. A nil street setback is consistent with the design guidelines</p>



<p>The following minimum building setback shall apply:</p> <p>Front, Rear &amp; Side: At the local government's discretion.</p>	<p>for the heritage area (local planning policy: heritage conservation and development).</p> <p>On the southern lot boundary a nil setback is proposed to Lot 7 containing a service station, where the building is setback approximately 1.5m from the subject property, with the canopy over refuelling areas setback 3m from Avon Terrace and the building being setback approximately 10m.</p> <p>The development proposes a parapet wall on the southern boundary of approximately 7.1m in height for the first 5m from Avon Terrace, to approximately 6.3m behind this from natural ground level. Whilst the parapet wall is forward of the building on Lot 7, a nil front setback is required under the policy and a nil side setback and visual impact of a parapet wall is common in the commercial areas, the height is considered excessive to the adjoining property and immediate context. A condition of approval will be included requiring the parapet wall adjoining Lot 7 to be reduced to 6m behind the building line which is more compatible with development to the south.</p> <p>The nil front and side setback will impact the visibility of existing advertising signage on Lot 7 to vehicles approaching from the north. Although even with an increased setback, unless substantial (which is constrained by the requirement for no building over the stormwater infrastructure) the development will still obscure signage. The onus will be on the landowner of Lot 7 to relocate signage on their property to maintain visibility to the north, or erect new signage.</p> <p>A minimum setback of 3.6m is proposed from the supermarket building to the adjoining Lot 27 South Street, York. A setback of 3.6m is consistent with the prescribed setback of the R-Codes that would apply to a wall of this length and height, and any overshadowing does not exceed that permitted if it were a residential development. On this basis the setback is considered appropriate to the adjoining residential use on Lot 27 South Street, York.</p>
<p><b>4.9.3 Development Requirements</b></p> <p>(a) Development shall not exceed 2 storeys in height except where local government considers that particular circumstances, may warrant an exception being made and provided the local governments objectives are not compromised.</p> <p>(b) In considering an application for planning consent for a proposed development in the Town Centre the local government shall have regard to Design Guidelines adopted by the local government, and:</p> <p>(i) The colour and texture of external building materials; (the local government may require the building façade and side walls to a depth of 3m to be constructed in masonry);</p> <p>(ii) Building size, height, bulk, roof pitch;</p> <p>(iii) Setback and location of the building on its lot;</p>	<p>Development is consistent with the height of a 2-storey building.</p> <p>A detailed assessment against the provisions of the local planning policy: heritage conservation and development is provided in Appendix 6. Subject to conditions being implemented addressing the scale of southern parapet officers consider that the development is consistent with the heritage character of the area.</p> <p>External materials are concrete tilt panel (masonry) which complies.</p> <p>The use of the building for a supermarket is considered compatible with the zone and objectives (discussed above) although consideration does need to be given to amenity impacts on adjoining dwellings. Whilst the scale and size of the building is considered acceptable to adjoining dwellings, there may be potential amenity impacts associated with:</p> <ul style="list-style-type: none"> <li>• The service access for the supermarket being located in proximity to the dwelling on Lot 27 which has potential to impact the amenity of the adjoining residence from noise depending on frequency and times of deliveries. Reversing Bleepers and similar are controlled under the <i>Environmental Protection (Noise) Regulations 1997</i>, although other vehicular noise emissions are not. It is recommended a management plan for service access vehicles using the access adjoining Lot 27 be conditioned on approval to require confirmation of operating hours to minimise amenity impacts on the adjoining property, and a mechanism to address complaints if they occur.</li> <li>• Car parking at the rear in proximity to dwellings may result in headlight glare as a result of the development. The FFL of the car parking area and service access will be raised from natural ground</li> </ul>

<p>(iv) Architectural style and design details of the building;</p> <p>(v) Function of the building;</p> <p>(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</p> <p>(vii) Other characteristics considered by the local government to be relevant.</p> <p>(c) Landscaping shall complement the appearance of the proposed development and town centre.</p> <p>(d) Layout of the car parking shall have regard for traffic circulation in existing carparking areas and shall be integrated with any existing and adjoining carpark.</p>	<p>level within the site which may result in privacy issues for the adjoining properties if an appropriate height fence is not erected. A screen fence to the satisfaction of the Shire shall be required as a condition of approval to be provided between car parking and service access areas and adjoining Lot 27, 28 and Lot 8 to alleviate this issue. A fence higher than 2m is permitted under the local law for commercial lots.</p> <ul style="list-style-type: none"> <li>• Details of lighting will be conditional on approval to ensure this is located to minimise impacts on adjoining dwellings.</li> <li>• A condition will be included requiring the bin store to be maintained in a manner so that it does not produce emissions which will affect the adjoining property.</li> </ul> <p>Nine trees are proposed to be removed and six are proposed to be retained. At least one tree to be removed and one to be retained are significant trees. Eleven new trees are proposed to be planted, two fronting Avon Terrace, and the others within the car parking area and Monger Street frontage. 483m<sup>2</sup> of the site is proposed to be landscaped with ground cover or shrubs. The design has appropriately allowed for retention of some significant trees, and location of landscaping proposed is appropriate, although details on what will be implemented is not provided. A Landscape Plan will be conditional on approval and will require the planning of 'advanced trees', in accordance with the provisions of draft Local Planning Scheme No. 3, which allows the local government to require this at a maximum rate of one advanced tree for every 500m<sup>2</sup> of the site's area.</p>
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*Car Parking*

Clause 4.5 of the Scheme requires car parking to be provided as per Schedule 4 and be constructed and maintained. Car parking required is as follows:

Land Use /Area	Schedule 4 Town Planning Scheme No. 2	Schedule 7 Draft Local Planning Scheme No. 3
Shop(s): <ul style="list-style-type: none"> <li>• Supermarket (1,045m<sup>2</sup>)</li> <li>• Speciality Stores (100m<sup>2</sup>)</li> <li>• Pharmacy (100m<sup>2</sup>)</li> </ul> = 1,245m <sup>2</sup> Net Lettable Area	Shopping - Six spaces for every 100m <sup>2</sup> Net Lettable Area  = 74.7 car parking bays	Shop - 1 bay per 25m <sup>2</sup> Net Lettable Area  = 49.8 car parking bays
Medical Centre <ul style="list-style-type: none"> <li>• GP Clinic (4 Rooms)</li> <li>• Physio (2 Rooms)</li> <li>• Dentist (2 Chairs)</li> </ul> = 8 Rooms	Health Centre, Clinic, Consulting Rooms – Four (4) spaces for every consulting room up to two (2) such rooms and two (2) for every additional consulting room.  = 20 car parking bays	Consulting Rooms – Four (4) spaces for every consulting room up to two (2) such rooms and two (2) for every additional consulting room.  = 20 car parking bays
<b>Total Car Parking Bays Required</b>	<b>94.7</b>	<b>69.8</b>
<b>Proposed Onsite</b>	<b>86 (shortfall of 9)</b>	<b>86 (16 over required)</b>

The parking provided is short of the current Scheme requirements, although complies with car parking requirements of draft Local Planning Scheme No. 3 (draft Scheme) which is acceptable as the draft Scheme has been advertised (no submissions received which relate to car parking provisions) and is considered a seriously entertained document to be given regard in any development application.

Three bays on Avon Terrace will be removed as a result of the new entry/exit to Avon Tce to accommodate sightline requirements. Although at least one or two of these car bays are marked in the way of the existing crossover to Lot 3 and there is additional parking on site to accommodate for their removal. One bay is shown on the development plans as 'existing parallel parking' although is currently identified as a no stopping area to accommodate existing sightlines for entry/exit to the adjoining service station. The development plan will be annotated in accordance with condition 2 to reflect this area remaining as is.

The car parking layout functions with two-way entry/exit and complies with required dimensions of the Scheme 90-degree parking. All parking is proposed to be uncovered and sufficient landscaping is provided around parking areas, with new trees to be planted located centrally on the site so as not to be positioned on adjoining lot boundaries. The car parking design is appropriate and complies with the provisions of the Scheme and draft Local Planning Scheme No. 3.

#### *Avon River Flood Fringe*

The property is wholly located within the Avon River Flood Fringe area. Clause 5.3 of the Scheme applies, which requires:

- A development application to be submitted, where the local government shall consult with the appropriate state government water agency and state government environment and conservation agency.
- A section 70A notice, or similar instrument to be placed on the title of the land to notify that the land is subject to inundation during a flood event.
- Cl 5.3 (f) Any habitable building to be located within the flood fringe boundary, shall have a minimum floor level of 500mm above the adjacent 100-year ARI flood level, as determined from time to time by the relevant state government department.
- Cl 5.3 (g) At the local governments discretion, where proposed non-habitable development is in the flood fringe, but within a designated heritage streetscape area, a minimum floor level of 300mm above the centre of the road fronting the property may be approved.
- Any developments proposed in the flood fringe should consider potential opportunities for environmental improvements and rehabilitation.

The development originally proposed a finished floor level of 173.7m AHD, which has since been amended to 173.9m AHD. Car Parking varies from 173.5m AHD at the Avon Terrace frontage and 172.5m AHD. The application was referred to the Department of Water and Environmental Regulation (DWER) and Department of Biodiversity, Conservation and Attractions (DBCA) for comment.

DBCA advised that the application is unlikely to cause any impact to known significant biodiversity values. DWER submission(s) is provided in Appendix 9 and advised:

- *It provides advice and recommends guidelines for development on floodplains with the object of minimising flood risk and damage, and uses the following guiding principles to ensure proposed development in flood prone areas is acceptable with regard to major river flooding:*
  - *Proposed development has adequate flood protection from a 1 in 100 (1%) Annual Exceedance Probability (AEP) flood;*
  - *Proposed development does not detrimentally impact on the existing 1% AEP flooding regime of the general area.*
- *The Avon River Flood Study identifies the subject lot may be affected by major flooding at the following expected levels; 1 in 10 (10%) AEP flood level – 172.7 m AHD, 1 in 25 (5%) AEP flood level – 173.4 m AHD and 1 in 100 (1%) AEP flood level – 174.48 m AHD.*
- *Based on our floodplain management strategy for the area, proposed development (i.e. filling, building, etc.) that is located outside of the floodway is considered acceptable with respect to major flooding, with a requirement of at least 500 mm freeboard (i.e. minimum habitable floor level of 174.98m AHD).*
- *That the development does not meeting the minimum habitable floor level and that the plans should be amended to ensure adequate flood protection of 1 in 100 (1%) AEP flood.*

- *That where the minimum habitable floor level impacts other issues when integrating with existing development, that a reduction in the 0.5 metre freeboard may be considered. We note that within its town planning scheme the shire has discretion to approve developments with finished floor levels of 300 mm above the road centreline within a defined heritage streetscape area. Should they consider the proposal acceptable we recommend consideration of alternative means of managing the resultant flood risk be explored.*
- *Options may include:*
  - *flood protection to prevent water entering the buildings (ie, sandbagging, flood barriers, etc)*
  - *flood resilient building design (ie, choice of building materials, location of electrical installations as high as practicable, raising stock on shelves, etc)*
  - *flood insurance and*
  - *other options that minimise the impact and/or damages of major flood events”.*
- *Should the Shire approve the development at the lower FFL, including a condition requiring the proponent to prepare a flood emergency plan (or at least some documentation) for the development may be recommended. This would ensure that flood protection and contingency measures have been appropriately considered given the higher flood risk. The layout of the plan could be like any other management plan, for example: 1) Introduction on the proposed development, 2) Identify flood levels and risk for the site, including details of what could be impacted in a major flood event, 3) Details of flood resilient building design (ie, choice of building materials, location of electrical installations as high as practicable, raising stock on shelves, etc), 4) Details of other flood protection to prevent water entering the buildings (ie, sandbagging, flood barriers, etc), 5) Emergency evacuation procedures, 6) Flood insurance, if any.*

A FFL 173.9m AHD is expected to provide approximately 1 in 50 AEP flood protection. If the development were to comply with DWER's recommendation (500mm above the 100-year (1% AEP) flood level) the finished floor level above the footpath would vary from approximately 1.81m on South Street (lowest point) to 1.68m at the intersection to 1.48m at the southern end of the development on approval terrace. With no freeboard allowed, the FFL would still be raised substantially above the footpath which be out of character with the heritage area.

CI 5.3(g) provides discretion to, *“where proposed non-habitable development is in the flood fringe, but within a designated heritage streetscape area, a minimum floor level of 300mm above the centre of the road fronting the property may be approved.”*

These provisions were inserted into the Scheme as part of Scheme Amendment No.35 where the reference to non-habitable was intended to apply as per the building codes where a supermarket and medical centre would fall within this category. The intent of the amendment was to provide for development at lower levels than recommended by the floodplain management strategy, in areas where it may be detrimental to heritage values and streetscape if development was required to a level 500mm above the 100 year Avon River ARI. It indicated non-habitable buildings and land uses may be permitted for commercial benefit where risk could be mitigated to an acceptable level.

A FFL of 173.9m AHD is on average 0.6m above the footpath at the South Street/Avon Tce intersection and 0.3m above the footpath directly north of adjoining lot 7 (Shell service station) which can be accommodated on the site and still be compatible with the character of the street and heritage area. The applicant has provided information in response to DWER's submission, advising that the building type (tilt panel concrete) is relatively suited to withstand floodwaters and damage from flood and indicates costs from flood risk have been considered and determined acceptable for insurance, and cost to the business. The Shire is satisfied that with measures implemented as shown in the Flood Risk Mitigation Plan (Appendix 5), and a commitment being provided that lessees and tenants will be notified of the plan, that the risk to the safety of the community and public is acceptable.

It is recommended the Shire exercises discretion to accept the FFL, although include a condition requiring:

- A section 70A notification to be placed on the title as per scheme to notify future purchasers of the location in a flood area, and that a flood risk mitigation plan has been approved which has ongoing requirements; and
- Compliance with the flood risk mitigation plan including requiring a commitment to notify lessees or tenants of the flood risk mitigation plan.

### *Heritage Considerations*

Section 5.1 of the Scheme and Part 3 and 67(c), (g), (k) and (l) of the Schedule 2 – Deemed Provisions of the Regulations require in consideration of an application for development approval that regard to be given to:

- Cl 5.1 - The purpose and intent of heritage provisions which are:
  - a) *to facilitate the conservation of places of heritage value;*
  - b) *to ensure as far as possible that development occurs with due regard to heritage values.*
- The Local Planning Policy (Heritage Precincts and Places) adopted setting out objectives and guidelines for the conservation of the precinct.
- Whether it may require a heritage assessment to be carried out prior to approval of any development in a heritage precinct.
- The effect of the proposal on the cultural heritage significance of the area in which the development is located.
- The built heritage conservation of any place that is of cultural significance.
- State Planning Policy 3.5 – Historic Heritage Conservation.
- Cl 5.1.5 of the Scheme and Regulation 12 provide the ability for local government to vary any provision site or development requirement if desirable to facilitate the conservation of the precinct or enhance or preserve heritage values in a heritage area. A variation under this provision may be unconditional or subject to any conditions the local government sees fit, including requirement for an owner benefiting from the variation to enter into a heritage agreement.

The provisions generally require that development (including siting, scale, style, form, materials and finishes) responds sympathetically and complements the heritage values of the area as whole and immediate context so that heritage values of a place or area is conserved or enhanced.

The property is located within the York Central Heritage Area and located adjoining the York Town Centre Heritage Area. The full summary of why the area(s) have significance is outlined in the policy, although relates to the high level of intact landmark buildings, and places of significance in the area, as well as the cumulative effect of the scale, massing, texture, materials, colour and detail of individual buildings including residential, informing of the distinctive periods and architectural styles from early town establishment in the 1860's through the 1930's and later decades.

Local Planning Policy: Heritage Conservation and Development provides objectives and design guidelines to ensure development occurs in a manner which is sympathetic to and enhances the heritage values of the area. Detailed assessment against the relevant provisions of the local planning is provided in Appendix 6 for Council consideration. Generally, the application is considered consistent with the above objectives and policy provisions, although conditions will be required to reduce the scale of the parapet wall on the southern lot boundary. Should Council choose to, additional conditions addressing the awning form and scale, as well as other matters can be conditioned on approval.

The application was referred to the Shire's heritage advisor, and the Heritage Council of Western Australia for comment. The Heritage Council advised that the site was in proximity to the York Town Centre Precinct, which has previously been identified as a place warranting assessment for possible inclusion on the State Register of Heritage Places, although made no comment on the development. A heritage impact statement was not required by officers given the site is vacant of development, and advice from the Shire's heritage advisor was to be sought on consistency of development with heritage area.

The heritage advisor's comments are provided in Appendix 7, which support the development in principle, subject to further consideration being given to the awning type (alteration to verandah with posts), the parapet on the South Street frontage, treatment of windows (no indication of clear or glazing) and the impact of the speciality stores backing onto the Avon Terrace frontage with internal entries.

Subject to assessment against the Heritage Policy officers are in support of the heritage advisor's comments which can be addressed via conditions of approval, with the exception of the parapet on the South Street frontage, which has been slightly lowered from the original development plans, awning type and entries not being provided to specialty stores for reasons outlined above and in Appendix 6.

#### Planning and Development (Local Planning Schemes) Regulations 2015

Local government is to give due regard to Clause 67 in the consideration of any development application. The following are those relevant to the application and not discussed above.

*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 proposed planning instrument that the local government is seriously considering adopting or approving.*

A Draft Local Planning Strategy and new Local Planning Scheme No. 3 have been advertised under the Regulations. Under these documents, the property and all surrounding properties are to be identified as and rezoned to 'Regional Centre' with a density of R60 and identified within a new 'Special Control Area - Environment' which includes provisions relating to the Avon River Flood Fringe. Under the draft Scheme the objectives of the area are similar to the current 'Town Centre' zone suitable for a range of commercial uses to service the local and regional community, and the land uses of a medical centre and shop identified in the zoning table as 'permitted' in this zone.

The development is consistent with provisions in the draft local planning scheme no. 3.

*n) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource*

The property contains an open drain which services a wider upstream catchment important for conveying water from the west downstream towards the Avon River. The applicant has submitted a stormwater plan which proposes to enclose the open drain within a piped system, which will be directed to an open swale to be directed to a culvert under Monger Street, which subsequently conveys water through an open drain through Lot 75 and the Reserve, existing to Avon River. The plan also proposes stormwater management within the site, with overflow directed to the Monger Street.

The Shire's Executive Manager Infrastructure and Development Services has provided that the drainage concept is considered acceptable, and that detailed drainage design, including calculations will be required (and to be approved) prior to construction commencing. Easements will be required over the main drainage line through the property to allow access for Shire maintenance given its wider use for the western part of the town centre.

