



SHIRE OF YORK

## NOTICE OF MEETING

Dear Councillors

I respectfully advise that the ORDINARY COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Monday, 25 March 2019, commencing at 5.00pm.

MEETING AGENDA ATTACHED

*Paul Martin*

PAUL MARTIN  
CHIEF EXECUTIVE OFFICER  
Date: 15 March 2019

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<p><b>MISSION STATEMENT</b> <i>"Building on our history to create our future"</i></p>
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**Local Government Act 1995 (as amended)****Part 1      Introductory Matters**

## 1.3.      Content and intent

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

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

## 2.7      The Role of Council

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

**Meetings generally open to the public**

## 5.1. (1)     Subject to subsection (2), the following are to be open to members of the public —

- (a)    all council meetings; and
- (b)    all meetings of any committee to which a local government power or duty has been delegated.

  

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

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

(3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



Shire of York

## G 2.6 PUBLIC QUESTION TIME

### Policy Statement

- 1.0 "Public Question Time" will be limited to 15 minutes\*. The Council may exercise a discretion to extend the time by resolution if required. If there are questions remaining unasked at the expiration of the time allotted members of the public will be asked to submit their questions in writing to the Chief Executive Officer who will provide a written reply with the response placed in the Agenda of the next Ordinary Meeting of the Council.  
*\* A minimum of 15 minutes is provided by Regulation 6(1) of the Local Government (Administration) Regulations 1996 (S.5.24 of the Local Government Act 1995)*
- 2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire's operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.
- 3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.
- 4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.
- 5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.
- 6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.
- 7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.
- 8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.
- 9.0 There will be no debate on the answers to questions.
- 10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.
- 11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

Reviewed 24 October 2016

# **PUBLIC QUESTION TIME PROFORMA**

## **CONTINUED**

## Question(s)

Please ensure that your question complies with the Public Question Time Policy Statement as published in the Council Agenda and stated as per the attached

**Name:** \_\_\_\_\_

**Residential Address:** \_\_\_\_\_  
(Required if written response requested)

**Organization Name:** \_\_\_\_\_  
(If presenting on behalf of)

**Council** \_\_\_\_\_ **Item No. Referred To:** \_\_\_\_\_  
**Meeting Date:** \_\_\_\_\_ **(If Applicable)** \_\_\_\_\_

*Write your question(s) as clearly and concisely as possible – lengthy questions may be paraphrased.*

**Note:** To provide equal opportunity for all in attendance to ask questions, a limit of two (2) questions at a time from any one person is imposed.

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

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

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**OFFICE USE ONLY**

Presented Meeting Date: \_\_\_\_\_ Item No: \_\_\_\_\_

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

## 1 OPENING

- 1.1 Declaration of Opening
- 1.2 Disclaimer

The Shire President advises the following:

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

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

- 1.3 Standing Orders
- 1.4 Announcement of Visitors
- 1.5 Declarations of Interest that Might Cause a Conflict

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

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

- 1.6 Declaration of Financial Interests

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

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

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

- 1.7 Disclosure of Interests that May Affect Impartiality

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

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

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

## 2 ATTENDANCE

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

## 3 QUESTIONS FROM PREVIOUS MEETINGS

- 3.1 Response to Previous Questions Taken on Notice
  - Nil
- 3.2 Response to Unasked Questions from the Previous Meeting
  - Nil

## 4 PUBLIC QUESTION TIME

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

### 6.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must identify themselves and register with a Council Officer immediately prior to the meeting.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.

- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have 2 minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where any questions remain unasked at the end of public question time they may be submitted to the CEO who will reply in writing and include the questions and answers in the agenda for the next ordinary Council meeting.
- (11) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

4.1 Written Questions – Current Agenda

4.2 Public Question Time

## **5 APPLICATIONS FOR LEAVE OF ABSENCE**

## **6 PRESENTATIONS**

6.1 Petitions

6.2 Presentations

6.3 Deputations

## **7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Ordinary Council Meeting - 25 February 2019

## **8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

## 9 REPORTS OF COMMITTEES

### SY024-03/19 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 5 MARCH 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 held 5 March 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 on Tuesday, 5 March 2019.

#### BACKGROUND

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

#### COMMENTS AND DETAILS

At the meeting of the Audit and Risk Committee held 5 March 2019, the following items were considered:

- Mid Year Budget Review 2018/19
- Audit Regulation 17 Review and Financial Management Regulation 5 Review
- Compliance Audit Return 2018
- Shire of York Compliance Calendar
- Risk Management Update as at 31 December 2018

#### Mid Year Budget Review 2018/19

This report presented the results of the Mid Year Budget Review incorporating the results of the quarterly Finance and Costing Review, for the period ending 31 December 2018 for the Audit Committee's consideration and recommendation to Council as follows;

*That the Audit Committee recommends that Council:*

1. *Accepts the Finance and Costing Review Summary for the period ending 31 December 2018 as attached to this report at Appendix 4.*
2. *Adopts the Mid-Year Budget Review as attached at Appendices 1, 2, 3 and 5 to this report.*
3. *Requests the Chief Executive Officer to forward the adopted 2018/19 Mid-Year Budget Review to the Department of Local Government within 30 days of Council's adoption.*

A comprehensive review of the 2018/19 Adopted Budget and year to date actuals to 31 December 2018 was undertaken inclusive of the amendments previously endorsed by Council following the first quarter review. At the time of adopting the 2018/19 Budget, Council also resolved to set the requirement for reporting material variances of 10% for items with a dollar variance of \$5,000 or more. Officers have reported on major variances in accordance with the Council Resolution and provided comments where applicable.

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

- Town Hall grant funding – increase income and expenditure \$103,136

Approved after budget adoption, the additional income will help fund the installation of stage lighting and acoustics, upgrades to the existing green room and accessibility improvements.

- Septic Waste Ponds – increase expenditure \$47,000

The Shire's septic waste ponds had reached capacity and were unable to dry out to an acceptable level consequently increasing the tonnage and quantity of waste to be disposed of. This cost the Shire an additional \$47,000 which has been offset by reductions in a number of other areas.

- Road Maintenance – increase expenditure \$39,867

To recognise the need for increased road maintenance in the Shire, savings from across the organisation remaining at the close of the review were reallocated to Road Maintenance.

- Visitors Centre staffing – decrease expenditure \$30,000

The 2018/19 adopted budget included funds to increase the Visitors Centre operating hours and staffing levels. Due to timing of recruitment, the full allocation is not required this financial year resulting in savings of \$30,000 being reallocated to other areas. The new staffing arrangements have now been finalised and changes will come into effect 18 March 2019.

- Proceeds from sale of property and transfers to Reserves – \$239,000

The Dinsdale Street residence will not be offered for sale in this financial year due to all Shire houses being tenanted by staff. The proceeds expected from the sale being \$239,000 therefore cannot be transferred to the Avon River Reserve 9 and the Main Street Reserve 42 as budgeted.

Including all budget amendments resolved to date, officers have prepared the Mid-Year Budget Review with a balanced year end position. Following Council consideration, the financial reports will be updated to incorporate budget amendments as adopted. These budget amendments effectively replace the original budgets adopted by Council in July 2018.

#### *Audit Regulation 17 Review and Financial Management Regulation 5 Review*

This report provided information about changes to Local Government regulations and the new requirement for the Audit Regulation 17 Review (AR17R) and Financial Management Regulation 5 Review (FMR) to be carried out every three years. Prior to the changes, the AR17R was due to be undertaken in the 2018/19 FY (two-yearly cycle) and the FMR, in 2020/21 (four-yearly cycle).

Whilst the 2018/19 adopted budget includes \$20,000 to undertake the AR17R, the report recommended that this amount is carried forward and Council undertakes the reviews concurrently in 2019/20 to provide better value for money.

Furthermore, a major review of the Shire's Strategic Community Plan and Corporate Business Plan is due to be undertaken during the second half of the 2019/20 financial year. It is proposed that the

AR17R and FMR may identify issues to be incorporated in the Shire's Corporate Business Plan for the coming four years.

#### Compliance Audit Return

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

The return is a checklist of a local government's compliance with the requirements of the *Local Government Act 1995* (the Act) and its Regulations as approved by the Minister. The 2018 CAR content focuses on areas considered high risk and examines whether the Council has complied with each action listed on the return.

The CAR is required to be reviewed by the Audit Committee before being presented for consideration and adoption by Council after which time it must be forwarded to the DLGC with a copy of the relevant Council minutes by 31 March 2019.

#### Shire of York Compliance Calendar

This report presented a Compliance Calendar for the Audit and Risk Committee's consideration and recommendation to Council. Officers propose that the Calendar be reviewed by the Audit Committee regularly and updated when necessary.