*s) the adequacy of: (i) the proposed means of access and egress to and from the site and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles; & 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 the probable effect on traffic flow and safety;*

The applicant has provided a Transport Impact Statement with the application demonstrating Avon Terrace and South Street are of a sufficient standard to accommodate traffic generated by the development.

Further information to confirm turning circles are will be required, and a condition of approval will limit service and waste vehicles entering and exiting the site to 14.5m length, which is the maximum size vehicle the TIS identified that can be accommodated safely within and to and from the site.

Monger Street currently allows two-way traffic, although its width is approximately 4.6m – 5m according to the Shire's record which is of a standard suited to one-way traffic. Until such time as Council resolves to consider upgrading Monger Street (which requires further investigation for feasibility given the width of Monger Street is only 10m) or modify to one way only, additional traffic being directed onto the street, although anticipated to be of low volume, is not considered acceptable to the Shire. Entry and Exit can be accommodated via Avon Tce and South Street only.

*u) the availability and adequacy for the development of the following; (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (v) access by older people and people with disability;*

The site has access to appropriate servicing, and provides appropriate ingress and egress from the building, which will be assessed in further detail at building permit stage. Paving works on Avon Terrace will result in improved pedestrian and disability access as parts of this pavement are uneven, narrow and have been identified in the Disability Access and Inclusion Audit as an area requiring improvement.

Local Planning Policy: Developer Contributions for Road and Footpath Upgrading provides provisions for requiring contributions or upgrading to be required if the development generates a need. In this respect, given that there are existing footpaths on the Avon Tce and South St frontage which will form the main pedestrian access to the site, it is considered the development does not generate a need under the policy to require a contribution or upgrading as a condition of approval. The Transport Impact Statement does not identify a need for any road upgrades.

*y) any submissions received on the application & za) the comments or submissions received from any authority consulted under clause 66;*

A copy of submissions received is provide in Appendix 9, and officers response is provided in Appendix 8.

The 7 submissions received from authorities are either discussed in detail above or provided as general information for consideration which does not require further discussion. Of the five public submissions received, one advised no issues, and four raised objections to the development for various matters including:

- FFL and Flooding;
- Traffic and lack of carparking;
- Bulk, scale, form and design of the development being incompatible with heritage areas and adjoining buildings identified as having significance to that area.
- Concern regarding amenity impacts from the Community Purpose building;
- Monger Street access and impact on adjoining residences from glare and noise.
- Impact of development on adjoining residences from matters such as noise, overshadowing etc.
- Economic impacts on businesses.

Whilst the submissions relate to development plans that have since been amended following advertising, which remove the community purpose building and increase car parking, submissions are still relevant. A response to each submission is provided in Appendix 8, although broadly officers' response is:

- Following assessment against provisions of the Scheme and Local Planning Policy Heritage Conservation and Development, considering aspects such as scale, height, form and design consider that subject to conditions which address the southern parapet wall, that the development is compatible with the heritage area;
- The surrounding road network and entry and exit is acceptable and supported by a Transport Impact Assessment and car parking has been provided as per draft Local Planning Scheme No. 3;
- The Community Purpose building is no longer proposed to be built. Conditions of approval have been included to address potential amenity impacts on adjoining residences from noise, and bin stores and privacy;

- A condition of approval has been recommended for inclusion that no access be permitted to Monger Street.
- The Regulations list the potential loss of a community service or benefit resulting from the development, although exclude considering loss that may result from economic competition between new and existing businesses.

## **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. This may relate to the design of the building such as reducing the height of parapet walls or modification of the cantilevered awning to a verandah with slope and posts as recommended by the heritage advisor.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

The application was advertised for public comment in accordance with requirements of the Regulations.

### **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*

*2.3 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 immediate financial implications for the Shire associated with the officer's recommendation.

The easement will place an obligation on the Shire to access and maintain the drainage infrastructure which will have minor financial implications.

### **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 were no medium to high risks identified with the proposal that warrant further discussion.



**Workforce**

There are no workforce implications associated with the officer's recommendation.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council approves the development application for a Supermarket (Shop), Shops and Medical Centre at Lots 3 (88) and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York, based on the amended developments plans in Appendix C, subject to the following conditions:

General 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. The Finished Flood Level for the interior of buildings is approved at 173.9m AHD.
4. Windows are not to be tinted or treated with reflective film, and a minimum of 80% of all window space facing a public street shall be kept transparent and not rendered opaque by advertising signage.
5. A Signage Concept Plan shall be submitted to the local government for approval prior to the erection of any signage (Advice Note 7).
6. The bin store area shall be enclosed and screened from immediate surrounds by a wall not less than 1.8m high. The bin store shall be maintained in a manner which does not have an adverse effect on adjoining properties from odour.
7. Service and Waste vehicles entering the site shall be limited to vehicles which are 14.5m in length of less.
8. A current public liability/products insurance policy shall be taken out and maintained for the lifetime of the awning from an insurance company (at the applicant's expense) for the amount of \$20,000,000 indemnifying the Shire of York for any claim relating to the verandah on Avon Terrace and South Street.
9. The development shall comply with the Flood Risk Mitigation Plan (as attached), with the following measure to be included:
  - (a) All lessees, tenants or similar shall be given a copy of the Flood Risk Mitigation Plan (as attached).

Any alterations or modifications to the Flood Risk Mitigation Plan shall require the prior approval of the Shire.

Prior to Commencement of any Works Conditions:

10. Prior to commencement of any works to implement the development, Lots 3 (88) and 820 (94) Avon Terrace, and Lot 25 (19) Monger Street, York are to be amalgamated, unless otherwise agreed in writing with the Shire.
11. 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) Plans that satisfactorily address the following required design changes and as may be indicated in red on the Approved Development Plan(s):
    - (i) The parapet wall adjoining Lot 7 Avon Tce shall be reduced to no higher than 6m from natural ground level as measured from the Avon Terrace (173.65m AHD) with the exception that minor design features shall be permitted at an increased height to provide interaction with the façade parapet facing Avon Tce to the satisfaction of the Shire
    - (ii) Vehicular access to Monger Street is not permitted.

- (b) Turning circles for vehicles utilising the development as proposed in the Transport Impact Assessment is to be provided to the satisfaction of the Shire and development plans altered to reflect safe turning areas.
- (c) A detailed schedule of materials, finishes (including gutter type) and colours to comply with local planning policy heritage conservation and development and to the satisfaction of the Shire (Advice Note 7).
- (d) A Landscape Plan to the satisfaction of the local government, which shall include the planting of a minimum of 11 advanced trees (Advice Note 11).
- (e) Details of lighting to the exterior of buildings, which is required to comply with Local Planning Policy: Heritage Conservation and Development and be located to minimise amenity impacts on adjoining residences.
- (f) A Drainage Plan to the satisfaction of the local government.
- (g) A Construction Management Plan which is to address the following:
  - (i) Construction timeframes;
  - (ii) Contact details for personnel in the event of complaints;
  - (iii) Stormwater and sediment control;
  - (iv) Traffic access and parking management;
  - (v) Vibration, air, dust and noise management;
  - (vi) Public safety and amenity measures;
  - (vii) Earthworks, excavation and associated matters;
  - (viii) Protection of existing roads, kerbs, footpaths, trees and services;
  - (ix) Storage of waste and construction materials.

The plan must be implemented upon commencement of any site works/development for the entire duration to the satisfaction of the Shire.
- (h) A management plan for service and waste vehicles using the service access adjoining Lot 27 South Street, York to manage potential amenity impacts to the adjoining residence at Lot 27 South Street, York which shall:
  - (i) Specify operating hours to minimise noise impacts on the adjoining Lot 27 South Street, York; and
  - (ii) include a complaints response procedure.
- (i) Details of a permanent screen fence and any retaining to be erected on or up to the boundary of adjoining lots 27 and 28 South Street, York and area south of proposed car parking adjoining Lot 8 Monger Street, York to the satisfaction of the Shire (advice note 8).
- (j) Engineering and design plans and specifications for works in road reserves.

Prior to Occupation/Use of the Development Conditions

12. The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2, 6, 9, 10 and 11 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:

*"This property and buildings which have been approved with a finished floor level of 173.9m AHD may be subject to inundation during a flood event. A Flood Risk Mitigation Plan has been approved by the Shire and is required to be complied with at all times".*

All costs related to the notification shall be at the cost of the applicant/landowner (Advice Note 9)

- (b) An easement to the benefit of the local government is to be placed over the main drainage line through the property, at the expense of the applicant. The width of the easement is dependent upon approval of final details in the drainage plan and shall be as agreed with the Shire.
- (c) Car parking bays (inclusive of disabled bay) as shown on the approved development plan are to be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress shall be constructed, drained and marked and associated signage erected.

#### On-going Conditions

13. The works undertaken to satisfy conditions of this approval with the exception of footpath and parking embayment's, 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:** Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.
- Note 5:** 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 6:** A crossover application is required to be submitted and approved prior to works commencing.
- Note 7:** Colours, materials, finishes, gutters, advertisements etc shall comply with the provisions of Local Planning Policy – Heritage Conservation and Development. Advertisements shall also comply with Local Planning Policy – Advertising Signage.
- Note 8:** Whilst a condition of approval is included to address screen fencing, dividing fencing between properties is also a civil matter between abutting landowners in accordance with the Dividing Fences Act 1961.
- Note 9:** 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\\_LRORMS/\\$FILE/FOR\\_DLI\\_N1.pdf](https://www0.landgate.wa.gov.au/docvault.nsf/web-new/FREEHOLD_LRORMS/$FILE/FOR_DLI_N1.pdf)
- To satisfy condition 12(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.
- Note 11:** The Landscape Plan should include a plan indicating where proposed landscaping will occur and include details of species of plants, planting distances, numbers, planting sizes and anticipated height of each plant at maturity.

**MOTION**

**RESOLUTION**

**041219**

**Moved: Cr Pam Heaton**

**Seconded: Cr Denese Smythe**

**That Council defer this item until a heritage impact statement is undertaken.**

***LOST: 2/4***

**RESOLUTION  
051219****Moved: Cr Ashley Garratt****Seconded: Cr Kevin Trent**

**That Council approves the development application for a Supermarket (Shop), Shops and Medical Centre at Lots 3 (88) and 820 (94) Avon Terrace and Lot 25 (19) Monger Street, York, based on the amended developments plans in Appendix C, subject to the following conditions:**

**General 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. The Finished Flood Level for the interior of buildings is approved at 173.9m AHD.**
- 4. Windows are not to be tinted or treated with reflective film, and a minimum of 80% of all window space facing a public street shall be kept transparent and not rendered opaque by advertising signage.**
- 5. A Signage Concept Plan shall be submitted to the local government for approval prior to the erection of any signage (Advice Note 7).**
- 6. The bin store area shall be enclosed and screened from immediate surrounds by a wall not less than 1.8m high. The bin store shall be maintained in a manner which does not have an adverse effect on adjoining properties from odour.**
- 7. Service and Waste vehicles entering the site shall be limited to vehicles which are 14.5m in length or less.**
- 8. A current public liability/products insurance policy shall be taken out and maintained for the lifetime of the awning from an insurance company (at the applicant's expense) for the amount of \$20,000,000 indemnifying the Shire of York for any claim relating to the verandah on Avon Terrace and South Street.**

**Prior to Commencement of any Works Conditions:**

- 9. Prior to commencement of the development, the applicant is to submit a Flood Risk Mitigation Plan for approval by the Shire. The Flood Risk Mitigation Plan shall include:**
  - (a) Assessment of flood levels and risk for the site, including details of what could be impacted in a major flood event;**
  - (b) Details of flood resilient building design (i.e, choice of building materials, location of electrical installations as high as practicable, raising stock on shelves, etc);**
  - (c) Details of other flood protection to prevent water entering the buildings (i.e sandbagging, flood barriers, etc);**
  - (d) Emergency evacuation procedures; and**
  - (e) Details of flood insurance.**

**The applicant/owner shall comply with the Flood Risk Mitigation Plan as approved by the Shire and shall be provided to all prospective purchasers, lessees, tenants or other occupants of the proposed development. Any alterations or modifications to the Flood Risk Mitigation Plan shall require the prior approval of the Shire.**

- 10. Prior to commencement of any works to implement the development, Lots 3 (88) and 820 (94) Avon Terrace, and Lot 25 (19) Monger Street, York are to be amalgamated, unless otherwise agreed in writing with the Shire.**
- 11. 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) Plans that satisfactorily address the following required design changes and as may be indicated in red on the Approved Development Plan(s):**
    - (i) The parapet wall adjoining Lot 7 Avon Tce shall be reduced to no higher than 6m from natural ground level as measured from the Avon Terrace (173.65m AHD) with the exception that minor design features shall be permitted at an increased height to provide interaction with the façade parapet facing Avon Tce to the satisfaction of the Shire.**
    - (ii) Vehicular access to Monger Street is not permitted.**
    - (iii) The cantilevered awning is to be modified to a sloped verandah with support posts along verandah edge aligned with bay configurations in accordance with local planning policy heritage conservation and development and to the satisfaction of the Shire.**
    - (iv) The parapet façade adjoining Lot 27 South Street, York, is to be reduced in height so that it does not exceed the overall height of the dwelling on Lot 27 South Street, York to the satisfaction of the Shire.**
    - (v) Individual speciality stores and the pharmacy facing Avon Terrace, are to be provided with an entrance facing Avon Terrace, in a manner which complies with Local Planning Policy Heritage Conservation and Development to the satisfaction of the Shire.**
  - (b) Turning circles for vehicles utilising the development as proposed in the Transport Impact Assessment is to be provided to the satisfaction of the Shire and development plans altered to reflect safe turning areas.**
  - (c) A detailed schedule of materials, finishes (including gutter type) and colours to comply with local planning policy heritage conservation and development and to the satisfaction of the Shire (Advice Note 7).**
  - (d) A Landscape Plan to the satisfaction of the local government, which shall include the planting of a minimum of 11 advanced trees (Advice Note 10).**
  - (e) Details of lighting to the exterior of buildings, which is required to comply with Local Planning Policy: Heritage Conservation and Development and be located to minimise amenity impacts on adjoining residences.**
  - (f) A Drainage Plan to the satisfaction of the local government.**
  - (g) A Construction Management Plan which is to address the following:**
    - (i) Construction timeframes;**
    - (ii) Contact details for personnel in the event of complaints;**
    - (iii) Stormwater and sediment control;**
    - (iv) Traffic access and parking management;**
    - (v) Vibration, air, dust and noise management;**
    - (vi) Public safety and amenity measures;**
    - (vii) Earthworks, excavation and associated matters;**
    - (viii) Protection of existing roads, kerbs, footpaths, trees and services;**

**(ix) Storage of waste and construction materials.**

The plan must be implemented upon commencement of any site works/development for the entire duration to the satisfaction of the Shire.

- (h) A management plan for service and waste vehicles using the service access adjoining Lot 27 South Street, York to manage potential amenity impacts to the adjoining residence at Lot 27 South Street, York which shall:**
- (i) Specify operating hours to minimise noise impacts on the adjoining Lot 27 South Street, York; and**
  - (ii) include a complaints response procedure.**
- (i) Details of a permanent screen fence and any retaining to be erected on or up to the boundary of adjoining lots 27 and 28 South Street, York and area south of proposed car parking adjoining Lot 8 Monger Street, York to the satisfaction of the Shire (advice note 8).**
- (j) Engineering and design plans and specifications for works in road reserves.**

**Prior to Occupation/Use of the Development Conditions**

**12. The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2, 6, 9, 10 and 11 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:**

*“This property and buildings which have been approved with a finished floor level of 173.9m AHD may be subject to inundation during a flood event. A Flood Risk Mitigation Plan has been approved by the Shire and is required to be complied with at all times”.*

All costs related to the notification shall be at the cost of the applicant/landowner (Advice Note 9)

- (b) An easement to the benefit of the local government is to be placed over the main drainage line through the property, at the expense of the applicant. The width of the easement is dependent upon approval of final details in the drainage plan and shall be as agreed with the Shire.**
- (c) Car parking bays (inclusive of disabled bay) as shown on the approved development plan are to be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress shall be constructed, drained and marked and associated signage erected.**

**On-going Conditions**

**13. The works undertaken to satisfy conditions of this approval with the exception of footpath and parking embayment's, 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:** Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.



**Note 5:** 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 6:** A crossover application is required to be submitted and approved prior to works commencing.

**Note 7:** Colours, materials, finishes, gutters, advertisements etc shall comply with the provisions of Local Planning Policy – Heritage Conservation and Development. Advertisements shall also comply with Local Planning Policy – Advertising Signage.

**Note 8:** Whilst a condition of approval is included to address screen fencing, dividing fencing between properties is also a civil matter between abutting landowners in accordance with the Dividing Fences Act 1961.

**Note 9:** 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\\_LRORMS/\\$FILE/FOR\\_DLI\\_N1.pdf](https://www0.landgate.wa.gov.au/docvault.nsf/web-new/FREEHOLD_LRORMS/$FILE/FOR_DLI_N1.pdf)

To satisfy condition 12(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.

**Note 10:** The Landscape Plan should include a plan indicating where proposed landscaping will occur and include details of species of plants, planting distances, numbers, planting sizes and anticipated height of each plant at maturity.

***CARRIED: 6/0***

**Declaration of Interest – Cr Stephen Muhleisen – Financial – Part owner/wife and myself.  
Lot 202 Joaquina Street, York – Inclusion into Art Precinct**

At 5.27 pm, Cr Stephen Muhleisen left the meeting.

**SY181-12/19 DRAFT LOCAL PLANNING STRATEGY AND  
LOCAL PLANNING SCHEME NO. 3**

<b>File Number:</b>	<b>PS.TPS.1.3</b>
<b>Author:</b>	<b>Carly Rundle, Senior Planner</b>
<b>Authoriser:</b>	<b>William Nunn, Co-Ordinator Development Services</b>
<b>Previously before Council:</b>	<b>SY002-02/17, SY121-10/17 &amp; SY063-06/18</b>
<b>Appendices:</b>	<b>1. draft Local Planning Strategy 2. draft Local Planning Scheme No. 3 3. Schedule of Submissions 4. Copy of Submissions 5. Administrative &amp; Minor Modifications</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Legislative & Executive.

**PURPOSE OF REPORT**

To consider submissions received during the consultation period for the draft Local Planning Strategy and Local Planning Scheme No.3 and responses to each submission.

For Council to determine to either:

- (a) support the draft Local Planning Strategy and Local Planning Scheme No.3 without modification;
- (b) support the draft Local Planning Strategy and Local Planning Scheme No.3 with modifications to address issues raised in the submissions (or with further advertising if modifications are 'significant'); or
- (c) not to support the draft Local Planning Scheme No.3 and provide a summary of reasons why the local government does not support the draft scheme.