It is intended that the calendar initially includes all compliance actions required by local governments in accordance with the Local Government Act 1995 to provide a systematic approach to managing compliance. Further reviews may incorporate additional internal key dates to assist in areas such as contract management, policy reviews and grant acquittals.

The calendar, which is based on the model template provided by WALGA, was included in the recommendations for improvement provided by Moore Stephens as part of the Audit Regulation 17 Review in 2017.

#### Risk Management Update as at 31 December 2018

In August 2017 Council approved the Audit Committee's recommendation requesting officers report to the Audit Committee on a six-monthly basis regarding progress of the risk improvements being made across the organisation.

These improvements were aligned with Moore Stephens' recommendations identified as part of the Audit Regulation 17 and Financial Management Regulation 5 reviews. Since this time, the Risk Management Working Group was formed to address the Shire's needs in terms of risk.

The Risk Register Dashboard attached to this report provides an overview of the progress made to date.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative**

Department of Local Government and Communities

Moore Stephens

Office of the Auditor General

#### **Strategic**

##### *Theme 5: Strong Leadership and Governance*

- 5.3 A financially sustainable Shire
- 5.4 Open and accountable systems

**Policy Related**

CP1.5 *Compliance*  
F1.3 *Significant Accounting Policies*  
G4.6 *Risk Assessment and Management*  
G4.7 *Internal Control*

**Financial**

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

**Legal and Statutory**

*Local Government Act 1995, Part 7*

*Local Government (Audit) Regulations 1996*

**Risk Related**

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

**Workforce**

Not applicable

**VOTING REQUIREMENTS**

**Absolute Majority: Yes**

**RECOMMENDATION**

That Council receives the minutes of the Audit and Risk Committee meeting held 5 March 2019 and adopts the recommendations of the Committee:

That Council:

1. Accepts the Finance and Costing Review Summary for the period ending 31 December 2018 as attached to this report at Appendix 4.
2. Adopts the Mid-Year Budget Review as attached at Appendices 1, 2, 3 and 5 to this report.
3. Requests the Chief Executive Officer to forward the adopted 2018/19 Mid-Year Budget Review to the Department of Local Government within 30 days of Council's adoption.
4. Notes:
  - (a) that, due to an amendment to the regulations in June 2018, this review is now required to be undertaken every three years and is therefore due in 2019/2020;
  - (b) that a review in accordance with regulation 5 of the Local Government (Financial Management) Regulations 1996 is also due in 2019/2020;
  - (c) that the Shire is required to undertake a Major Strategic Review in 2019/2020 in accordance with the Integrated Planning and Reporting Framework; and
  - (d) that officers are currently undertaking a comprehensive Procurement Review with recommendations for improvements and an action plan to be presented to Council when this is complete.

5. Resolves to undertake the next Audit regulation 17 review in the 2019/20 financial year concurrently with the Financial Management regulation 5 review.
6. Requests the Chief Executive Officer to include an allocation for the above reviews in the 2019/20 budget process for Council's consideration.
7. Adopts the completed 2018 Compliance Audit Return, as attached to this report for certification by the Shire President and the Chief Executive Officer in accordance with Regulation 15(2) of the Local Government (Audit) Regulations 1996; and
8. Requests the Chief Executive Officer to submit the 2018 Compliance Audit Return to the Departmental CEO of the Department of Local Government in accordance with Regulation 15(1) of the Local Government (Audit) Regulations 1996.
9. Adopts the Compliance Calendar attached as an Appendix to this report, noting that:
  - a) the Calendar will be reviewed annually;
  - b) more areas of compliance may be added during each review; and
  - c) an operating procedure will be developed and implemented once the Calendar has been adopted.
  - d) minor typographical amendments will be made to the final document.
10. Receives the Shire of York Risk Register Dashboard Report as at 31 December 2018 as attached at Appendix 1 to this report; and
11. Notes the progress made to date regarding the actions contained in the Risk Register.

**SY025-03/19 MINUTES OF THE ACCESS AND INCLUSION ADVISORY COMMITTEE  
MEETING HELD 12 MARCH 2019**

**File Number:** OR.CMA.9.1

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

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

**Previously before  
Council:** Nil

**Appendices:** 1. Minutes of the Access and Inclusion Advisory Committee Meeting Held 12 March 2019

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

Executive

**PURPOSE OF REPORT**

To receive the minutes and endorse the recommendations of the Access and Inclusion Advisory Committee (AIAC) Meeting held on Tuesday 12 March 2019.

**BACKGROUND**

The minutes of the AIAC meetings are provided for Council and community information.

**COMMENTS AND DETAILS**Announcement of Visitors

Executive Manager, Infrastructure and Development Services (EMIDS), Darren Wallace attended the first part of the meeting to provide information for the AIAC on options to improve safety for pedestrians crossing Avon Terrace opposite the Motor Museum.

He explained that while Main Roads WA would not consider installing either a zebra crossing or pedestrian traffic lights due to the number of pedestrians in York, the option used in Northam (raised plateau crossings with piano key markings) are also not a preferred option due to safety.

The EMIDS informed the meeting that the footpath would be extended to form a nib aligned with the current al fresco area (Jules Café) to improve visibility and sightlines for pedestrians crossing the road at that point.

Reports of Officers

Two Officer reports were considered by the AIAC:

- Appointment of Member to the Access and Inclusion Advisory Committee
- Access and Inclusion Audit Outcomes

Appointment of Member to the Access and Inclusion Advisory Committee

This report recommends that Ms Tegan Walsh (Inclusion Support Professional – Wanslea, Wheatbelt) be appointed to the AIAC.

The Committee was informed at the meeting that Ms Heather Bates is no longer employed by Alzheimer's WA and that the role in York no longer exists. In accordance with s5.11(1)(a) of the *Local Government Act 1995*, she is therefore no longer a member of the Committee. It was agreed that Ms Walsh would be a suitable replacement as a service provider representative.

The AIAC was further informed that Ms Nicola Burton from Senses Australia is no longer available on Tuesdays to attend meetings as her rostered days in York have changed to Wednesdays and Thursdays. Ms Burton offered to seek participation from another Senses Australia colleague. It was agreed that Officers would ask Ms Burton to nominate a representative to join the AIAC.

#### Access and Inclusion Audit Outcomes

The AIAC was presented with the outcomes of the Access and Inclusion Audit of Shire operated buildings and the CBD. These consist of a 35 page Executive Summary accompanied by 9 detailed spreadsheets of 48 pages in total. The spreadsheets provide a comprehensive report regarding each building / area audited comprising the following;

- issues and barriers identified
- recommendations for improvement
- rationale and legislative references
- priority rating
- photos
- cost estimates for the recommended improvements
- general comments

The Committee is recommending a workshop is held with Councillors, senior officers and the AIAC to determine the immediate actions and short, medium and long term priorities for inclusion in the annual budget process.

#### Business of an Urgent Nature

Ms Marie Forster raised the issue of safe passage for residents of Balladong Lodge travelling to the CBD on foot or using a mobility scooter and the Shire's responsibility in this regard. The Committee has recommended that a report be prepared for consideration by the AIAC and Council.

### **OPTIONS**

Council could choose not to accept the recommendations of the Access and Inclusion Advisory Committee. However, the AIAC was established to provide recommendations to Council on matters relating to access and inclusion.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative**

Nil

#### **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**

G2.5 Reference Groups

#### **Financial**

The financial implications relating to addressing the improvements recommended in the Access and Inclusion Audit are significant with approximately \$500,000 required just to address those priorities rated 'high'. Hence the proposal to hold a workshop to determine immediate priorities for action within budget constraints.

**Legal and Statutory****Local Government Act 1995****5.22. Minutes of council and committee meetings**

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

**Risk Related**

There is a financial risk and a reputational risk if Council chooses not to accept the recommendation of the AIAC to determine immediate priorities for action as identified in the Access and Inclusion Audit. These risks are considered Moderate (8) and High (12) consecutively.

**Workforce**

Nil

**VOTING REQUIREMENTS**

**Absolute Majority:** Yes

**RECOMMENDATION**

That Council receives the Minutes of the Access and Inclusion Advisory Committee meeting held on 12 March 2019 and adopts the recommendations of the Committee as follows:

1. Adopts the minutes of the Access and Inclusion Advisory Committee held on 27 November 2018 as a true and correct record.
2. Appoints Ms Tegan Walsh to the Committee;
3. Requests the Chief Executive Officer to amend the Terms of Reference for the Access and Inclusion Advisory Committee accordingly.
4. Receives the Access and Inclusion Audit 2018 Report attached as appendices to this report;
5. Requests the Chief Executive Officer to:
  - (a) conduct a workshop with the Access and Inclusion Advisory Committee, Councillors and senior officers to determine a timeline and action plan to implement agreed priorities; and
  - (b) present the results to Council for consideration as part of the annual budget process.
6. Notes that a report is to be prepared and considered by the Access and Inclusion Advisory Committee regarding safety and access issues for Balladong Lodge residents.