**BACKGROUND**

The current Shire of York Town Planning Scheme No. 2 (Scheme) was gazetted 17 May 1996, with 30 amendments being made to this document to the current date.

The *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015* (referred herein as the Regulations), requires a Scheme to be reviewed within six months of the five-year anniversary of the date it was approved.

A Local Planning Scheme (in conjunction with the deemed provisions of the Regulations) is the principal statutory tool for achieving local governments aims and objectives with respect to development within its boundaries.

To support the preparation of a Scheme, the Regulations require a Local Planning Strategy (Strategy) to be adopted. The current Strategy was endorsed by the Western Australian Planning Commission (WAPC) 7 August 2007 and amended once on 18 May 2011. The purpose of a strategy is to:

- *Set the long-term planning directions for the local government.*
- *Apply state or regional planning policy that is relevant to the strategy.*
- *Provide the rationale for zoning of or classification of land under the Local Planning Scheme.*

The Shire of York Town Planning Scheme No. 2 and Local Planning Strategy required significant updating to address changes in planning frameworks at the State level, and to ensure that the document is based on up-to date information to inform land use planning and that it reflects the aspirations and visions of the community in the Strategic Community Plan.

Council resolved at its Ordinary Meeting held on 27 February 2017 to request the CEO to prepare a new Local Planning Scheme No.3 and to seek quotations (for both scheme and associated strategy).

To date the following has been undertaken:

- As a result of the quotation process, GHD was engaged to prepare the draft strategy and scheme.
- Council at its Ordinary Meeting held on 30 October 2017 approved the Engagement and Consultation Plan.
- Consultation was undertaken in accordance with the approved plan to inform preparation of draft documents.
- Council adopted the draft Local Planning Strategy and Local Planning Scheme No. 3 for public consultation at Ordinary Council Meeting 25 June 2018.
- Prior to advertising the draft Scheme no. 3 was referred to the Environmental Protection Authority (EPA) pursuant to Section 81 of the *Planning and Development Act 2005*. The EPA issued its decision not to assess the Scheme under Part IV of the *Environmental Protection Act 1986* on the 21 November 2018.
- The drafts were forwarded to the WAPC for assessment and certification to advertise. Certification to advertise was given, subject to modifications being undertaken by the local government.
- Public consultation was undertaken between the period 8 May 2019 to 7 August 2019. Consultation with public authorities (including Heritage Council), was undertaken slightly later during the period from 26 July to 24 October. Submissions received before or after the advertising periods have been included. A total of 24 submissions was received.

It is a requirement of the Regulations that the Shire considers and provides a response to each submission received within 120 days after the end of the submission period for the draft Scheme, or a longer period which is otherwise agreed by the WAPC.

The draft Local Planning Strategy and Local Planning Scheme No. 3 is therefore presented to Council to consider submissions received during the consultation period, responses to each submission and to either:

- (d) support the draft Strategy and Scheme without modification;
- (e) support the draft Strategy and Scheme with proposed modifications to address issues raised in the submissions (with further advertising if modifications are 'significant'); or
- (f) not to support the draft Scheme and provide a summary of reasons why the local government does not support the draft scheme.

## **COMMENTS AND DETAILS**

The draft Local Planning Strategy and Local Planning Scheme No. 3 were adopted by Council at its ordinary meeting held on the 25 June 2018. A detailed background on the formulation of the draft strategy and scheme (including outcomes of initial consultation) is available in the Council minutes.

A summary of the drafts and key outcomes of the review is listed below.

### Draft Local Planning Strategy

The draft Local Planning Strategy contains planning objectives, strategies and actions to meet the future planning and land use needs for the Shire of York for a period of 15 years or more. The community's aspirations for future development within the Shire were informed by the Strategic Community Plan 2018-2028 and further engagement and consultation which is discussed further below. Strategies and proposed development provisions are also required to align with State Planning Policy/Strategy and other planning documents with due regard given to local variations where required.

The draft Local Planning Strategy is divided into two parts:

- Part 1 outlines the visions and objectives for the Strategy and key strategic responses to address issues across the Shire. Strategies are summarised into the following categories; rural lands, tourism expansion, York town centre, rural lifestyle, infrastructure, arts and culture, industry and service employment, cultural and historical heritage, natural environment and bushfire risk. Implementation, monitoring and review and strategic land use plans are also provided in Part 1.
- Part 2 provides the background information and analysis that informs the strategy.

The draft Local Planning Strategy is attached in **Appendix A**. The vision and objectives of the Strategy align with the Shire of York Strategic Community Plan 2018-2028.

Some of the key strategies and actions identified include:

- That there is sufficient land already zoned 'residential' to meet development needs of the Shire for the timeframe of the strategy. The strategy identifies that to reduce ad hoc development occurring, no further land should be rezoned to 'residential' which has been reflected in the strategy maps by reducing the area currently identified for future residential;
- Industrial land feasibility was undertaken and identified preferred industrial development areas, as well as identification of a transitional industrial development area for short term needs;
- Identification of the York Bypass preferred alignment as supported by Council;
- Identification of development standards to be incorporated into the scheme, policies and further strategic work to be undertaken;
- Identifies that preliminary visual landscape assessment has been undertaken and identifies key routes that need further planning to ensure values are retained and respected by development.
- Encouraging arts, culture and tourism development and associated actions.
- Identifies that increase in density in the town centre would be appropriate to encourage diverse housing choices.

### Draft Local Planning Scheme No. 3 (draft Scheme)

The draft Local Planning Scheme No. 3 is attached in **Appendix B** and upon gazettal will replace the Shire of York Town Planning Scheme No. 2 as the principle statutory planning tool for controlling land use and development within the Shire. The draft Scheme has been prepared to be consistent with 'model provisions for local planning schemes' and reflects the adoption of the 'deemed provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* and incorporates recommendations as specified in the Local Planning Strategy. The following key changes are incorporated:

- Format, zones and land uses updated for consistency with the 'model provisions' of the Regulations, which includes designating broad purposes to Reserve land;
- Text reflects adoption of the 'deemed provisions' of the Regulations which automatically have effect as part of a Local Planning Scheme and prevail in the event of inconsistency. Draft

LPS3 has been amended to delete provisions addressed in the regulations and remove inconsistencies.

- Zoning table to provide increased certainty and removal of red tape where possible to encourage arts and crafts and tourism uses;
- Amendments to car parking requirements including:
  - Standardised car parking rates within the Regional Centre zone for 'restaurant/café', 'shop', 'fast food outlet', 'office' and similar land uses to reduce red tape associated with 'change of use' which previously had different car parking rates per land use triggering requirement for development approval;
  - Identifying that there are different car parking needs and issues between the regional centre zone and other zones, and providing standards which reflect a lower rate of car parking in the Regional Centre zone;
- Provides discretion to consider keeping of animals in the residential zone, where a lot is over 4,000m<sup>2</sup> in area;
- Reduces red tape by reducing the need for duplicate approvals under local laws and scheme in some instances;
- Increases the residential density of the regional centre zone from 'R40' to 'R60'
- Identifies key regional facilities such as 'corrective institution' and 'waste disposal facility' as an 'X' use in all zones, requiring a prior scheme amendment for the land use to be considered on a property;
- Consolidates provisions for Rural Residential precincts, and identification of precincts on Scheme maps;
- Identification of the Avon River Flood Fringe as a Special Control Area on the Scheme maps; and
- Expansion of the Regional Centre zone within the 'town centre' precinct as identified by the Strategy.

#### WAPC Certification Prior to Advertising

Following adoption of the drafts by Council and prior to advertising commencing, the Regulations required the documents to be submitted to the WAPC to:

- certify that the local planning strategy is in compliance with Regulation 11 (2). The WAPC may require the local government to modify the draft the strategy before certification is given.
- Examine the documents and advise the local government if modification is required before the draft scheme is advertised.

The WAPC required modification on both the draft strategy and scheme before advertising could commence relating to a variety of matters. Officers held a workshop with Council to advise of significant modifications and discuss those where there was opportunity for input. Major modifications included:

#### Draft Local Planning Strategy - Springbett Reserve - Industrial Land Use

In the Local Planning Strategy, the modifications required deletion of reference to the use of Springbett Reserve for industrial development and actions inserted to outline that land near the York Bypass is the preferred location for industrial development.

The Shire expressed concern with this modification, relaying issues with industrial land supply which is placing pressure on uses being located on rural land and inappropriate locations, and its concerns that Springbett Reserve (being subject to the Landcorp Regional Development

Assistance Program) was intended to meet land supply demands in the short term. The remaining preferred site for industrial development (Gilmac Hay) is unlikely to be developed in the short term.

Further discussion resulted in modification being proposed which identified land immediately south of the existing 'Industrial' zone, being identified as 'possible small-scale industrial uses', and land in proximity to Spices Road, and Knotts Road identified as 'possible Rural-Enterprise' (light industry and rural living uses). The intent being that this could provide an option for light industrial land to be meet short term land supply needs. These land uses are only identified in the Strategy only and will require a future scheme amendment to be submitted which will address development of the site in more detail (capability of land, traffic, interface with adjoining land etc) and relies on landowners to progress. Targeted consultation was undertaken with affected landowners by sending letters to each landowner notifying the proposed 'small-scale industry and rural enterprise designation'.

#### Local Planning Strategy - Rural Living

The draft strategy adopted by Council included provision to consider future proposals for new forms of rural residential development along the Avon River, in certain circumstances.

The inclusion of this provision was partly in response to a submission sent to Councillors prior to a briefing on the draft Strategy 7 May 2018 expressing a desire to develop rural living, although in a clustered style where shared use of rural land between residences could be offered, which Councillors indicated support for.

The WAPC modifications required removal of these provisions from the strategy to limit rural living development along the Avon River to existing rural residential zoned land.

#### Draft Local Planning Scheme No. 3 - Special Control Area 2 – Environment

The modifications required the insertion of a new Special Control Area 2 – Environment, which provides statutory development provisions to protect the important landscape features of Mt Bakewell and Mt Brown. The inclusion of planning provisions was identified within the Local Planning Strategy as an action, although the boundary of the SCA was to be informed by a visual landscaping analysis being completed by the DPLH which was not finalised at the time of the draft being adopted by Council.

### Consultation

Public consultation on the draft documents was undertaken in accordance with requirements of the Regulations and the Consultation and Engagement Plan, which included:

- A notice published in the Avon Valley Advocate 8 May 2019 and notice placed in York and Districts Community Classifieds (June 2019) inviting submissions to be made by 7 August 2019.
- A notice placed on the Shires website and at the Shire office, and copies of documents were available for viewing;
- Notice placed on social media and sent to those who had registered to be placed on a consultation list for the review, and to community groups on the Shire's contact list.
- A community information session to provide information or answer any questions on the draft local planning strategy and local planning scheme – held 8 June 2019
- Advertising by way of social media and media release
- Targeted consultation was undertaken by sending a letter to landowners located within the area newly identified for future small scale industrial or rural enterprise uses in the Strategy. A letter was also sent to landowners within the 'York Estate' bounded by Red Swamp Road, Lewis Road and the Avon River which were located within the area identified by Scheme Amendment No. 52. Scheme Amendment No. 52 was progressed in 2014 proposing to rezone the land from Rural Residential to Residential. 32 objections were received to the

rezoning proposal. The matter was presented to Council 25 September 2018 for determination as outlined in Council minutes SY115-09/18, and not supported because the proposal required further information in regard to bushfire and was not consistent with the draft Local Planning Strategy which identified that the land remain zoned Rural Residential. The scheme amendment was subsequently refused by the WAPC for similar reasons. Officers noted within the Council report, that because part of the reasons for refusal related to the draft local planning strategy, that targeted consultation would be undertaken to inform that the document was out for consultation and opportunity for submissions to be made.

- Notification (either by letter, email or electronic lodgement) was sent 26 July 2019 to each public authority that the local government considers is likely to be affected by the scheme and strategy, requesting submissions be made by 24 October 2019. This included:
  - Department Biodiversity, Conservation & Attractions
  - Public Transport Authority
  - Dep of Regional Development.
  - Western Power
  - Heritage Advisor
  - Telstra
  - Water Corporation
  - Department of Mines and Petroleum
  - Tourism WA
  - Department of Water, Environment and Regulation
  - State Heritage Office
  - Department of Health
  - Main Roads WA
  - Department of Fire & Emergency Services
  - Department of Agriculture
  - Department of Aboriginal Affairs
  - Department of Education, Employment and workplace relations
  - Wheatbelt Development Commission
  - Shire of Beverley, Northam, Cunderdin, Mundaring, Quairading, Kalamunda, Armadale,

### Submissions

A total of 24 submissions was received; 7 from State Government authorities, 3 from adjoining local governments and 14 from private landowners. A copy of submissions received is provided in Attachment 4.

A detailed response and recommendation to each submission has been prepared by consultants GHD and is provided in Attachment 3.

Issues raised in the submissions related to:

- Technical and textural amendments;
- Status of freight route planning
- Lavendale Farm – zoning for ‘clustered lifestyle village’

- Zoning anomalies and mapping errors;
- Recognition of existing tourism development through scheme zonings;
- Change of zoning requests;
- Light industrial/rural enterprise zoning changes;
- Definition of 'cottage-industry';
- Inclusion of Masonic Hall in Arts and Culture Precinct.

Of the 24 submissions, for 13 of these no modifications were proposed to the documents, 6 resulted in site/area specific modifications and 4 resulted in textual modifications

Key modifications are listed below:

- No further intensification of land use is proposed within bushfire prone areas to warrant the preparation of a Bushfire Hazard Level Assessment as recommended by the Department of Fire and Emergency Services and risk has been adequately considered as part of the Shire's Bushfire Risk Mitigation Plan;
- Further consultation to occur with Main Roads to address the current status of Freight Routes in response to Shire of Mundaring submission;
- Land south of Spices Road has been recommended to be modified to 'Rural Enterprise' in the Local Planning Strategy to reflect concerns raised in submissions regarding impact on existing residences and proximity to watercourses. Additional text is recommended to be included identifying the need to address development requirements including minimum lot sizes, vehicle access, maintenance of rural residential streetscapes, fire management and maintenance of visual amenity and buffers.
- Requests for minor zoning changes have been supported, although those of a more complex nature, such as requests for Special Use zones and Rural Living have been recommended to be progressed through a separate scheme amendment process, which would allow for necessary consultation to be undertaken with authorities, public advertising and provision of site specific information for proposals.
- Include the Masonic Hall in the Art and Culture Precinct and modify the definition of "Industry – Cottage" to remove the requirement that it must be conducted in an outbuilding thereby facilitating the use of Industry Cottage under the main roof
- Officers consider that there is a legacy issue with the Additional Use 1 (A1) where in the current Shire of York Town Planning Scheme No. 2 the spatial identification of the A1 showed the Additional Use on the Scheme maps applying to Lot 10 Goldfields Road, Cold Harbour. The scheme text however indicates the A1 applies to Lot 10 (45) Burges Siding Road, Quellington. On review, it appears that this issue has been in existence since at least the gazettal of Scheme No. 2 in May 1996. Draft Local Planning Scheme No. 3 however, in response to modifications required prior to advertising updated the scheme text to be consistent with the scheme maps, which has removed reference of the A1 applying to Lot 10 (45) Burges Siding Road, Quellington.

Because of the length of time the A1 has arguably applied to both properties, officers recommend that scheme maps and text be modified to reflect that the A1 applies to both properties.

During the advertising period, officers also identified a number of modifications to the Local Planning Scheme & Strategy maps necessary to be undertaken to reflect the accurate use of land, and minor textual amendments to clarify provisions in the Scheme and Strategy text.

A schedule of minor and administrative modifications is included within Attachment 5. It is recommended that Council adopts the local planning scheme and local planning strategy, with these modifications.



### Referral to WAPC

Following a Council resolution for this matter, unless there is a resolution for further advertising for 'significant modifications', the Shire is required to forward information as set out in the Regulations to the WAPC for assessment. The Regulations require that information on the draft local planning scheme be provided to the WAPC within 21 days of Council resolution.

The WAPC is then, in accordance with section 15 is required within 60 days of receipt of the draft Local Planning Strategy to:

- (a) Endorse the strategy without modification; or*
- (b) Endorse the strategy with some or all of the modifications proposed by local government;*
- (c) Require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to Commission for endorsement; or*
- (d) Refuse to endorse the strategy.*

If the Commission endorses the local planning strategy, this will revoke the previous local planning strategy.

On receipt of the local planning scheme, in accordance with section 29 the Commission must within 120 days of receiving the document, or within such longer period as the Minister or an authorised person allows –

- (a) Consider the documents; and*
- (b) Make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and*
- (c) Submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.*

The Minister, or an authorised person may then either in accordance with section 30 and 31, either then approve the Scheme, direct the local government to modify the Scheme, or direct the local government to modify the Scheme and advertise modifications. If the Minister approves the Scheme, this must then be published in the Gazette and the local government is required to publish a notice in a local planning scheme advising of the approval of the Scheme and notify each person who made a submission.

### **OPTIONS**

The local government is required to make a decision on the draft local planning strategy and local planning scheme as set out in the Regulations. The Regulations do not specify an option for the draft local planning strategy not to be supported, only allowing for its endorsement. It is a requirement of the Regulations that the Council consider submissions and make a resolution within 120 days after the end of the submission period or a day approved by the WAPC in accordance with section 25 of the Regulations.

Officers recommendation is to support the local planning strategy and local planning scheme, with modification in response to submissions, and endorse the response to each submission. The following options are available to Council:

- Provide different responses, or modifications in response to submissions, and in respect of the local planning scheme resolve to advertise the modifications, if they are considered 'significant'.
- Provide different responses to submissions and adopt the local planning strategy and local planning scheme without modification.
- Resolve not to support the draft scheme and provide a summary of reasons why.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

The Engagement and Consultation Plan, approved by Council at Ordinary Council Meeting 30 October 2017 sets out the objectives, nature and methods for community and stakeholder engagement at a macro level to be undertaken at each stage of the project.

Consultation outcomes from the first phase of consultation which included targeted youth consultation through classroom activities at York District School, community survey, "drop in" community sessions and direct meetings with key businesses and community groups informed the development of scenario plans. As part of consultation for phase 1, there were a low number of attendees at drop-in sessions. As part of evaluating effectiveness of consultation, drop in sessions were then shifted to occur in conjunction with community events (markets) where passive feedback from the community could be obtained which resulted in increased participation. This enabled discussion of the scenarios with a greater number of community members. Scenario plans were also made available online and promoted through social media.

During advertising, a community information session was held to enable community members to ask questions and obtain information on particular elements of the scheme and strategy to assist them in the preparation of a submission.

Whilst, with the exception of the pop-up stand at the York markets, in-person consultation activities did not attract considerable numbers of attendees, the development of the draft strategy was informed by the views of participants, and the community was provided with multiple, multi-modal opportunities to engage

### **Strategic**

The review of the Local Planning Strategy and Scheme is identified as an action to implement themes of the 2018-2028 Strategic Community Plan and a priority action of the 2018-2022 Corporate Business Plan to be finalised and gazetted by in Year 1 (2018-2019).

The draft Local Planning Strategy will guide strategic land use planning for the Shire of York and aligns with the 2018-2028 Strategic Community Plan.

### **Policy Related**

The draft Local Planning Strategy identifies a number of actions which relate to policy. Actions identify that a review of existing policies to be updated for consistency with new documents will be required and recommends a number of new policies be prepared.

### **Financial**

The delivery of the Local Planning Strategy and Local Planning Scheme No. 3 has and will be undertaken by GHD as part of the lump sum fee for which Council has allocated a budget.

For Local Planning Scheme No. 3 to have effect, it must be published in the Government Gazette, which will incur a publishing fee per page. A budget allocation for gazettal fees has been included within the 2019/20 annual budget.

### **Legal and Statutory**

*Planning and Development Act 2005*

*Planning and Development (Local Planning Schemes Regulations) 2015*

*Environmental Protection Act 1986*

### **Risk Related**

The draft Scheme and Strategy when adopted, will become the primary strategic and statutory documents guiding land use and development within the Shire. Extensive community consultation

has been undertaken to inform preparation of the documents, and objections and actions align with the Strategic Community Plan.

Following Council resolution, the Scheme and Strategy are referred for assessment to the Western Australian Planning Commission/Department of Planning/Minister for Planning. Modifications can be 'directed' to be undertaken to the documents which gives some risk that changes may occur that are not supported at Council level. Although it is a statutory requirement that a Council resolution occur in accordance with the options, and for either option, referral and further assessment is a requirement.

### **Workforce**

The recommendation will be implemented by Shire staff, with support of GHD through to a final determination by the WAPC and Minister of Planning.

### **VOTING REQUIREMENTS**

**Absolute Majority: No**

#### **RECOMMENDATION**

That Council:

1. Pursuant to Regulation 14(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* supports the draft Local Planning Strategy with proposed modifications in response to submissions as set out in Attachment 3 and further minor and administrative modifications identified during consultation in Attachment 5.
2. Pursuant to Regulation 25(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* supports the draft local planning scheme with proposed modifications in response to submissions as set out in Attachment 3 and further minor and administrative modifications identified during consultation in Attachment 5.
3. Endorses the responses to submissions set out in Attachment 3.
4. Authorises the Chief Executive Officer to:
  - (a) pursuant to Regulation 14(3) and 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015* forward all relevant information required to the Western Australian Planning Commission.
  - (b) execute documents and modifications as required by the *Planning and Development (Local Planning Schemes) Regulations 2015* and *Planning and Development Act 2005*.

**RESOLUTION****061219****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council:**

- 1. Pursuant to Regulation 14(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft Local Planning Strategy with proposed modifications in response to submissions as set out in Attachment 3 and further minor and administrative modifications identified during consultation in Attachment 5.**
- 2. Pursuant to Regulation 25(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft local planning scheme with proposed modifications in response to submissions as set out in Attachment 3 and further minor and administrative modifications identified during consultation in Attachment 5 and correction of other minor administrative errors in the strategy text.**
- 3. Endorses the responses to submissions set out in Attachment 3.**
- 4. Authorises the Chief Executive Officer to:**
  - (a) pursuant to Regulation 14(3) and 28 of the Planning and Development (Local Planning Schemes) Regulations 2015 forward all relevant information required to the Western Australian Planning Commission.**
  - (b) execute documents and modifications as required by the Planning and Development (Local Planning Schemes) Regulations 2015 and Planning and Development Act 2005**

**CARRIED: 5/0**

At 5.28 pm, Cr Stephen Muhleisen returned to the meeting.

*The Shire President advised Cr Muhleisen of the Council Resolution for this item.*

**SY182-12/19 TENDER T02-19/20 AVON PARK REDEVELOPMENT**

**File Number:** AS.TEN.70

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

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

**Previously before Council:** SY033-04/17 24 April 2017  
 SY108-09/17 18 September 2017  
 SY139-09/19 23 September 2019

**Appendices:** 1. Avon Park Upgrade Tender Assessment - 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 RFT 02-19/20 for the Avon Park Redevelopment.

**BACKGROUND**

The Avon Park Redevelopment is a project that was identified as a priority project in the Shires Strategic and Corporate plans. Part funding of the project has been obtained through a Lotterywest Grant (\$366,071) with the Shire funding the remainder.

Emerge Associates were engaged to undertake the Skate Park Design (in conjunction with the Avon Park Redevelopment design) and sub contracted Skate Sculpture to do the detailed design and community consultation of the skate park.

The design was considered and adopted by Council at its Ordinary meeting 23 September 2019.

The tender for the construction of the Avon Park Skate Park, based on the adopted design, was advertised on Saturday 26 October 2019 and closed on Monday 18 November 2019.

**COMMENTS AND DETAILS**

Four Tenders were received and are summarised below;

<b>TENDERER</b>	<b>Separable Portion A</b>	<b>Separable Portion B</b>	<b>TOTAL (ex. GST)</b>
Total Eden Tender Price	\$731,374.40	\$7,320.00	<b>\$738,694.40</b>
Phase 3 Tender Price	\$605,364.13	\$9,221.40	<b>\$614,585.53</b>
Environmental Industries Tender Price	\$715,635.98	\$10,756.97	<b>\$726,392.95</b>
Earthcare	\$836,316.37	\$11,454.30	<b>\$847,770.67</b>
Budget Excluding Project Supervision, Shire’s costs			<b>\$520,952.68</b>

All Tenders meet the Compliance criteria as set out in the RFT.

The Tenders have been evaluated by a two person Shire Officer panel using the following 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 evaluation by Emerge Associates is attached as Confidential Appendix 1.

All Tenderers were assessed as substantially meeting the Tender requirements. All tenders were also assessed as having the Relevant Experience, Key Resources, Proposed Methodology and OSHE Management required to successfully complete the works. The main difference between the Tender offers is the cost.

Based on the weighting score, the Phase 3 is considered the preferred Tenderer. However the tendered price is considerably higher than the budget.

Emerge have recommended that Council awards the works to Phase 3 for the tendered value of \$614,585.53 (ex GST) or if funds are not available to achieve the tender price listed above, Emerge Associates recommends that the Shire of York engages in a value management process with Phase 3 to achieve the original project budget.

The cost of a new reticulation system has been identified as an additional cost that was not identified in the early planning of this project. However it is recommended that the new reticulation system is needed as the existing system is continually leaking and requiring repairs. A new system designed for the new layout would be significantly more efficient than modifying (adding on areas and turning off areas) the existing system and the existing supply from Peace Park would not keep up with the demand of the new Avon Park layout. It is therefore recommended that the budget be increased by the cost of the new reticulation system. To fund the extra budget cost, the \$20,000 allocated for investigation into alternative water sources could be reallocated to Avon Park. This project was allocated to the Works Coordinator, with the current Works Coordinator resigning and a new Works Coordinator yet to be appointed, it is unlikely that the new Work Coordinator will have time this financial year to undertake the project and there is not the scope for other staff to take the project on this financial year. It is recommended that the remainder is found as part of the midyear budget review.

This still leave the project budget significantly short of the tendered price \$614,585.53. (ex GST)

Initial Project Budget	\$705,672 (as per 2019/20 Budget)
Less Emerge fees	\$79,325
Less Tender advertising	\$784.32
Less Shire works	\$105,394.32
Plus works for Skate Park included in Tender	\$9221.40
Plus cost of irrigation	\$38,886
Tender Budget	\$569,060.48 (ex GST)

Difference between tender budget and tender price \$45,525.05 (ex GST)

To meet the project Budget it is recommended that the following items be considered for amendment/removal from the project specification. These items have been chosen as it is considered they would have the least impact on the project overall.

- a) Replace rammed earth walls with laterite block walls.
- b) The Shire to provide and install litter bins.
- c) Remove play space arbour structure.
- d) Remove restoration to existing shade structures (painting). To be done as maintenance.
- e) Shire to do soil conditioning of Garden Beds.
- f) Shire to undertake consolidation, ie maintenance of plantings etc, until practical completion. This does not reduce the contractor overall responsibility for guarantee of the works. To be done as maintenance.
- g) Shire to asphalt access to swing bridge.

It is estimated that this will save in the order of \$ 43,000 (ex GST) to be confirmed.

The tendered price of \$614,585.53 includes a \$26,000 (ex GST) contingency. It is prudent to leave a contingency in the tendered price, but it could safely be reduced to approximately \$20,000.

Therefore it is recommended that Council accepts Phase 3's offer and engage in a value management process with Phase 3 to achieve the revised tender budget of \$569,060.48 (ex GST) prior to final contract signing.

## OPTIONS

Councils options include;

- Accept the officers recommendation as presented.
- Accept the Tender offer of phase 3 and request the CEO to report on options to fund the addition budget cost.
- Not accept any Tenders and recall Tenders. This would require a variation to the LotteryWest funding agreement.

## IMPLICATIONS TO CONSIDER

### Consultative

No consultation has been undertaken in respect to awarding this Tender. Although extensive community consultation was undertaken as part of the design process.

### Strategic

The project is identified in the Shire's Corporate Business Plan.

### Policy Related

Policy F 1.2 Procurement has been adhered to.

### Financial

The total project budget is \$705,672 (ex GST), with funding from a Lotterywest Grant of \$366,071 (ex GST).

The financial implications are dealt with in the body of the report.

### 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**

If a contract is not awarded in a timely manner the completion of the project in line with the LotteryWest grant funding will be difficult to achieve.

Significantly reducing the scope (deliverables) of the project is a risk to the Shire's reputation as the community has expectations of the project. The items listed as to be considered for amendment/removal from the project specification, have been chosen to have the least impact on the overall project.

**Workforce**

Shire staff have been allocated a number of the project components including, demolition of the internal roads, alterations to the carpark, mulching and planting of garden beds.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****071219****Moved: Cr Denis Warnick****Seconded: Cr Kevin Trent****That Council:**

- 1. Selects Phase 3 as the successful Tenderer for the for the Avon Park Redevelopment, but not enter into a contract at this time.**
- 2. Authorises the Chief Executive Officer to engage in a value management process (items as listed in the body of the report) with Phase 3 to achieve the revised tender budget of \$569,060.48 (ex GST) prior to final contract signing.**
- 3. Authorises the Chief Executive Officer to prepare and execute the contract documents, including the signing and sealing as required.**
- 4. The addition funds for the project, as recommended in point 2 above, be considered as part of the Shires midyear budget review.**

***CARRIED: 6/0***



**SY183-12/19 TENDER T03-19/20 AVON PARK SKATE PARK**

**File Number:** AS.TEN.71

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

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

**Previously before Council:** SY033-04/17 24 April 2017  
 SY108-09/17 18 September 2017  
 SY139-09/19 23 September 2019

**Appendices:** 1. Avon Park Skate Park 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 RFT 03-19/20 for the Avon Park .

**BACKGROUND**

The Avon Park Skate Park is a project that was identified as being highly desirable for the youth of York. Funding has been obtained through a Federal Government, Department of Infrastructure, Regional Development and Cities, Community Development Grants Programme (CDG).

Emerge Associates were engaged to undertake the Skate Park Design (in conjunction with the Avon Park Redevelopment design) and sub contracted Skate Sculpture to do the detailed design and community consultation of the skate park.

The design was considered and adopted by Council at its Ordinary meeting 23 September 2019.

The tender for the construction of the Avon Park Skate Park, based on the adopted design, was advertised on Saturday 26 October 2019 and closed on Monday 18 November 2019.

**COMMENTS AND DETAILS**

Four Tenders were received and are summarised below;

<b>TENDERER</b>	<b>TENDER PRICE</b>
<b>Advanteering</b>	<b>\$476757.00</b>
<b>Phase 3 Tender Price</b>	<b>\$360,761.52</b>
<b>Environmental Industries</b>	<b>\$433,350.40</b>
<b>Earthcare Landscapes</b>	<b>\$364,589.50</b>
Budget Excluding Project Supervision, Shire’s costs	\$338,464.10

All Tenders meet the Compliance criteria as set out in the RFT.

The Tenders have been evaluated by a two person Shire Officer panel using the following criteria as detailed in the Tender documents.

- Relevant Experience. 20%
- Key Personnel Skills & Experience. 10%
- Tenderers Resources. 10%
- Demonstrated Understanding. 10%
- Price. 50%

A full copy of the tender evaluation by Emerge Associates is attached as Confidential Appendix 1. Note the contract budget value as listed in the report has been recalculated and the figure in the report is not correct.

All Tenderers were assessed as substantially meeting the Tender requirements. All tenders were also assessed as having the Relevant Experience, Key Resources, Proposed Methodology and OSHE Management required to successfully complete the works. The main difference between the Tender offers is the cost.

Based on the weighting score, the Phase 3 is considered the preferred Tenderer. However, the tendered price, \$360,761.52 (ex GST) is higher than the budget of \$338,500 (ex GST) . The Tendered price also includes a contingency of \$14,000 (ex GST).

The consultant, New Line Skateparks and Skate Sculpture, recommendation is to award the Avon Park Skatepark Construction works to Phase 3 with Independent Concrete as a sub-Contractor for the value of works provided within the tender submission of \$360,761.52 (ex gst).

However they recommend that if additional funds are not available to allow for the above contractor Price, that the Shire of York engages in a value management negotiation process with Phase 3 be prior to final contract signing.

The following cost efficiencies could be considered to achieve the project budget & contract value of \$338,500. (ex GST).

- a) Value management: Reduce the size of the bowl and street line proportionally including:
  - i. Slightly reduce footprint of street line (flat slab / manual pad reduction)
  - ii. Reduce footprint of bowl slightly resulting in reduced transition cost
  - iii. Reduce number of extensions / level changes in bowl resulting in less mass concrete and edge walls
- b) Explore alternative seating option in place of in situ concrete bench as per the broader landscape design.
- c) Undertake negotiations with the Shire for optimizing the cost split of scope of demolition works for the surrounding site between the Shire of York and the Contractor.

The cost savings above are considered as having no significant effect to the overall function of the skatepark.

It is also considered that the contingency allowance of \$14,000 ex gst could be allowed for on top of the budget, as it is unlikely to be required. This would give a tender value of \$352,500.

It is not recommended that the budget be increased, particularly as the Shire has funded the cost of the design and project management. Therefore it is recommended that Council selects Phase 3 as the successful Tenderer and engages in a value management process with Phase 3 to achieve the revised tender budget of \$352,500 (ex GST) prior to final contract signing.

## OPTIONS

Council's options include;

- Accept the officers recommendation as presented.
- Accept the Tender offer of Phase 3 and request the CEO to report on options to fund the additional budget cost.
- Not accept any Tenders and recall Tenders. This would require a variation to the funding agreement.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

No consultation has been undertaken in respect to awarding this Tender. Although extensive community consultation was undertaken as part of the design process.

### **Strategic**

The project is identified in the Shire's Corporate Business Plan.

### **Policy Related**

Policy F 1.2 Procurement has been adhered to.

### **Financial**

The project is funded by a Federal Government grant of \$350,000 with the Shire funding the Project design and management.

The financial implications are dealt with in the body of the report.

### **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**

If a contract is not awarded in a timely manner the completion of the project in line with the grant funding will be difficult to achieve.

Significantly reducing the scope (deliverables) of the project is a risk to the Shire's reputation as the community has expectations of the project. The recommended variation has been chosen to have the least impact on the overall project.

### **Workforce**

Shire staff will undertake the initial clearing of the site.

## **VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****081219****Moved: Cr Pam Heaton****Seconded: Cr Kevin Trent****That Council:**

- 1. Selects Phase 3 as the successful Tenderer, but not enter into a contract at this time.**
- 2. Authorises the Chief Executive Officer to engage in a value management process (items as listed in the body of the report) with Phase 3 to achieve the revised tender budget of \$352,500 (ex GST) prior to final contract signing.**
- 3. Authorises the Chief Executive Officer to prepare and execute the contract documents, including the signing and sealing as required.**

***CARRIED: 6/0***

**SY184-12/19 MAJOR STRATEGIC REVIEW 2020 - COMMUNITY ENGAGEMENT PLAN AND LEVELS OF SERVICE REVIEW**

<b>File Number:</b>	<b>OR.CMA.2.5</b>
<b>Author:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>25 September 2019</b>
<b>Appendices:</b>	<b>1. Levels of Service Review November 2019 2. Community Engagement Plan</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

**PURPOSE OF REPORT**

This report presents an update on the Shire's levels of service and a community engagement plan for the Shire's upcoming Major Strategic Review (Review).

**BACKGROUND**

All local governments in Western Australia are required to develop a Plan for the Future as prescribed under Section 5.56(1) of the *Local Government Act 1995*. In 2011, amendments were made to the *Local Government (Administration) Regulations 1996*, specifically the inclusion of regulation 19BA, which in summary, states that a Plan for the Future is to incorporate a Strategic Community Plan (SCP) and a Corporate Business Plan (CBP).

The Strategic Community Plan (SCP) provides the long-term view (10 plus year timeframe) for the Shire and sets out the vision, aspirations and objectives of the community. The Corporate Business Plan (CBP) is responsible for translating the strategic direction of the Shire, articulated within the SCP, into specific priorities and actions at an operational level. The CBP also draws together actions contained within the Long Term Financial Plan, Capital Works Programs and various informing strategies.

Regulation 19C(4) of the *Local Government (Administration) Regulations 1996* requires the SCP to be reviewed at least once every 4 years. The last major strategic review was carried out in 2016 with the CSP and CBP adopted in June of that year.

At the Ordinary Council Meeting on 25 September, Council adopted a process and timeline for the 2020 Review. This report is provided in accordance with that process and timeline.

**COMMENTS AND DETAILS**

Officers have provided at Attachment 1 an update on the Shire's progress regarding the levels of service agreed by Council and the community during the last major strategic review. The agreed levels recognised limited resources and the need to focus on addressing asset risks which were a key challenge at the time of adopting the last SCP and CBP. An update was previously provided during the minor strategic review undertaken in 2018.

Following a Request for Quotation process in accordance with the Shire's Procurement Policy, Localise was engaged to assist the Council to undertake the Review. A scene-setting workshop was held with Councillors and senior officers on 2 December 2019. The proposed community engagement plan is now provided for Council's consideration (Attachment 2).