**10 OFFICER'S REPORTS****SY026-03/19 TEMPORARY ALFRESCO DINING AREAS POLICY**

**File Number:** AV1, HS.ITAL.6.1.2

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

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

**Previously before Council:** 9.22 - 20 April 2009  
SY000-07/12 24 July 2017  
SY002-02/18 26 February 2018  
SY117-09/18 25 September 2018

**Appendices:** 1. Temporary Alfresco Dining Areas Policy

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

Executive

**PURPOSE OF REPORT**

To consider the adoption of a Policy for Temporary Alfresco Dining Areas.

**BACKGROUND**

At its ordinary meeting of 25 September 2018 Council resolved as follows;

*"That Council*

1. *Agrees to install a permanent alfresco area in front of Mad Mo's Café. In keeping with the existing alfresco areas, it would be a kerbed, brickpaved area with bollards and trees. And allocates \$12,500 to the project. With funding source to be confirmed in the mid-year budget review.*
2. *Requests the Chief Executive Officer to work with the owner of the Botanicalia Café to develop a suitable design and design variation guide together with a Management Plan and a draft policy. And allocates \$2,500 to the project. With funding source to be confirmed in the mid-year budget review."*

This report considers part 2 of the above only. Part 1 will be the subject of a future report to Council once the policy is determined.

**COMMENTS AND DETAILS**

Shire Officers have been working with the owner of the Botanicalia Café on developing a set of guidelines for inclusion in a Policy to inform future applicants and Shire Officers what is required to be considered when applying for a temporary Alfresco Dining Area.

Some of the issues dealt with in the Policy Guidelines include;

- The Alfresco area is to be within the existing car park bays so as not to impede traffic flow.
- The Alfresco area is to be a minimum of 1.50 m from a property driveway, (which is the same distance that car parking bays are usually marked at), to allow access to and from driveways.
- The Alfresco structure is to be substantially visibly permeable above a height of 1.150 m, to allow reasonable sight distance for vehicles using parking bays or driveways near the Alfresco, and passive surveillance.
- Colour scheme to be sympathetic to the Heritage precinct.
- Building materials to be sympathetic to the Heritage Precinct.

- Maintenance is the responsibility of the approved applicant.
- Un-maintained alfresco structures to be removed at the owners cost.
- Loose furniture to be removed from site when business is closed.
- The applicant is to have sufficient Public risk insurance.

Applicants would still be required to comply with the current application process with the Shire's health department.

As part of the design process it became evident to officers that the establishment of a design and design variation guide was not needed and that each application, as long as it meets the proposed policy guidelines, should be evaluated on its own merits.

It is also considered that a Management Plan is not needed and that the proposed policy along with the current Alfresco Dining Areas approvals process provides sufficient management controls.

## **OPTIONS**

If Council does not accept the Policy as presented it can adopt the Policy with amendments or refer back to officers for refinement and representing to Council

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

The development of the draft Policy has been informed by the current community consultation on the proposed Alfresco Development at the Botanicalia Café.

### **Strategic**

The provision of alfresco spaces would be consistent with the Shire of York Strategic Community Plan Theme 3: Driving the Economy Forward, and in particular theme 3.6 'The town of York's main street looks prosperous and cared for at all times.'

### **Policy Related**

There is no existing Policy relating to Alfresco Dining Areas. However there appears to be a need for such a policy. The attached proposed policy would probably be included in an overarching Alfresco Dining Area Policy.

### **Financial**

Fees and Charges for Alfresco Areas are included in the Shire's annual budget process.

### **Legal and Statutory**

*Shire of York Parking and Parking Facilities Local Law.* The Local Law provides for the ability for Council, by resolution, to designate an area as "no parking" by erecting appropriate signage, or through the use of clearly identifying the areas for Alfresco Dining. *Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* Each Business with an associated outdoor eating facility requires a permit to trade within a public place. The permit process has a number of requirements and responsibilities that the business owner is to comply with, including insurances, numbers, keeping the footpath clear, rubbish etc, which is addressed as part of the application process. The provisions within the Local Law are considered outdated, and do not specifically relate to 'alfresco dining'. A review of the provisions relating to alfresco/outdoor dining is recommended.

### **Risk Related**

There is a risk to road safety when an object is placed in a road reserve. The proposed policy attempts to mitigate the risk as much as is reasonable while still providing a functional and aesthetically pleasing facility.

## **Workforce**

Nil for officer's recommendation.

## **VOTING REQUIREMENTS**

**Absolute Majority: No**

### **RECOMMENDATION**

That Council:

1. Adopts the Temporary Alfresco Dining Areas Policy as presented in Appendix 1.
2. Requests the Chief Executive Officer to:
  - (a) Update Council's Policy Manual to reflect the above resolution and make the amended version available on the Shire's website and in alternative formats upon request;
  - (b) Develop and implement procedures to ensure compliance with this policy.
  - (c) To provide local public notice of the policy.

**SY027-03/19 34 CLIFFORD STREET, YORK - MUNICIPAL HERITAGE INVENTORY AND HERITAGE LIST**

**File Number:** CS.CC4 & CL.7811

**Author:** Carly Rundle, Senior Planner

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

**Previously before Council:** Nil.

**Appendices:**

1. Existing Municipal Heritage Inventory Place Sheet
2. Submission Received
3. Response to Submission
4. Proposed Municipal Heritage Inventory Place Sheet

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

Executive & Quasi-judicial.

**PURPOSE OF REPORT**

For Council to consider a submission received during stage 1 consultation of the Municipal Heritage Inventory Review, which requests removal of 34 Clifford Street (Lot 1, Lot 2 on Plan 941 and Lot 3 (3) Glebe Street), York from the Shire of York's Municipal Heritage Inventory and Heritage List.

**BACKGROUND**

Lot 1 (34) Clifford Street, Lot 2 on Plan 941 and Lot 3 (3) Glebe Street, York (all three lots referred herein as the property) contains a 'single house' and associated outbuildings.

The property is currently listed on the Shire of York's Municipal Heritage Inventory (MHI) adopted by Council at its Ordinary Meeting 22 September 2008. The place sheet for the property included in the MHI is provided in **Appendix 1**. In accordance with Clause 5.1.2 of the Shire of York Local Planning Scheme No. 2, the MHI is the Shire's Heritage List:

*5.1.2 Heritage List*

*5.1.2.2 For the purposes of Clause 5.1, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the local government pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Heritage List.*

Local Planning Policy: Heritage Precincts and Places was also adopted at Ordinary Council Meeting 22 September 2008 (updated in 2009), which provides guidance for the assessment of development applications received predominantly in heritage precincts, although includes the Municipal Heritage Inventory, referred to in Appendix A as the York Municipal Heritage Inventory – List of Heritage Places and Precincts, and references the management category assigned to each place (1, 1b/2, 3 or 4). The property (referred to as 34 Clifford Street) is identified as a Category 3: which is identified as:

*'a place of some cultural heritage significance to Shire of York. Recommend: encourage retention of the place (archival record required) and document the place if retention is not possible. No particular heritage planning constraints.'; and*

*'3 – Level of Significance – some/moderate significance;*

*Description – contributes to the heritage of the locality. Has some altered or modified elements, not necessarily detracting from the overall significance of the item.*

*Desired Outcome – conservation of the place is desirable. Any alterations or extensions should reinforce the significance of the place and original fabric should be retained wherever feasible.'*

Category 4 places are listed as not fulfilling the criteria for entry in the local Heritage List.

In accordance with clause 4.2 of the Scheme and clause 61 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, development on a property on the Heritage List is not exempt from development approval, and requires due regard to be given to any state planning policy (SPP3.5), any local planning policy, and the built heritage conservation of any place that is of cultural heritage significance.

The Shire of York is currently undertaking a review of its Municipal Heritage Inventory/Heritage List and a consultation and engagement plan for the review was endorsed by Council at the 25 June 2018 Ordinary Council Meeting. In accordance with this plan, stage 1 consultation has been completed, which sought information from owners/occupiers of existing places on the MHI, and also sought nominations for new places to be considered for inclusion.

A submission has been received (date stamped 3 September 2018) in response to the stage 1 consultation from the owners of the property requesting that it be removed from the Shire of York's Municipal Heritage Inventory and Heritage List. The finalisation of a draft Municipal Heritage Inventory for presentation to Council has taken longer than anticipated, and as such it was agreed with the landowners of the property, that the request be presented to Council for determination separate to the overall review.

## COMMENTS AND DETAILS

The landowner's submission requesting removal of the property from the MHI/Heritage List and reasons why is provided in **Appendix 2**. The submission raises a number of points in support of the request for the property's removal such as:

- challenging the process used for inclusion of the dwelling on the Shire's Municipal Inventory, including that the requirement for 'proper public consultation' was not adhered to.
- that legislative requirements to review the Municipal Heritage Inventory have not been adhered to.
- the assessment of the cultural heritage significance of the property based on its aesthetic value, integrity, condition and authenticity.