## OPTIONS

Council could request amendments to the proposed Community Engagement Plan. However, the plan has been prepared following the workshop held with Councillors and in accordance with best practice principles of community engagement and the Shire's policy G2.9 Community Engagement and Consultation.

## IMPLICATIONS TO CONSIDER

### Consultative

Regulation 19C(9) of the *Local Government (Administration) Regulations 1996*, requires that the electors and ratepayers of the district are consulted during the development of a strategic community plan.

### Strategic

*Strong and Effective Leadership*

- 5.1 Effective and Informed governance and decision-making
- 5.4 Open and accountable systems
- 5.5 A strong collective voice
- 5.6 High levels of community engagement

### Policy Related

- G2.9 Community engagement and consultation
- G4.1 Integrated Planning and Reporting (Planning)
- G4.3 Financial Planning and Sustainability

### Financial

The 2019/20 adopted budget includes an allocation of \$30,000 (GL 41124 Strategic Planning) for the Major Strategic Review.

### Legal and Statutory

#### ***Local Government Act 1995***

#### **5.56. *Planning for the future***

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

*[Section 5.56 inserted by No. 49 of 2004 s. 42(6).]*

#### ***Local Government (Administration) Regulations 1996***

#### **19C. *Strategic community plans, requirements for (Act s. 5.56)***

- (9) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*
- (10) *A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.*

*[Regulation 19C inserted in Gazette 26 Aug 2011 p. 3483-4.]*

**Risk Related**

There is a compliance risk should the Shire fail to undertake a robust community engagement process as part of the Review. This risk is considered high (12). There is also a reputational risk which is considered high (15). The adoption and implementation of a Community Engagement Plan mitigates these risks.

**Workforce**

The Shire has engaged a suitably qualified and experienced specialist to assist the Shire with its Major Strategic Review.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****091219****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council:**

- 1. Notes the Levels of Service review attached at Appendix 1 to this report;**
- 2. Approves the Community Engagement Plan for the Major Strategic Review as attached at Appendix 2 to this report.**

***CARRIED: 6/0***

**SY185-12/19 AMENDMENT TO POLICY C1.4 SPONSORSHIP OF TOURISM EVENTS**

<b>File Number:</b>	<b>OR.CMA.4</b>
<b>Author:</b>	<b>Natasha Brennan, Administration and Governance Coordinator</b>
<b>Authoriser:</b>	<b>Allen Cooper, Acting CEO</b>
<b>Previously before Council:</b>	<b>25 November 2019</b>
<b>Appendices:</b>	<b>Nil</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Review

**PURPOSE OF REPORT**

It is important that Council policies are kept up to date and are reviewed on a regular basis under the direction of the Chief Executive Officer. If any changes or amendments are required these are brought to Council for endorsement.

This report proposes a minor amendment to Policy C1.4 Sponsorship of Tourism Events.

**BACKGROUND**

Council adopted the current policy in April 2016 (replacing Events Support Policy) as part of a major review of all Shire of York policies. This policy was reviewed as part of the minor review presented to Council in November this year, no amendments were proposed at that time.

However, following a review of event guidelines undertaken by the Shire's Events Working Group, officers have considered the timeframe for providing an acquittal of the support received under Policy C1.4 and are proposing that Council considers extending that timeframe.

**COMMENTS AND DETAILS**

Policy C1.4 Sponsorship of Tourism Events sets out the conditions under which Council will provide support for events that attract or have the potential to attract tourists to York. Clause 4 of the policy relates to the requirements for acquitting the funds received. Specifically, Clause 4.1 states:

- 4.1 *The recipient of sponsorship will be required to provide a written report to Council within **one month** of the holding of the event, including for each event if the program is for more than one year. The report must show the following:*
- (a) *a description of the event and an outline of any modifications to the final product that may have occurred during the course of the event*
  - (b) *estimated visitor numbers and place of origin, along with any information derived from visitors about their views on the event and any information on overnight stays as a result of the event*
  - (c) *any issues that arose in the course of the event and lessons learnt*
  - (d) *implications, if any, for future planned events (if applicable)*
  - (e) *a final financial report and, where a subsequent event is planned, how funding will be carried forward for the next event.*

Officers have researched other similar local government policies and the grant conditions for several State government funding programs. While some local governments do not stipulate a timeframe for acquittal, others indicate a timeframe of three months following the event or activity. The Department



of Local Government, Sport and Cultural Industries arts funding guidelines provide three months for acquittal while the Community Sport and Recreation Facilities Fund requires acquittals by 15 June. Other State government funding bodies will negotiate an acquittal date as part of the funding agreement entered into depending on the size, scale and timing of the event and agreed milestones.

Historically, a number of recipients of Shire funding under Policy C1.4 have struggled to meet the one month deadline for acquittal. It should also be noted that Council's Policy C1.3 Community Funding: Grants and Sponsorship does not prescribe a timeframe for acquittal of funds.

Therefore, officers are proposing that Clause 4.1 of Policy C1.4 Sponsorship of Tourism Events is amended to require an acquittal to be provided to the Shire within three months of the event or activity. Officers acknowledge however, that the acquittal received may not be reported to Council within that timeframe as this is dependent on the timing of the acquittal and the workload of the relevant officer at the time. For example, if an event takes place in September, the acquittal would be due in December but would not be presented to Council until February at the earliest as the December meeting is held early and there is no Ordinary Council meeting in January.

## **OPTIONS**

Council could choose to maintain the current timeframe for acquittal or provide a longer timeframe if it wished. Officers are recommending three months as a reasonable deadline for a written acquittal with the acknowledgement that the acquittal will be presented to Council at the next available Ordinary Council Meeting following the three month deadline.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

Recipients of Shire of York funding

Shires of Northam, Toodyay, Mundaring, Chittering

City of Kalamunda

Department of Local Government, Sport and Cultural Industries

Healthway / Lotterywest

Tourism WA

### **Strategic**

Strong and Effective Leadership

*5.1 Effective and informed governance and decision-making*

*5.4 Open and accountable systems*

*5.7 Shire and community exhibit a responsive can-do philosophy*

### **Policy Related**

C1.4 Sponsorship of Tourism Events

C1.3 Community Funding: Grants and Sponsorship Policy

### **Financial**

N/A

### **Legal and Statutory**

N/A

### **Risk Related**

Reputational if acquittals not received on time - Low

**Workforce**

N/A

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION**

**101219**

**Moved: Cr Denis Warnick**

**Seconded: Cr Kevin Trent**

**That Council:**

- 1. Amends Policy C1.4 Sponsorship of Tourism Events to reflect that:
  - (a) A timeframe of three months is provided for the submission of a written acquittal; and**
  - (b) Acquittals will be presented to Council as soon as possible after submission.****
- 2. Requests the CEO to amend the Policy Manual and sponsorship guidelines accordingly and place them on the Shire's website.**

***CARRIED: 6/0***

**SY186-12/19 AMENDMENT TO POLICY G1.1 CODE OF CONDUCT: COUNCILLORS, COMMITTEE MEMBERS AND EMPLOYEES**

<b>File Number:</b>	<b>OR.CMA.4</b>
<b>Author:</b>	<b>Natasha Brennan, Administration and Governance Coordinator</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>25 November 2019 26 October 2016 – Policy Review</b>
<b>Appendices:</b>	<b>1. Department Circular No: 11-2019 - New Gifts Framework 2. Draft Code of Conduct</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Review  
Legislative

**PURPOSE OF REPORT**

It is important that Council policies are kept up to date and are reviewed on a regular basis under the direction of the Chief Executive Officer. If any changes or amendments are required these are brought to Council for endorsement.

This report outlines the recent changes in legislation regarding the new gifts framework, which was gazetted on 18 October 2019.

The proposed amendments are provided for Council's consideration and adoption.

**BACKGROUND**

On 27 June 2019, the *Local Government Legislation Amendment Act 2019 (Amendment Act)* was passed in Parliament.

On 20 October 2019, the new gifts framework contained within the *Amendment Act* came into operation. Appendix 1 refers.

The *Local Government Regulations Amendment (Gifts) Regulations 2019* were gazetted on 18 October 2019. These amend the *Local Government (Administration) Regulations 1996*, the *Local Government (Audit) Regulations 1996* and the *Local Government (Rules of Conduct) Regulations 2007*.

The proclamation of the associated sections of the *Amendment Act* was also gazetted on that day.

Please note that the *Amendment Act* also includes a requirement for the introduction of a mandatory code of conduct for council members, committee members and candidates and mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers (CEO Standards), however these are not in operation yet.

The Department of Local Government, Sport and Cultural Industries (DLGSC) is currently seeking feedback on the draft Code of Conduct and draft CEO Standards and accompanying guidelines which closes on 6 December 2019.

Once the new legislation is passed by parliament, officers are proposing to undertake a major review of the Code of Conduct to incorporate all amendments and provide a separate Mandatory Code of Conduct for Elected Members and Staff.

## COMMENTS AND DETAILS

Appendix 2 provides the amended Code of Conduct indicating tracked changes to enable Councillors to consider the proposed amendments in relation to the new legislation.

The new gift framework has been simplified, with a focus on transparency and accountability. This has been achieved by considering the nature of the relationship between the recipient and the donor of the gift and focusing the disclosure requirements on why the person has received the gift and dealing with possible influence created by the gift via the conflict of interest provisions. The attached policy makes provision for these changes.

Officers are proposing that Council adopts the amended Policy G1.1 Code of Conduct as attached.

## OPTIONS

Council could choose not to adopt the amended Code of Conduct policy; however, the recommended amendments are to ensure the effectiveness and efficiency of the Shire's operations whilst still remaining accountable to Council and acknowledging that policy review is on-going.

## IMPLICATIONS TO CONSIDER

### Consultative

Department of Local Government, Sport and Cultural Industries

### 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.
- 5.4 Open and accountable systems.
- 5.8 Open, smart communication between Shire and community.

### Policy Related

CP1.5 Compliance  
G4.6 Risk Assessment and Management

### Financial

Nil.

### Legal and Statutory

*Local Government Act 1995, Part 2, Division 2 'Role of Council'*

#### 2.7. Role of council

- (1) *The council –*
  - (a) *governs 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.*

#### 5.103. Codes of conduct

- 1 (1) Every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.
- [(2) *deleted*]
- 2 (3) Regulations may prescribe codes of conduct or the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a

local government under subsection (1) is of effect only to the extent to which it is not inconsistent with regulations.

**Risk Related**

There is a moderate risk to the Council if it does not regularly review and update its policies.

The Code of Conduct is integral to the governance and operations of the local government for the good of the community as a whole.

**Workforce**

Nil.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****111219****Moved: Cr Pam Heaton****Seconded: Cr Kevin Trent****That Council:**

- 1. Adopts the amended Policy G1.1 Code of Conduct: Councillors, Committee Members and Employees, attached to this report as Appendix 2;**
- 2. Authorises the Chief Executive Officer to make any necessary minor typographical changes prior to publication; and**
- 3. Notes, that the Local Government Act 1995 and in particular the Code of Conduct is still undergoing a major review with new legislation that will require Council to adopt the Model Code of Conduct for Council Members, Committee Members, Candidates within 3 months after the new regulations come into operation.**

***CARRIED: 6/0***

**SY187-12/19 NEW POLICY - ATTENDANCE AT EVENTS FOR ELECTED MEMBERS & CEO'S**

<b>File Number:</b>	<b>OR.CMA.4</b>
<b>Author:</b>	<b>Natasha Brennan, Administration and Governance Coordinator</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>25 November 2019 26 October 2016 – Policy Review</b>
<b>Appendices:</b>	<b>1. Draft Attendance at Events Policy for Elected Members &amp; CEO's</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Review  
Legislative

**PURPOSE OF REPORT**

It is important that Council policies are kept up to date and are reviewed on a regular basis under the direction of the Chief Executive Officer. If any changes or amendments are required these are brought to Council for endorsement.

This report presents to Council a new Policy for the Attendance at Events for Elected Members and CEO's, for consideration and adoption.

**BACKGROUND**

As a result of the new Gift Provisions legislation, which came into operation on 20 October 2019, Council is required to adopt a policy that relates to the attendance of Council members and CEOs at events such as concerts, conferences and functions. New section 5.90A refers.

**COMMENTS AND DETAILS**

Appendix 1 provides the draft new Policy for Attendance at Events for Council consideration.

This policy must address the provision of tickets to events, payments in respect of attendance and approval of attendance by the local government and criteria for approval. Section 5.90A refers.

The policy deals with a Council member's or CEO's attendance at events as a representative of the Council. Tickets or the invitation to the event must be made to the Council directly, not to the Council member or CEO personally. If a Council member or CEO attends an event in accordance with the local government's policy, then no conflict of interest arises.

At the time of writing this report, the guidance material to support the development of the Attendance at Events Policy is still being prepared by the Department of Local Government, Sport and Cultural Industries (DLGSC) and Local Government Operational Guidelines are being updated to include these provisions.

**OPTIONS**

The Attendance at Events policy does not have a legislated period of time for when it needs to be adopted. Council could choose not to adopt the new Attendance at Events policy and wait for the for the guidance material from the Department to become available.

However, the recommended amendments are to ensure the effectiveness and efficiency of the Shire's operations whilst still remaining accountable to Council and acknowledging that policy review is on-going.

## IMPLICATIONS TO CONSIDER

### Consultative

Executive Managers

### 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.
- 5.4 Open and accountable systems.
- 5.8 Open, smart communication between Shire and community.

### Policy Related

CP1.5 Compliance

G4.6 Risk Assessment and Management

### Financial

Nil.

### Legal and Statutory

*Local Government Act 1995, Part 2, Division 2 'Role of Council'*

#### 2.7. Role of council

- (1) *The council –*
  - (a) *governs 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.*

### Division 6A — Attendance at events

#### 5.90A. Policy for attendance at events

- (1) In this section —  
*event* includes the following —
  - (a) a concert;
  - (b) a conference;
  - (c) a function;
  - (d) a sporting event;
  - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
  - (a) the provision of tickets to events; and
  - (b) payments in respect of attendance; and
  - (c) approval of attendance by the local government and criteria for approval; and
  - (d) any prescribed matter.

*\* Absolute majority required.*
- (3) A local government may amend\* the policy.  

*\* Absolute majority required.*
- (4) 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.

- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

*[Section 5.90A inserted: No. 16 of 2019 s. 44.]*

### **Risk Related**

There is a moderate risk to the Council if it does not regularly review and updates its Policies.

The new Attendance at Events Policy is integral to the governance and operations of the local government for the good of the community as a whole.

### **Workforce**

Nil.

### **VOTING REQUIREMENTS**

**Absolute Majority: No**

#### **RESOLUTION**

**121219**

**Moved: Cr Denis Warnick**

**Seconded: Cr Kevin Trent**

**That Council:**

- 1. Adopts the new Attendance at Events Policy for Elected Members & CEO's, attached to this report and marked Appendix 1; and**
- 2. Authorises the Chief Executive Officer to make any necessary minor typographical changes prior to publication.**

***CARRIED: 6/0***



**SY188-12/19 INFORMATION STATEMENT 2019-2020**

**File Number:** AS.RMT.2

**Author:** Natasha Brennan, Administration and Governance Coordinator

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

**Previously before Council:** 22 October 2018

**Appendices:** 1. Draft Information Statement 2019-20

**NATURE OF COUNCIL'S ROLE IN THE MATTER****PURPOSE OF REPORT**

Executive, Legislative & Review.

**BACKGROUND**

The *Freedom of Information Act 1992* requires that each year Council is to publish an up-to-date Information Statement.

The last Information Statement was endorsed by Council at the Ordinary Council Meeting held 22 October 2018, Resolution 061018.

**COMMENTS AND DETAILS**

The purpose of the Information Statement is to provide information to the community about the structure and functions of the local government, how decisions made by the Council affect the community and how members of the community can participate in the decision-making process and in the formulation of policies of the local government.

The Statement also lists documents that are held by the Shire and how they can be inspected, which ones can be purchased, and what types of documents can only be requested for access through application under the *Freedom of Information Act 1992*.

A comprehensive review was undertaken in 2017/18 with assistance provided from the Office of the Information Commissioner. Only minor changes have been required in the 2018/19 & 2019/20 reviews.

It was noted as part of the most recent review that there has been changes made to the *Local Government Act 1995* – Public Information Access which came into operation from 6 July 2019 and that there are also more changes to come into effect that are yet to be proclaimed. These changes have been considered as part of this review.

A copy will be sent to the Information Commissioner, once it has been endorsed by Council.

Appendix A refers to the current Information Statement, with the proposed changes indicated in red.

**OPTIONS**

The Council could choose to seek advice from the Office of the Information Commissioner, prior to adopting this document.

**IMPLICATIONS TO CONSIDER****Consultative**

Shire Officers

**Strategic**

Nil

**Policy Related**

G2.2 Community Access to Information

**Financial**

Nil

**Legal and Statutory***Freedom of Information Act 1992*

Part 5 of the Publication of information about agencies

Section 94. Information statements

**Risk Related**

It is a requirement that the Council updates and reviews its Information Statement on an annual basis. Failure to do so exposes the Shire to a compliance risk.

**Workforce**

Nil

**VOTING REQUIREMENTS****Absolute Majority: Yes****RESOLUTION**

131219

**Moved: Cr Pam Heaton****Seconded: Cr Ashley Garratt****That Council:**

1. **Adopts the Shire of York Information Statement 2019-20 as attached to this report;**
2. **Requests the Chief Executive Officer to:**
  - (a) **Forward the adopted Statement to the Office of the Information Commissioner.**
  - (b) **Make the Statement available on the Shire's website and in hard copy upon request.**
3. **Authorises the Chief Executive Officer to make minor editorial amendments to the Statement prior to submission.**

**CARRIED BY ABSOLUTE MAJORITY: 6/0**

**SY189-12/19 YORK HOCKEY CLUB LEASE**

<b>File Number:</b>	<b>LE.CNT.1.12</b>
<b>Author:</b>	<b>Joanna Bryant, YRCC Project Officer</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>N/A</b>
<b>Appendices:</b>	<b>1. York Hockey Club Lease - Draft Nov 2019 - Confidential</b>

***Appendix 1 is confidential under Section 5.23 – (c) of the Local Government Act 1995 in that it deals with “a contract entered into, or which may be entered into, by the local government and relates to a matter to be discussed at the meeting”.***

***Copies have been provided to Councillors, the CEO and Executive Managers only.***

**NATURE OF COUNCIL’S ROLE IN THE MATTER**

Executive and Review.

**PURPOSE OF REPORT**

The York Hockey Club (YHC) has occupied part of Shire owned land within the Forrest Oval Precinct for a number of years. There is no lease or Memorandum of Understanding between the Shire and YHC.

This report presents to Council the proposed lease between the Shire of York and the York Hockey Club Inc.