Officer's comments to the specific matters raised in the submission are provided in **Appendix 3**, and a discussion of the above matters is provided for Council's consideration.

### • Proper Consultation

Section 45 of the *Heritage of Western Australian Act 1990* (Act) requires:

*'45. Local government to compile etc. inventory of buildings with cultural heritage significance*  
(1) *A local government shall compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance.*

*(2) The inventory required by subsection (1) shall be compiled no later than 4 years from the commencement of this Act and shall be —*

*(a) updated annually; and*  
*(b) reviewed every 4 years after compilation.*

*(3) A local government shall provide the Council with a copy of the inventory compiled pursuant to this section.*

*(4) A local government shall ensure that the inventory required by this section is compiled with proper public consultation.'*

There is no definition of 'proper public consultation' in the Act and is open to the local government to determine appropriate consultation to be undertaken.

Council considered an agenda item at its Ordinary Meeting 18 April 2005 which refers to the Municipal Inventory Review being advertised in 1999, that one submission was received from this advertising period, and that a brief was prepared for the review by the Heritage Advisory Panel and Laura Gray, Council's Heritage Advisor in July 1999, which is then listed in the Council report. The recommended community consultation in the brief is listed as:

- Review will continue to be highlighted using the local press;
- Once the initial review has been completed, a meeting of all affected landowners will be held to discuss the implications of being on the MHI;
- The finalised MI will be advertised for public comment. The Heritage Advisory Panel to assess all submissions and make recommendations to Council.
- Consultation is listed to included Heritage Advisor, Heritage Advisory Panel, Heritage Council of WA (website), and that every effort will be made to notify property owners who have been nominated on the MI or any alterations that have been made to the MI.

Council then resolved at this meeting:

*That Council:*

1. *Proceed with the review of the MI and liaise with Council's Heritage Advisor regarding statement of significance and conservation categories.*
2. *Advertise the draft Municipal Heritage Inventory for a period of 42 days and call for additional nominations of places to be included on the Municipal Inventory.*
3. *Commence Community Consultation*
  - (a) *Advertise meetings.*
  - (b) *Notify all property owners listed on the Municipal Inventory.*
4. *Following receipt of submissions, the revised MI be referred to the York Community Reference Group – Heritage;*
5. *Acknowledge the delays incurred to date rest with the Council.*

*Advice Note:*

- i) *Section 3a refers to meetings that explain the benefits of the MI – Public Consultation is needed and this will enable new property owners to get an understanding of the requirements of being listed on the MI.*

From a review of Shire records, consultation carried out as part of the MHI review is summarised below:

- 14 June 2005, a letter was sent to places on the existing inventory (Shire of York Municipal Heritage Inventory 1995) including the data sheet requesting information to be provided by 27 June 2005. The property was not included on the 1995 MHI.
- A notice was placed in the Southern Avon Chronicle 20 July 2005 for the 'Shire of York Municipal Inventory Nominations'. The notice advised of the review and invited nominations to be made for places to be considered by the MHI by the 31 August 2005, representing a 42-day advertising period.
- 10 September 2007, letters were sent to affected landowners (including 34 Clifford St) advising that their property had been identified for inclusion during a street survey. The letter requested any comments on the proposed inclusion be provided by 21 September 2007. A copy of this letter is provided in Appendix 2.
- 26 September 2007 – Letter submitted to the Shire by the owners of 34 Clifford Street, York (the property) with a number of questions asking the listing, and effect it will have on their

property and querying the consultation and information available on the property (copy attached in Appendix 2).

- 1 November 2007 – Shire sent a letter to the landowners in response to the letter dated 25 September 2007, which provided a response to these queries. A copy of this letter is provided in Appendix 2.
- According to the Shire's records, the next form of correspondence on the MHI occurred after it was adopted and notification was sent to landowners advising of the outcome.

At the Ordinary Council Meeting dated 22 September 2008, the agenda report advises under the heading of 'consultation' that consultation involved;

- Heritage Council of WA (website), Australian Heritage Commission (website), Regional Heritage Advisor, Heritage Advisory Committee;
- That letters have been written to those individuals whose properties have been included on the Municipal Inventory, and that there were 28 submissions received from the commencement of the review, including new entries to the Municipal Inventory;
- That Council conducted a bus tour and held meetings regarding the Municipal Inventory, considered necessary due to the reduction of heritage precincts and concentration on the Central York Precinct and Blandstown Precinct.
- That the last advertising period was July 2005.