**BACKGROUND**

The YHC is seeking a ten-year lease for the hockey fields at the Forrest Oval precinct.

YHC built the original hockey field (pitch) in 1994. The present clubrooms opened in 2007 at a cost of approximately \$40,000 to which the Shire made a contribution of \$3,700. The ablutions block was added in 2009. A new set of field lights was added in 2008 at a cost to the YHC of \$38,839. The second pitch was built by the YHC in early 2013 at a cost of approx. \$120,000 which the YHC part self-funded and part grant-funded via CSRFF with the Shire making a \$15,000 in-kind donation.

The YHC is historically and currently a strong independent organisation that works hard to maintain its success within York and the region. The club currently has approximately 134 members and 25 volunteers. The YHC and the Shire of York staff currently have good lines of communication and understanding regarding turf and pitch maintenance is established.

**COMMENTS AND DETAILS**

The proposal to lease these premises is made to assist the York Hockey Club Inc with security of tenure and to support proposed grant applications.

The lease is for the clubhouse, change rooms and playground area only, with the Shire retaining responsibility of the management of the pitches. The lease will formalise the existing arrangements and clarify current responsibilities.

Granting of this lease will secure the ongoing development of the sporting and social benefits of hockey in York.

### Proposed Lease Terms

The following lease terms are proposed and have been discussed with the York Hockey Club Inc (the Lessee).

- Rent  
A peppercorn rental of \$1.00 (plus GST) per annum is proposed for the term of the lease.

- Area

The area included within the proposed lease is detailed in Annexure 1 – Sketch of the Premises. The area includes the clubhouse, changerooms, outside verandah areas and playground. The leased area does not include the pitches, car park or scrub area between the Clubhouse and Great Southern Highway.

- Insurance required

The Lessee must maintain the following insurances as a minimum;

- public liability of not less than twenty million dollars (\$20,000,000);
- contents insurance to cover the Lessee's furniture and fixtures
- any applicable employer's insurance (ie workers' compensation insurance)
- insurances to cover any damage and/or theft to the Lessee's property

The Shire shall be responsible for club and change rooms building insurance and insurance of the lights and pitches.

- Term

A term of five (5) years and a further term of five (5) years is proposed commencing early 2020.

- Maintenance

The Lessee is responsible for all day to day maintenance costs (reactive) but the Shire will be responsible for structural repair, except as outlined below:

*Clause 11.10 provides that if the Shire is covered by insurance for damage or repair (ie storm damage), the Shire will make a claim under its insurance provided that the Lessee pays all excesses. Current excess is \$1,000.*

*The clause also provides that the Shire is responsible for structural repair of the premises (ie if the roof fell in), subject always to budgetary constraints and the need to obtain Council approval.*

- Playground

The YHC has installed a playground within a sand-based fenced area. Shire staff are not confident that this playground meets current Australian Standards for Playground Safety.

Advice from the Shire's insurance provider is that the Shire has an obligation to ensure the playground is up to standard and in good condition as a condition of leasing it.

Shire staff will provide YHC with details of the adjustments that are required to bring the playground to current safety standards and require this to be implemented within 3 months of the lease being signed.

The lease has been amended to include a new provision to clearly set out the Lessee's maintenance obligations in respect of the playground, please refer to Item 10.5 of the Schedule. In short, Item 10.5 provides that the Lessee will keep and maintain the playground in good repair (no exclusions) and in accordance with all relevant statutory requirement and Australian Standards. The Shire will have no obligation to repair or maintain the playground.

## OPTIONS

Council could choose not to lease the premises to the YHC. However, for the reasons outlined above, officers are proposing a ten year lease.

## IMPLICATIONS TO CONSIDER

### Consultative

Representatives from York Hockey Club Inc.

McLeod's Barristers & Solicitors

### 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

CP1.1 Execution of Documents and Execution of the Common Seal.

CP1.5 Compliance

G2.9 Community Engagement and Consultation

G4.6 Risk Assessment and Management

### Financial

The recommendation is a peppercorn rental of \$1.00 (plus GST) per annum for the lease of the Hockey Club rooms. The current fee for use of the facilities is \$1,500 per annum as listed in the schedule of fees and charges and Officers are not recommending any change at this time.

There are no fees associated with lodgement with Landgate, as this land is Shire owned.

The Shire is responsible for insuring the clubhouse and change rooms and the YHC will be responsible for providing contents insurance.

Community sponsorship applications can still be applied for by the YHC, in accordance with the Shire's Policy C1.3 Community Funding.

The Shire's schedule of fees and charges 2019/20 lists fees associated with hire of the Hockey Club rooms which will need to be amended once the lease is signed, since the Hockey Club will hold responsibility for hire of the Clubrooms.

### Legal and Statutory

#### **Local Government (Functions and General) Regulations 1996**

*Regulation 30 - Dispositions of property excluded from Act s. 3.58*

*Part (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*

*Part (2) (b) the land is disposed of to a body, whether incorporated or not —*

- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

### Risk Related

The risks associated with agreeing this lease is that any future plans or uses cannot be considered.

**Workforce**

Nil

**VOTING REQUIREMENTS****Absolute Majority: No****RESOLUTION****141219****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council:**

1. **Agrees to the lease with the York Hockey Club Inc (the Lessee) as attached to this report, for the area of land known as part of Lots 45 and 46 on Deposited Plan P004402 being part of the land comprised in Certificate of Title Volume 197, Folio 86A (in accordance with the attached sketch) for a period of ten (10) years from 1 January 2020 to 31 December 2030 in accordance with the following essential lease terms:**
  - A term of ten years and two months (commencing 1 January 2020);**
  - Peppercorn rental of \$1 plus GST per annum;**
  - No rent reviews;**
  - Permitted Purpose to be used for Hockey Club and uses reasonably ancillary thereto;**
  - Public Liability Insurance of not less than twenty million dollars (\$20,000,000) to be the responsibility of the Lessee.**
2. **Authorises the Shire President and Chief Executive Officer to engross the lease documentation as per the terms and conditions of the lease and subject to the Children's Playground to be brought to Australian Standards for Playground Safety; and**
3. **Requests the Chief Executive Officer to advise the York Hockey Club Inc that the buildings / structures are provided on an 'as is' basis and no funds will be allocated for renewal, maintenance or upgrade.**
4. **Requests the Chief Executive officer to review the Schedule of Fees & Charges to remove the fee associated with hire of Hockey Clubrooms.**

***CARRIED: 6/0***

**SY190-12/19 2019 YORK FESTIVAL ACQUITTAL**

<b>File Number:</b>	<b>CS.CEV</b>
<b>Author:</b>	<b>Esmeralda Harmer, Events and Economic Development Officer</b>
<b>Authoriser:</b>	<b>Allen Cooper, Acting CEO</b>
<b>Previously before Council:</b>	<b>Not Applicable</b>
<b>Appendices:</b>	<b>1. 2019 York Festival Acquittal 2. 2019 York Festival Financials</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

**PURPOSE OF REPORT**

Council is requested to receive the 2019 York Festival acquittal and to consider the proposed 2020 Festival Program.

This report also outlines YAE's intentions to commence negotiations of a new multiyear agreement to support the 2020 – 2022 York Festival/s.

**BACKGROUND**

In February 2017 Council considered item SY013-02/17 – York Festival Multi-Year Funding Proposal at its February 2017 meeting where it was resolved;

***“That Council;***

- 1. Agrees to enter a Multiyear Funding Agreement with York Arts & Events Inc. to the value of \$22,000 (ex GST) per annum as attached to this report at Appendix 1.***
- 2. Authorises the Shire President and Chief Executive Officer to engross the Shire of York and York Arts & Events Inc Multi Year Funding Agreement as attached to this report at Appendix 1.”***

Since this time, in accordance with the agreement and Council's *C1.4 Sponsorship of Tourism Events Policy, Clause 4 Acquittal*, the 2019 York Festival acquittal has been received for Council's consideration as attached as **Appendix 1 & 2**

In recent months, Officers have also met with YAE to discuss the following items;

- debrief of 2019 event
- terms proposed for a new multiyear agreement
- WARA art straw sculpture maintenance requirements

YAE planned to present the acquittal of the 2019 event and 2020 program proposal to Council's 2 December Councillor Forum, however due to unforeseen circumstances, Officers note this presentation is now to occur Monday 9 December.

**COMMENTS AND DETAILS**

A summary of the key points from meetings held with YAE following the 2019 event are provided below including Officer comments, for Council's consideration.

**2019 Festival Debrief**

YAE rate the increase in WARA wheat straw sculptures and artists in residence attending to construct the 2019 sculptures as the highlight and major drawcard of the 2019 Festival program.

This year, the WARA art exchange program saw four Japanese artists stay in York for a total of 6 weeks, constructing four new wheat straw sculptures and providing maintenance repairs to the three existing sculptures. Increasing the number of Japanese artists involved enabled more straw sculptures to be produced over a shorter program time and all the sculptures to be completed by the Festival opening date.

Officers, in conjunction with YAE, have developed a WARA art walk trail brochure which details locations and information on all seven sculptures created. The trail supports the Shire's Trails Master Plan intentions and has attracted a small number of bus charters and groups, often visiting during the week on route to other destinations such as Wave Rock.

Through discussions with visiting bus charter companies, Officers understand the WARA art trail offers tour operators a visitor refreshment break at a destination some of these groups would not normally consider. Previously coach companies would either travel down the Brookton Highway or travel through York and stop in Corrigin.

Although visitor numbers derived from this new market are not significant, the WARA art trail does increase York's public profile both internationally and increases the likelihood of revisitation from the domestic tourism market.

Item SY111-07/19 2018 York Festival Acquittal & Straw Sculpture Relocation Request presented to Council in July this year detailed the challenges the 2018 Festival faced running the event over four weekends including poor ticket sales for ticketed events and insufficient volunteer assistance to manage the 35 activities that made up the 2018 program.

To address these challenges, YAE reduced the number of activities to 26, reduced the length of the festival program and increased the number of community-based organisations and businesses involved in the Festival. Of the 26 activities offered, local groups and businesses facilitated 20 of these events.

This resulted in some activities running throughout the whole festival period, some offered over multiple weekends and 24 of the 26 activities free to the public to attend. A higher local involvement also saw volunteer numbers increase.

Officers agree the move to reduce the program and engage more of the community in the program has provided value for Shire investment and increased community reach and participation, whilst continuing to provide unique tourism offerings to domestic and international visitors.

#### 2020 Event Program

YAE has indicated the following aspects are proposed for the 2020 program which include:

- Festival opening Saturday 26 September and running for three consecutive weekends
- Working with York Friendship Club, York Garden Club, York Society and local businesses to deliver the same 2019 activities provided by these groups and businesses
- Launching a new exhibition to be located at the Courthouse Complex for the duration of the Festival
- One new WARA art sculpture – including working closely with York District High School to workshop the selected fauna to be sculpted
- Activating empty shop buildings with exhibitions, workshops and art installation

Officers agree the proposed program offers a good balance between new elements and continued art and cultural aspirations of the Festival.

Included in **Appendix 1 & 2** to this report are further details proposed for the 2020 York Festival.

#### Future Funding Negotiations

The Shire's funding agreement with YAE expired 31 October 2019. YAE has indicated its intention to seek a further funding agreement to support future York Festivals over a three-year period from 2020 – 2022.



Officers have advised YAE that negotiations for a new agreement can commence at any time, however will need to be presented to Council as part of the 2020/21 financial year budgeting process in 2020. Should Council choose to support a new agreement, funding will not be available for release until the adoption of the 2020/21 financial budget.

Officers will prepare a report to present to Council in early 2020 detailing the draft funding agreement proposed and the financial support requested.

## **OPTIONS**

Council could choose not to accept the acquittal received however in accordance with the funding agreement conditions this would not change the requirements or obligation of YAE to provide the acquittal.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

Officers consulted with the following businesses and organisations to evaluate their activities delivered as part of the 2019 York Festival:

- York Arts & Events
- Integrity Coach lines
- Skyline tours
- West Coast bus charters
- Imperial Homestead
- York Friendship Club
- York Motor Museum
- York Garden Club
- Settlers House

### **Strategic**

*Theme 1: The Place to Live*

1.7 Positive, active and involved community

*Theme 2: A Leader in Cultural Heritage and Environment*

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

*Theme 5: Strong and Effective Leadership*

5.6 High levels of community engagement.

### **Policy Related**

*C1.3, Community Funding: Grants & Sponsorship, Clause 8, Acquittal*

*C1.4 Sponsorship of Tourism Events*

*Multiyear agreement, Clause 6, Shire's responsibilities; Any submissions for additional funding in any years listed in this agreement will be considered separately to this agreement.*

**Financial**

The Shire provided \$22,000 to YAE from GL132150 Festivals Assistance to support the delivery of the 2019 York Festival in accordance with the 2019/20 funding agreement obligations. No other financial requests or implications are noted at this time with regards to the 2019 financial acquittal.

Officers will prepare a report to present to Council in early 2020 detailing the new draft funding agreement proposed between the Shire and YAE and the financial support requested for consideration as part of the 2020/21 financial year budgeting process.

**Legal and Statutory**

Nil

**Risk Related**

Reputational – credibility. Considered low risk in consideration of the funding agreement, regular meetings and reporting provided by YAE.

**Workforce**

Receipt of the acquittal managed within existing resources.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****151219****Moved: Cr Pam Heaton****Seconded: Cr Kevin Trent****That Council**

- 1. Receives the acquittal from York Arts & Events for the 2019 York Festival**
- 2. Notes the request received from York Arts & Events for a new funding agreement**
- 3. Notes a draft funding agreement will be presented to Council for consideration as part of the 2020/21 financial year budgeting process in 2020.**

**CARRIED: 6/0**

**SY191-12/19 RENEWAL OF SHIRE OF YORK AND UWA MOU**

<b>File Number:</b>	<b>LE.CNT</b>
<b>Author:</b>	<b>Carol Littlefair, Arts and Cultural Heritage Officer</b>
<b>Authoriser:</b>	<b>Allen Cooper, Acting CEO</b>
<b>Previously before Council:</b>	<b>22 August 2016</b>
<b>Appendices:</b>	<b>1. Shire of York MOU with University of Western Australia 2020-2023</b> <b>2. UWA email from Associate Dean Benjamin Smith</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

- Executive

**PURPOSE OF REPORT**

This report requests the support of Council for the renewal of a Memorandum of Understanding between the Shire of York and the University of Western Australia (UWA) to host student placements as part of UWA's Master of Heritage Studies Course.

**BACKGROUND**

In 2016, the Shire of York entered into a Memorandum of Understanding to host placements for Masters students on the Heritage Studies course to undertake professional heritage work placements within the Shire of York. These are generally six-week full time placements and should align with the course units and have real, practical or research outcomes. The Shire of York has numerous heritage issues, projects and needs that could benefit from input, analysis and original research by these students, who have already completed their first degree. The students do not generally spend the six weeks actually in York, as much of the work is research.

It is an example of facilitation of service provision by others and a strategic partnership that has the potential to expand and be a useful model for York. The MOU has now expired and UWA wishes to renew it.

Some of the projects undertaken by students [and staff] over the past three years have included:

- Case study of heritage business potential, Old Convent School
- Three Archaeological digs at Convict Depot site
- Publication of above research in a book, *Transforming the Colony*, Cambridge Scholars Publishing
- Research on St. Ronan's Well and Convict Road site [not yet completed]
- Site surveys and drone mapping of York main cemetery
- PhD research on Gerald Mission site at Mile Pool [to be undertaken this year]

During a recent visit of the Heritage Council to York on November 14, the collaboration between UWA and the Shire of York was favourably regarded and commented on by the Department of Planning Lands and Heritage and Heritage Council representatives who viewed the most recent archaeological dig in action and heard a presentation about the Cemetery field school.

## COMMENTS AND DETAILS

It is anticipated that the Shire will continue to work collaboratively with UWA to develop suitable projects that will be mutually beneficial to both parties. These will be offered to individual students, or a maximum of two students for placements at any one time.

If suitable projects are identified, there is also further opportunity for students to undertake case studies as a group.

UWA is keen to carry on this link which has the potential to provide numerous 'real-life' heritage projects at a high level, suitable for Masters students. It is also an unparalleled opportunity for the Shire of York to benefit from fresh thinking by dedicated heritage specialists who will be striving to achieve excellent results for the projects they undertake.

The availability of an appropriate level of expertise in project development and student liaison is a critical factor that UWA is satisfied that can be met with the input of the Arts and Cultural Heritage Officer and the Residency Museum Curator.

## OPTIONS

1. To renew the MOU
2. Not to renew the MOU

## IMPLICATIONS TO CONSIDER

### Consultative

Consultation has taken place with the Associate Dean, Benjamin Smith, Faculty of Arts UWA.

The supportive opinions of UWA staff and the Department of Planning Lands and Heritage have also been considered.

### Strategic

The MOU will relate to the Strategic Community Plan:

Theme: To be a Leader in Cultural Heritage and the Environment, in the context of being 'development ready', and

Revitalisation: Driving the York Economy Forward, in the context of:

- A programme to use the town's strengths, including heritage
- Contributing to economic development projects, including the facilitation of clusters

### Policy Related

N/A

### Financial

There is a small component of in kind financial contribution for the time spent by the Arts & Cultural Heritage Officer and/or Residency Museum Curator in liaising with UWA in regard to projects.

Accommodation for students is also a critical factor as students will need to visit York during their placements to work on identified projects. It is proposed that cheap accommodation [usually the Girl Guides Barn] can be provided by the Shire for students to be considered on a case by case basis for projects which Council has endorsed and provided funding towards. Any costs of accommodation only will be at the discretion of the Chief Executive Officer and charged to those particular projects where the budget allows.

### Legal and Statutory

The MOU does not constitute any form of legally binding document and this is explicitly stated in the MOU.

**Risk Related**

There is a low reputational risk associated with not renewing the MOU bearing in mind the favourable recent comments from DPLH.

**Workforce**

There is a small component of time spent by the Arts & Cultural Heritage Officer in liaising with UWA in regard to projects, which can be included in normal workload.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****161219****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council:**

- 1. Agrees to renew the Memorandum of Understanding with the University of Western Australia as attached at Appendix 1.**
- 2. Authorises the Shire President and Chief Executive Officer to sign the Memorandum of Understanding.”**

**CARRIED: 6/0**

**SY192-12/19 FLORA AND FAUNA SURVEY OF MT.BROWN/WONGBOREL**

<b>File Number:</b>	<b>CS.LCS.13</b>
<b>Author:</b>	<b>Carol Littlefair, Arts and Cultural Heritage Officer</b>
<b>Authoriser:</b>	<b>Allen Cooper, Acting CEO</b>
<b>Previously before Council:</b>	<b>24 June 2019</b>
<b>Appendices:</b>	<ol style="list-style-type: none"><li><b>1. SY082-06/19 Trails Masterplan Extract from Minutes</b></li><li><b>2. Flora and Fauna Survey report by DelBotanics</b></li><li><b>3. RFQ Flora and Fauna Survey</b></li><li><b>4. Community Engagement Plan - Flora and fauna Survey</b></li></ol>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

**PURPOSE OF REPORT**

This report informs Council of progress to date with the Flora and Fauna Survey required by Council as described in the Minutes of SY082-06/19 Trails Masterplan for the Shire of York (Appendix 1) and requests that Council:

1. Considers the Report (Appendix 2), produced in line with specifications in the Request for Quotation (Appendix 3) and the Community Engagement Plan for the project (Appendix 4)
2. Adopts the Report for the Shire of York prepared by environmental consultants DelBotanics (Appendix 2).

**BACKGROUND**

The creation of this Survey stems from consideration of the Trails Masterplan for the Shire of York recently created by consultants Common Ground, which highlighted the need for the Shire to apply for a formal Change of Use under the vesting order from Parklands to Parklands and Recreation, to enable the Trails Master Plan to be actioned. This Survey is essential information when making such an application and a guiding document for any subsequent recreational use of the area.

The Trails Masterplan is intended to provide a structure that will enable the Shire of York to bring social and economic benefits to the community in equal measure.

This Flora and Fauna Survey has been developed by specialist environmental consultants with good local knowledge, together with input from local community members, stakeholders and members of state-wide user groups and associations. The details regarding opportunities for input are outlined further in the report and Officers are comfortable with the level of engagement by the consultants with the community.

The Survey is now presented to Council for consideration at Appendix 2.

**COMMENTS AND DETAILS****Geographical and Level Scope**

The Survey is concerned solely with Mt. Brown/Wongborel Reserve no. 6195; land which the Shire of York manages on behalf of the Crown as a gazetted Class A Reserve.

A Level 1 Assessment consisting of a spring flora, fauna and vegetation survey was conducted in accordance with Environmental Protection Agency Guidance Statement No. 51, Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in Western Australia (EPA 2004) and EPA Guidance Statement No. 56 Technical Guidance for Terrestrial Fauna Surveys (EPA 2004).

This involved recording dominant flora and fauna species and vegetation communities and condition throughout the reserve. Targeted searches for Threatened and Priority flora listed as occurring or likely to occur were conducted in likely habitat areas on foot. Vegetation communities and condition of vegetation were recorded and mapped using the Keighery (1994) scale.

Due to the site being dominated by weed species with a very low diversity of native understorey, the consultants recommended that a Level 2 Assessment is not necessary, however there are number of recommendations that should be considered for future planning.

#### Key Findings and Recommendations

The site visit in September 2019 recorded a majority of the vegetation within Mt Brown Reserve as Natural bushland in "Degraded" condition, rated 5 on a scale from 1 Pristine to 6 Completely Degraded. Vegetation communities were broadly mapped and described by recording the dominant tree species and upper level flora species. The vegetation described on site can be categorised into three broad vegetation communities, York Gum Woodland, Sheoak Woodland and Granite Outcrops. The Granite Outcrops are valuable habitats for Flora and Fauna and should be protected on this Reserve.

The consultants recommend adjustments on some of the current firebreak/walking tracks, possibly increasing width or number of tracks to assist with user group conflict and weed control, whilst retaining some narrow tracks for mountain bike use.

Immediate weed control is recommended, to be undertaken in small manageable areas. If a management regime is not implemented there is a danger that over time the site will deteriorate to a rate of 6 - Completely Degraded.

The use of fire should be limited and followed by rehabilitation of local endemic species.

Inappropriate use of the Memorial Grove should be rectified and appropriate planting lists provided.

Based on the results of this assessment, Del Botanics proposes the following management recommendations:

- Implement a weed management plan;
- Prepare a rehabilitation plan;
- Prepare guidelines and flora species lists for the memorial planting area;
- Prepare a fire action plan and undertake a fire break maintenance program;
- Design a bush walk interpretive trail and add signage around the lookout and across the site;
- Upgrade of walking trails to better suit bush walkers;
- Retain current tracks as bike trails and promote events;
- Create protection zones for the Granite Outcrops; and
- Undertake a Threatened Ecological Community Assessment for Eucalypt Woodlands of the Western Australian Wheatbelt.

#### Implementation requirements

The Trails Master Plan outlines and makes recommendations on the process that should be followed to develop trails on this Reserve, should Council wish to proceed. The consultants have stressed the importance of implementing a sound process to develop priority projects based upon trail industry standards and evidence based upon sound research, of which this Flora and Fauna Survey is a part.

Furthermore, if Council wants to formalise and actively develop the trail network on Mt Brown, it is essential that the "purpose" of these reserves is amended to include recreation. This is outlined under Background.

It is acknowledged that external funding is likely to be required to implement the recommendations of this report, hence sound processes, involvement and support from the community/stakeholders and appropriate approvals are required to be in place to secure major grant funding.

Highlighted under 'Financial' section is the need for specialised environmental expertise to carry out some of the recommendations. Some advice and very limited practical help may be available from local environmental groups but this cannot be relied upon as a sustainable method of management.

## OPTIONS

Council has the following options in regard to this report:

1. Adopt the Report
2. Not Adopt the Report and choose not to proceed any further.

## IMPLICATIONS TO CONSIDER

### Consultative

A Community Engagement Plan was developed by collaboration between Officers and the consultants Delbotanics and is attached as Appendix 4. The following consultative processes have taken place:

- Notification of the proposed Survey was publicised through the Shire website and Facebook page. A list of persons and organisations directly contacted is included in the Community Engagement Plan at Appendix 4. Email contact for the consultants was provided along with an invitation to meet with the consultants on the first Fieldwork day, which was scheduled for a Public Holiday (Monday 30 September) in order to enable as many members of the public to attend as may wish to do so.
- Three local people (representatives of the River Conservation & Wildflower Societies; AVTAT (Avon Valley Tracks & Trails Association) and Wheatbelt NRM ) met the consultants in person on the Fieldwork Day and provided useful information and local knowledge about the Reserve.
- Five emailed enquiries were sent to the consultants
- Two local residents sent photographs of wild flowers previously seen on the Reserve, one offered location information.

### Strategic

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:

the Key Challenge of Leveraging the 'Leap Forward' in Heritage and Tourism.

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

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.

### *Link to proposed Fire Mitigation Works on Reserve*

Works planned for the MAF RfR 2019 – 2020 Round 1, which will involve clearing vegetation to an extent of 3 metres either side of existing or planned firebreak tracks have been identified and put on hold until this Report has been adopted.



Close liaison between the Shire and the Bushfire Risk Management Planning Co-ordinator and Contractors will be necessary to implement these works and a small proportion of the Works may need to be modified where they coincide with areas of Granite Outcrops, identified in this Report as areas that should be protected. In general, this Report is supportive of the principle of weed control by widening the Fire Access tracks, although care will have to be exercised in the implementation to ensure that this work is undertaken with due care and sensitivity, not only from an environmental perspective but also from the perspective of community perceptions.

### **Policy Related**

Shire of York Community Engagement and Consultation Policy G2.9.

### **Financial**

Actioning this Report will inevitably have a financial implication which has not yet been considered in detail in future budget planning. Attracting grant aid is likely to be required in order to make noticeable progress.

### **Legal and Statutory**

As previously described in SY110-19, for the Shire-vested Crown land on Mt Brown/Wongborel (A Class Reserve), an area identified as High Priority for trails development, it has been identified that a statutory amendment to the purpose/use of the reserve will be required if Council wants to progress with the recommendations in the plan.

Whilst the use of the reserve has been able to accommodate adhoc events, if Council now wants to formally sanction and develop either of these sites for permanent trails use an amendment of the purpose of the reserve is required.

This amendment would need to add the use "Recreation" to the permitted purpose in the Management Orders for both reserves.

Preliminary advice from the Department of Planning, Lands and Heritage advises:

- a written request from Council is required to change/add the purpose 'Recreation' to the existing purposes of Parklands (Mt Brown) Parklands and Grazing (Mt Bakewell)
- A Class has the highest protection and the proposed amendment has to be tabled in parliament for 14 sitting days, prior to tabling it has to be advertised in the local paper for 30 days for any comments or objections.
- The advertising and tabling is done by the Department of Planning Lands and Heritage can take considerable time.

As this is a complex process Officers are progressing seeking further detailed advice from the DPLH to provide a report to a future Council meeting with full information of the procedure required to amend the purposes of either or both of these reserves.

### **Risk Related**

Not going ahead with the adoption of the Report and consequent implementation of its recommendations poses a moderate environmental risk due to ongoing unsanctioned use of Mt Brown which if left unaddressed, poses the risk of degrading areas of sensitive environment.

Neglect of weed control continuing which will further downgrade the environment. Conversely, there is a possible moderate reputational risk and consequent economic effect upon tourism if the already proven demand for trails goes unfulfilled and all use of the site has to be curtailed.

It will be essential for a Change of Use application to define how the current environment of Mt Brown, which is somewhat degraded environmentally, will be enhanced following the development of trails due to an understanding and protection of sensitive areas.

This understanding, gained through a professional environmental survey will ensure better management and channelling of recreational use into official, sanctioned and waymarked trails rather than the current unofficial use which is increasing rapidly.

By rigorous analysis of environmental considerations, the Trails Masterplan priority project will be able to demonstrate and communicate exactly how the environment of the area selected will be enhanced, or remain unharmed, by trails development which is planned around avoidance of sensitive areas and provides the opportunity to improve degraded areas.

Should a Change of Use be refused for any reason, such surveys will inform the future environmental care of the sites in line with their existing classifications, something which should be considered in the light of the Shire's aim to be 'A Leader in Heritage and the Environment'.

### **Workforce**

As with any plan prepared, the Shire needs to be cognisant of its ability to implement the plan considering both human and financial resources.

As the Shire has no staff currently qualified to do so, it is likely that practical advice and expertise may have to be supplied by external contractors for the following recommendations:

- Implement a weed management plan;
- Prepare a rehabilitation plan;
- Prepare guidelines and flora species lists for the memorial planting area;
- Create protection zones for the Granite Outcrops; and
- Undertake a Threatened Ecological Community Assessment for Eucalypt Woodlands of the Western Australian Wheatbelt;

Recommendations that can be carried out in house are likely to be:

- Prepare a fire action plan and undertake a fire break maintenance program; ( already in progress under the aegis of the Bushfire Risk Management Planning Co-ordinator )
- Design a bush walk interpretive trail and add signage around the lookout and across the site;
- Upgrade of walking trails to better suit bush walkers;
- Retain current tracks as bike trails and promote events;

Some advice and a very limited practical input may be available from local environmental groups such as the Wildflower Society and River Conservation Society, for instance towards preparing guidelines and flora species lists for the memorial planting area;

### **VOTING REQUIREMENTS**

**Absolute Majority: No**

#### **RECOMMENDATION**

That Council:

1. Adopts the Mt Brown Reserve Report for the Shire of York prepared by environmental consultants DelBotanics
2. Requests the Chief Executive Officer to assess and provide costings for recommendations identified in this report for Council's consideration as part of the 2020/21 Budget process.

**RESOLUTION**

**171219**

**Moved: Cr Ashley Garratt**

**Seconded: Cr Kevin Trent**

**That Council:**

- 1. Receives the Mt Brown Reserve Report for the Shire of York prepared by environmental consultants DelBotanics**
- 2. Requests the Chief Executive Officer to assess and provide costings for recommendations identified in this report for Council's consideration as part of the 2020/21 Budget process.**

***CARRIED: 6/0***

**SY193-12/19 ANNUAL REPORT 2018/19 AND ANNUAL ELECTORS' MEETING**

<b>File Number:</b>	<b>FI.FRP.2</b>
<b>Author:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>Not applicable</b>
<b>Appendices:</b>	<b>1. 2019 Annual Report (under separate cover)</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Legislative

**PURPOSE OF REPORT**

This report presents the Annual Report for Council's acceptance and seeks Council's approval to give public notice of the availability of the Annual Report and to advertise the date of an electors' meeting.

**BACKGROUND**

The Shire is required, under Section 5.53 of the *Local Government Act 1995* (the Act), to prepare an annual report for each financial year ending 30 June. The content of the annual report is prescribed by the Act and includes a summary of the Council's annual activities, including the audited annual financial statements and the auditor's report for the financial year. The audited financial statements for 2018/19 have been presented to the Audit and Risk Committee, with the minutes of that meeting the subject of a separate report in this agenda.

Section 5.27 of the Act requires that the Shire holds an annual electors' meeting not more than 56 days after the acceptance of the annual report for the previous year.

**COMMENTS AND DETAILS**

The Audited Financial Statements and Auditor's Report were presented to the Audit Committee at a meeting held on 2 December 2019 at which two officers from the Office of the Auditor General presented the outcomes of the 2018/19 financial year audit. The minutes, which are presented to Council as a separate report in this agenda, recommend that Council;

- *Accepts the Annual Financial Report for the year ended 30 June 2019 and;*
- *Requests the CEO to finalise the annual report and present it to the December Council meeting along with a proposed date for the annual electors' meeting.*

The Annual Report is now presented for Council's consideration. As well as the Auditor's report and Annual Financial Statements, it contains information regarding Council and staff activities during the year, statistics and statutory reporting as required. Officers are recommending that Council accepts the 2018/19 Annual Report in accordance with Section 5.54 of the Act. It is further proposed that an Annual Electors' meeting is held on Wednesday 5 February 2020 at 5.00pm and that this date is publicly advertised for a period of 14 days.

**OPTIONS**

Council could choose not to accept the annual report until its February Ordinary Council Meeting. However, as the Audited Financial Statements have been received, Council has an obligation under

Section 5.54 of the *Local Government Act 1995* to accept the annual report no later than 31 December. The officer recommendation addresses this requirement.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

The Act requires the Annual Report to be made publicly available.

### **Strategic**

*Theme 5: Strong Leadership and Governance*

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.

### **Policy Related**

CP1.5 *Compliance*

F1.3 *Significant Accounting Policies*

G4.2 *Integrated Planning and Reporting: (Reporting)*

### **Financial**

The annual report was submitted to a designer to collate within current budget allocations.

### **Legal and Statutory**

#### **5.53. Annual reports**

- (1) *The local government is to prepare an annual report for each financial year.*
  - (2) *The annual report is to contain —*
    - (a) *a report from the mayor or president; and*
    - (b) *a report from the CEO; and*
    - [(c), (d) deleted]*
    - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
    - (f) *the financial report for the financial year; and*
    - (g) *such information as may be prescribed in relation to the payments made to employees; and*
    - (h) *the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year; and*
    - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
    - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
      - (i) *the number of complaints recorded in the register of complaints; and*
      - (ii) *how the recorded complaints were dealt with; and*
      - (iii) *any other details that the regulations may require;*
- and*

(i) *such other information as may be prescribed.*

*[Section 5.53 amended by No. 44 of 1999 s. 28(3); No. 49 of 2004 s. 42(4) and (5); No. 1 of 2007 s. 6; No. 5 of 2017 s. 7(1).]*

#### 5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.*

*\* Absolute majority required.*

- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

*[Section 5.54 amended by No. 49 of 2004 s. 49.]*

#### 5.55. Notice of annual reports

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

##### 5.55A. Publication of annual reports

*The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.*

*[Section 5.55A inserted by No. 5 of 2017 s. 8.]*

#### 5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

#### **Risk Related**

Compliance – the requirement to accept the Shire's annual report and to hold an annual electors' meeting is a legislative obligation. Failure to do so exposes Shire officers and Councillors to significant risk. This report and its appendix mitigates this risk.

#### **Workforce**

Nil

#### **VOTING REQUIREMENTS**

**Absolute Majority: Yes**

**RESOLUTION****181219****Moved: Cr Denis Warnick****Seconded: Cr Kevin Trent****That Council:**

- 1. Accepts the Annual Report for the year ended 30 June 2019 noting that it incorporates the Audit Completion Report and Audited Financial Statements that are the subject of a separate report in this agenda;**
- 2. Authorises the Chief Executive Officer in consultation with the Shire President to make any necessary minor editorial changes prior to the publication of the Annual Report;**
- 3. Gives local public notice of the availability of the Annual Report; and**
- 4. Authorises the Chief Executive Officer to convene the Annual Electors' Meeting to be held on Wednesday 5 February 2020 at 5.00pm in the Lesser Hall, York Town Hall, York.**

***CARRIED BY ABSOLUTE MAJORITY: 6/0***

**SY194-12/19 AGREEMENT FOR DISBURSEMENT OF SEAVROC FUNDS HELD IN TIED FUNDS RESERVE 40****File Number: OR.RDT.4****Author: Tabitha Bateman, Finance Manager****Authoriser: Suzie Haslehurst, Executive Manager, Corporate & Community Services****Previously before Council: 26 August 2019****Appendices: 1. Agreement for distribution of SEAVROC funds****NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

**PURPOSE OF REPORT**

This report seeks Council's approval of the proposed agreement for disbursement of remaining funds held by the Shire of York on behalf of member Councils of the South East Avon Voluntary Regional Organisation of Councils (SEAVROC).

**BACKGROUND**

Representatives from the Shires involved with SEAVROC met during Local Government Week 2019 and agreed in principle, to dispersing the funds equally between all local governments that were at some stage, members of the group.

This was conditioned upon:

1. An agreement being prepared which is presented to each of the local governments involved, for consideration and approval by each Council.
2. The Shire President and Chief Executive Officer of each local government signing the agreement (if approved to do so by their Council).
3. Each local government being provided with a copy of the agreement when signed by every representative.
4. A copy being sent to the DLGSC for information.

In accordance with Council resolution 080819, officers requested McLeods Barristers and Solicitors to prepare an agreement for disbursement of the remaining SEAVROC funds.

SEAVROC was initiated in 2006 by the Shires of Beverley, Brookton, Cunderdin, Quairading and York and was later joined by the Shire of Tammin. Significant funding was sought from various sources including the Department of Local Government to deliver collaborative projects across the region.

In 2014, the Shires of Cunderdin, Quairading and Tammin withdrew their membership from SEAVROC and the group was soon after, disbanded prior to all projects being completed and funds being fully expended.

The current balance of unspent SEAVROC funds currently held in the Tied Funds Reserve 40 comprises the following;

Awareness Training Grant	\$11,373.55
You're Welcome Grant	\$11,602.69
Connecting Local Governments	\$44,054.00



Business Case Funds	\$13,117.00
Workforce Plan	\$18,185.00
Zero Waste Plan	\$ 6,118.76
Total	<b><u>\$104,451.00</u></b>

### COMMENTS AND DETAILS

The above funds had been held by the Shire of York for a number of years after SEAVROC was disbanded. With no group to initiate or implement new projects the funds were being held indefinitely by the Shire of York.

The agreement outlines the obligations and responsibilities of each Council with regard to payment of the funds. Accordingly, the Shire of York will relinquish responsibility for these funds and ultimately, the associated liability.

It is further recommended that the costs for preparing the agreement be deducted from the funds prior to distribution.

### OPTIONS

The following options are available to Council;

1. Approve the officer's recommendation to accept the agreement with the intention to disburse the remaining SEAVROC funds from Reserve 40.
2. Not approve the officer's recommendation to accept the agreement. This would result in no resolution to deal with the funds and they would remain in the Tied Funds Reserve 40 for an indefinite period.

Officers are recommending option 1. Pending Council approval and subsequent signing of the agreement by all parties, the funds can be transferred from the Tied Funds Reserve 40 and relevant budget amendments made as part of the Mid-Year Budget Review.

### IMPLICATIONS TO CONSIDER

#### Consultative

Department of Local Government, Sport & Cultural Industries (formerly Department of Local Government and Communities)

Shires of Beverley, Brookton, Cunderdin, Quairading, Tammin

WALGA

#### Policy Related

CP 1.1 Execution of Documents and Use of the Common Seal

CP 1.3 Commissioning of Legal Advice

#### Financial

It is expected that the costs for preparation of an agreement will be shared equally among the 6 local governments and deducted from the remaining SEAVROC funds prior to distribution.

It is proposed that the Shire of York's portion of the remaining funds (approximately \$17,000) is allocated at the mid year budget review.

#### Legal and Statutory

Not applicable

**Risk Related**

There is low financial risk associated with this report however, there could be a perceived reputational risk concerning the Shire's inability to manage projects and spend grant funds. Officers are of the opinion however, that due to the somewhat controversial end to the SEAVROC group, this report deals with the unspent funds in the most appropriate manner taking into account previous attempts for resolution. A legal agreement signed by all parties may further reduce the Shire of York's exposure to risk.

**Workforce**

The officer's recommendation is likely to have a minimal impact on the current workforce.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****191219****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council:**

- 1. Accepts the agreement as attached at Appendix 1 as an instrument for the disbursement of the remaining SEAVROC funds.**
- 2. Authorises the Shire President and the Chief Executive Officer to sign the agreement on behalf of the Shire of York.**
- 3. Requests the Chief Executive Officer to forward the signed agreement to the Shire's of Beverley, Brookton, Cunderdin, Quairading and Tammin for co-signing, and;**
- 4. Requests the Chief Executive Officer to forward a copy of the signed agreement to the Department of Local Government, Sport & Cultural Industries for information purposes.**

***CARRIED: 6/0***

**SY195-12/19 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 November 2019

**Appendices:** 1. Summary - 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 ten 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 recommendations 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 twenty two (22) applications for the 2019/20 financial year.

The Shire has received a further ten (10) applications for the 2019/20 financial year that do not qualify under DE3-3 and therefore, require Council consideration.

The applicants are claiming financial difficulties or hardship 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 an officer recommendation for each application.

Confidential Appendix 2 provides correspondence relating to the agreement request for A11921.

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 recommendations. 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 30 November 2019 is \$77,375.59.

This represents approximately 2.73% of the outstanding rates and charges as at 30 November 2019.

The total debt associated with the payment arrangements relating to sundry debts, as at 30 November 2019 is \$4,879.04.

This represents approximately 1.7% of the outstanding sundry debts as at 30 November 2019.

### 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 Moderate (3).

The Likelihood of Recurrence is Possible (3).

The overall risk rating is Moderate (9).

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**

**RESOLUTION  
201219**

**Moved: Cr Ashley Garratt**

**Seconded: Cr Kevin Trent**

**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.**

***CARRIED: 6/0***

**SY196-12/19 REQUEST FOR WRITE OFF - RATES AND CHARGES**

<b>File Number:</b>	<b>FI.RTS.13</b>
<b>Author:</b>	<b>Anneke Birleson, Finance Officer (Rates &amp; Debtors)</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>Not Applicable</b>
<b>Appendices:</b>	<b>Nil</b>

**NATURE OF COUNCIL'S ROLE IN THE MATTER**

Executive

**PURPOSE OF REPORT**

The purpose of this report is to provide Council with background information in relation to rates for two (2) properties.

This report seeks approval for an amount of interest to be written off.

**BACKGROUND**

The 2019/20 rates and charges were issued on 26 July 2019. The rate notices for A60529 and A60547, both owned by the same ratepayer, were mailed to an overseas address, as provided by the settlement agent in December 2018.

The owner attended the Shire on 5 November 2019 claiming they had only just received the notices because the address is not their current address and were unaware Shire rates existed, having relied on their agent to inform them of all bills.

On this day, the ratepayer paid the full amounts as given on the initial notices, leaving a total of \$39.42 interest unpaid. They requested consideration be given to write off these charges because if they had known rates were payable they would have paid them on time.

**COMMENTS AND DETAILS**

It is possible that the owner may not have been aware of Shire rates existing, although this information should have been provided to them as part of the property settlement including details of their portion for the financial year in which the property was transferred.

It could be considered that the owner should have been aware of the existence of annual rates and charges and is therefore, liable for the interest. However, given the immaterial amount it could be considered in the Shire's best interest to write off the amount to maintain a good relationship with the ratepayer and ensure ongoing payment of rates and charges.

Officers continue to give consideration to developing a delegation where the Chief Executive Officer can be authorised to write off amounts under a specified limit.

**OPTIONS**

Council could choose to approve or reject the proposed write off.

The write off could be considered an insignificant amount, where the write off, if approved, will result in the ratepayer having a positive experience with the Shire and likely continue to pay their rates on time.

## 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.

5.4 There is a major focus on systems which improve and maintain accountability and transparency.

### Policy Related

There is currently no policy or delegation for the write off of rates and charges. Officers are working on developing a proposed delegation.

### Financial

If Council approves the write off it would result in a reduction in income of approximately \$39.42 and is considered immaterial.

### Legal and Statutory

Section 6.12(1)(c) of the Local Government Act permits the Council to write off any amount of money, which is owed to the local government.

#### **6.12. Power to defer, grant discounts, waive or write off debts**

(1) *Subject to subsection (2) and any other written law, a local government may —*

*(a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or*

*(b) waive or grant concessions in relation to any amount of money; or*

*(c) write off any amount of money, which is owed to the local government.*

*\* Absolute majority required.*

(2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*

(3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*

(4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

*[Section 6.12 amended by No. 64 of 1998 s. 39.]*

### Risk Related

The Financial Impact is Insignificant (1)

The Likelihood of recurrence is Possible (3)

The Overall Risk Rating is Low (3)

### Workforce

The process to carry out the write off has no impact on the existing workforce.

## VOTING REQUIREMENTS

**Absolute Majority: Yes**

**RESOLUTION**

**211219**

**Moved: Cr Kevin Trent**

**Seconded: Cr Pam Heaton**

**That Council approves the write off of the following amounts:**

- \$19.71 for A60529; and**
- \$19.71 for A60547.**

***CARRIED BY ABSOLUTE MAJORITY: 6/0***



**SY197-12/19 FINANCIAL REPORT FOR NOVEMBER 2019**

<b>File Number:</b>	<b>FI.FRP</b>
<b>Author:</b>	<b>Tabitha Bateman, Finance Manager</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>Not Applicable</b>
<b>Appendices:</b>	<b>1. Monthly Financial Statements - November 2019 2. Creditors Payments Listing - November 2019 3. Business Card Transaction Summary - October 2019</b>

**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.

It should be noted that the figures reflected in the following reports are as at the of the end of year position only and are subject to audit adjustments for the 2018/19 Annual Financial Report.

**COMMENTS AND DETAILS**

The Financial Report for the period ending 30 November 2019 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 30 November 2019
- 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 30 November 2019;

Outstanding Rates and Services

The total outstanding rates balance at the end of November was \$2,831,271 compared to \$3,373,840 as at 31 October 2019. The notable reduction in outstanding rates over the month can be attributed to the second instalment falling due on 8 November 2019.

Current Year	Properties	30/11/2019	%	Properties	30/11/2018	%
3 years and over	93	\$470,567.10	17%	73	\$471,988.78	16%
2 years and over	105	\$196,215.49	7%	109	\$241,136.26	8%
1 year and over	199	\$292,906.36	10%	183	\$314,814.97	11%
<b>Total Prior Years outstanding</b>		<u>\$959,688.95</u>	34%		<u>\$1,027,940.01</u>	35%
Current Rates	1395	<u>\$1,871,582.41</u>	66%	1352	<u>\$1,920,878.93</u>	65%
<b>Total Rates Outstanding</b>		<u><b>\$2,831,271.36</b></u>			<u><b>\$2,948,818.94</b></u>	

A review of outstanding debtors is regularly conducted. In accordance with Council's Revenue Collection policy, requests for payment arrangements are presented to Council for acceptance. Officers are currently managing a number of payment arrangements outside of the ordinary payment options adopted by Council.

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 30 November 2019 were \$290,339 compared to \$65,774 reported at 31 October 2019. The variation between months was due to a claim of \$241,000 for the 2019/20 round of Bushfire Risk Mitigation funding being submitted to the Department of Fire and Emergency Services. The significant variation from the previous year relates largely to a long outstanding debt written off by Council resolution in June 2019.

Current Year	30/11/2019	%	30/11/2018	%
90 days and over	\$35,831.92	12%	\$267,919.28	94%
60 days and over	\$1,012.56	0%	\$0.00	0%
30 days and over	\$8,054.74	3%	\$14,813.06	5%
Current	<u>\$245,439.48</u>	85%	<u>\$2,787.09</u>	1%
<b>Total Debtors Outstanding</b>	<u><b>\$290,338.70</b></u>		<u><b>\$285,519.43</b></u>	

**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**

**RESOLUTION  
221219**

**Moved: Cr Pam Heaton**

**Seconded: Cr Ashley Garratt**

**That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 30 November 2019 as summarised below:**

**Nov-19**

<b>MUNICIPAL FUND</b>	<b>AMOUNT</b>
Cheque Payments	18,074.88
Payroll Debits	201,949.06
Electronic Funds Payments	576,670.33
Payroll Debits - Superannuation	43,003.14
Bank Fees	1,703.91
Corporate Cards	420.96
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	<u>295.02</u>
<b>Sub total - Municipal</b>	<b>842,353.92</b>
<b>TRUST FUND</b>	
Electronic Funds Payments	7,782.95
Cheque Payments	80.00
Direct Debits Licensing	<u>93,122.10</u>
<b>Sub total - Trust</b>	<b>100,985.05</b>
<b>TOTAL DISBURSEMENTS</b>	<b>943,338.97</b>

***CARRIED: 6/0***

**SY198-12/19 INVESTMENTS - NOVEMBER 2019**

<b>File Number:</b>	<b>FI.FRP</b>
<b>Author:</b>	<b>Tabitha Bateman, Finance Manager</b>
<b>Authoriser:</b>	<b>Suzie Haslehurst, Executive Manager, Corporate &amp; Community Services</b>
<b>Previously before Council:</b>	<b>Not applicable</b>
<b>Appendices:</b>	<b>1. Investment Register - November 2019</b>

**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 30 November 2019.

**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 30 November 2019
- 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**

**RESOLUTION**

**231219**

**Moved: Cr Stephen Muhleisen**

**Seconded: Cr Ashley Garratt**

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

***CARRIED: 6/0***



**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**

**MOTION**

**RESOLUTION  
241219**

**Moved: Cr Ashley Garratt**

**Seconded: Cr Denis Warnick**

**That Council agrees to accept and consider the Late Report – SY200-12/19 – Tender T01-1920 Roadside Vegetation Clearing.**

***CARRIED: 6/0***

**SY200-12/19 TENDER T01-1920 ROADSIDE VEGETATION CLEARING**

**File Number:**

**AS.TEN.69**

**Author:**

**Darren Wallace, Executive Manager, Infrastructure & Development Services**

**Authoriser:**

**Darren Wallace, Executive Manager, Infrastructure & Development Services**

**Previously before Council:**

**Not Applicable**

**Appendices:**

**1. Tender Scorecard - 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 RFT 01-19/20 for the Clearing of Roadside Vegetation.

**BACKGROUND**

The clearing of roadside vegetation is a significant issue on our rural road network. There are a number of locations where tree branches are over hanging road which force vehicles to the centre of the road and in some cases some of the large farm machinery does not fit between the trees on either side of the road.

The use of machinery that mulched the roadside vegetation and overhanging trees has been identified as the most cost effective method of vegetation clearing. However this method does not always leave an athletically pleasing treescape.

The Clearing of Roadside Vegetation was advertised on Saturday 2 November 2019 and closed on Tuesday 26 November 2019.

## COMMENTS AND DETAILS

Two Tender were received and are summarised below;

TENDERER	PRICE (Inc GST)
TWINKARRI	\$357,443.74
PALMER EARTHMOVING	\$224,220.15
BUDGET (EXCLUDING WORKS DONE BY SHIRE STAFF) OVER TWO YEARS	\$200,000

All Tenders meet the Compliance criteria as set out in the RFT.

The Tenders have been evaluated by a two person Shire Officer panel using the following 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 officers evaluation is attached as confidential appendix A.

All Tenderers were assessed by the panel as having the Relevant Experience, Key Resources, Proposed Methodology and OSHE Management required to successfully complete the works. The main difference between the Tender offers is that one Tenderer proposes to use a steel tracked machine, while the other is more experienced, but significantly higher priced.

Based on previous experience the steel tracked machine is likely to damage the road seal. The tender specification requested rubber tracks/tyred machines. The contractor proposing to use the steel tracked machine indicated that they thought there was little chance of damaging the road with the steel tracks. They were asked to guarantee that they would repair any damage to the Shires satisfaction at no cost to the Shire. In response they have offered to use rubber cleats on the excavator, this effectively would make their tender offer confirming. Shire officers revised their tender scoring based on the additional information.

Based on the revised weighting score, Palmer Constructions is considered the preferred Tenderer.

It is likely that the Shire will need to undertake substantial vegetation removal for a number of years to come. To reduce the ongoing cost it may be cost effective for the Shire to purchase an excavator set up to undertake these type of works. It is therefore recommended that as part of the 2020/21 budget deliberation the cost of undertaking the vegetation clearing works inhouse, including the purchase of the appropriate equipment, be investigate to allow the purchase of the new equipment in 2020/21 in preparation for works in 2021/22.

## OPTIONS

Council has the following options;

- Adopt the Officer recommendation and appoint Palmer Earthmoving as the successful Tenderer.
- No Adopt the Officers recommendation and appoint TwinKarri as the successful Tenderer. Noting the use of Steel tracked machines.
- Not adopt the Officers recommendation and not appoint a successful Tenderer and retender the works. This could include opening up the works to other methods.

- Not adopt the Officers recommendation and undertake the works inhouse with current equipment. This would require the appointment of two additional staff for the rest of this financial year and one additional staff member on an ongoing basis.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

No consultation has been undertaken. Although Consultation will be undertaken with DWER to ensure the appropriate legislation is meet for native vegetation clearing.

### **Strategic**

Roads and Bridges are part of the Corporate Themes of; The Place to Live & Driving the Economy Forward. More specially these projects fall under, Building Resilience;

4.4 Rural roads are safe and easy to use.

### **Policy Related**

Policy F 1.2 Procurement has been adhered to.

### **Financial**

The recommendation is within the 2019/20 budget allocation. And assumes a similar allocation in 2020/21.

It is recommended that the purchase of a

### **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**

Trees overhanging the roadway are a safety hazard and not addressing the issues increases the risk of accidents and vehicle damage on our road network.

There is a risk of reputational damage by not clearing the overhanging trees. Particularly from the farming and transport industries.

There is a risk of reputational damage in leaving the trimmed trees in a poor visual state. Particularly from residents and visitors who highly value the natural environment.

### **Workforce**

There are no short-term workforce implications from the recommendation of this report.

## **VOTING REQUIREMENTS**

**Absolute Majority: No**

**RESOLUTION****251219****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council**

- 1. Accepts the offer from the Palmer Earthmoving for RFT 01-19/20, for the Clearing of Roadside Vegetation., for a total price of \$224,220.15 including GST over two years, being \$112,612.50 including GST in 2019/20 and \$111,607.65 including GST in the second year.**
- 2. Authorises the Chief Executive Officer to formulate and execute the contract documents, including the signing and sealing as required.**
- 3. Requests the Chief Executive Officer investigates the costs of the Shire undertaking the vegetation clearing works inhouse as part of the 2020/21 budget deliberations.**

***CARRIED: 6/0***

**13 MEETING CLOSED TO THE PUBLIC**

## 13.1 Matters for which the Meeting may be closed

**RESOLUTION****261219****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt**

**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:**

**SY199-12/19 - Confidential - Acting Chief Executive Officer Arrangements**

**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.**

**CARRIED: 6/0**

The Gallery left the meeting at 5.43pm and the doors were closed.

At 5.44pm, Suzie Haslehurst, Executive Manager Corporate and Community Services; Darren Wallace, Executive Manager Infrastructure and Development Services, Helen D'Arcy-Walker, Council & Executive Support Officer left the meeting

**SY199-12/19 - CONFIDENTIAL - ACTING CHIEF EXECUTIVE OFFICER ARRANGEMENTS****RESOLUTION****271219****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council:**

- 1. Appoints Mr Darren Wallace as Acting Chief Executive Officer from 20 December 2019, until 19 January 2020 (inclusive), with remuneration in accordance with Band 3 Salaries and Allowances Tribunal (pro rata).**
- 2. Appoints Ms Suzie Haslehurst as Acting Chief Executive Officer from 20 January 2020 to 16 February 2020 (inclusive), with remuneration in accordance with Band 3 Salaries and Allowances Tribunal (pro rata).**
- 3. Believes that both persons are suitably qualified for the position.**

**CARRIED BY ABSOLUTE MAJORITY: 6/0**

**RESOLUTION****281219****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council opens the meeting to the public 5.46pm.****CARRIED: 6/0**

At 5.47pm Darren Wallace, Executive Manager Infrastructure and Development Services, Helen D'Arcy-Walker, Council & Executive Support Officer returned to the meeting.

Suzie Haslehurst, Executive Manager Corporate and Community Services did not return to the meeting.

No one from the Gallery returned to the meeting.

13.2 Public Reading of resolutions to be made public

*The Shire President advised the returned staff members of the Council Resolution for this item.*

**14 CLOSURE**

*The Shire President thanked everyone for their attendance and closed the meeting at 5.48pm.*