Council resolved at this meeting:

*"That Council:*

1. *Receive the Municipal Inventory as tabled;*
2. *Forward a copy of the Municipal Inventory to the Heritage Council of WA and the WA Planning Commission;*
3. *Write to those on the Municipal Inventory and explain what the category means for them.*
4. *Update on an annual basis as required; and*
5. *Complete another review of the Municipal Inventory in four (4) years' time.*

*Advice Note:*

*A copy of the Municipal Inventory shall be made available to the public for viewing with the Shire of York Town Planning Scheme".*

At the time of adoption of the MHI (and heritage list), the consultation undertaken for the MHI (and subsequently the Heritage List) was not in breach of the Heritage Act of Western Australia 1990 or the Shire of York Town Planning Scheme No. 2 which required that 'proper consultation' be carried out, which is at the discretion of Council to determine what constitutes what this. Council determined the consultation process for the review of the 2008 MHI, and then considered the consultation undertaken as outlined above in resolving to adopt the Municipal Heritage Inventory (and heritage list).

The above summary of consultation undertaken for the 2008 MHI is provided for Council's information, although is not considered appropriate at officer level to be making comment on the adequacy of a process already considered and determined by Council.

Should a place be considered for entry, modification or deletion from a Heritage List at the current time, under the Regulations, as a minimum the owner is to be notified in writing of the proposal, with a description of the place and the reasons for the proposed entry and is required to be given a minimum of 21 days to be able to make a submission on the proposal.

- **Review Period**

The MHI has not been reviewed or updated since it was adopted Ordinary Meeting 22 September 2008 and has not complied with the Section 45(2) of the Act requiring it to be updated annually and reviewed every four years after compilation. The current review being undertaken commenced in

2013, and its timely progression has been restricted by budget allowances allocated to the project. A draft MHI Review and Heritage List is expected to be presented to Council shortly.

Officers consider that the absence of a review being undertaken is not justification for a property to be removed from the MHI or Heritage List, particularly as this would then apply to all places listed and would result in the removal of places having been determined by Council as places having cultural heritage significance without detailed assessment being undertaken to support its removal.

Council should note that a Heritage Act 2018 has been passed in parliament and received royal assent, although has not yet been proclaimed to have effect. When proclaimed, the Act removes the statutory timeframe for updates and review. The Act references draft guidelines being prepared to inform the MHI review process, which are currently in a draft format and have been released for public advertising. The State Heritage Office has allowed the Shire to review the draft guidelines which propose that:

*"reviews should take place at intervals with the major review of a local planning strategy or strategic community plan.*

- *The rate of review should reflect the rate of change within the local area, in relation to the overall development and population.*
- *As an indication, the Local Heritage Survey (LHS) (updated term for MHI) of a remote or regional local government with few major development proposals is likely to remain relevant for 10-15 years; the LHS of a local government with ongoing urban development is likely to require a review within 5-8 years.*
- *The target period for the next review should be identified within the LHS."*

#### • Cultural Heritage Significance

The submission to remove the property refers to the assessment undertaken by the Shire for the previous MHI not being a 'full assessment', that it did not take into account that a large amount of cladding had been installed on the property (date of assessment is referred to as August 2007), and that if a physical assessment of the property was undertaken as per 'best practice' that the property would not have met criterion 1 "Aesthetic value" and met the guidelines for exclusion as its 'distinguishing features have been lost, degraded or compromised'. The submission has also advised that there is no evidence available to demonstrate that the assessment was undertaken by a qualified person.

The Shire's records, apart from the letters attached in the submission and reference to 'physical assessment' on the place sheet, do not provide specific details of what the 'assessment' entailed, or whether the cladding was evident to those undertaking the assessment. There are records and reference in Council reports indicating a qualified 'regional heritage advisor' was involved in the review, although the specific extent of their involvement does not appear to be documented, and there is no specific documentation to indicate who was present on the date of the assessment for this property or prepared the place sheet documentation. It is assumed that the 'physical assessment' would have occurred from outside the property boundaries, as the owners have not indicated consent was given to enter the property.

At the time of Council resolving to enter the place in the MHI (September 2008) (and subsequently the Heritage List), the provisions of Section 45 of the Heritage of Western Australia Act 1990 (as amended) applied and clause 5.1.2 of the Shire of York Town Planning Scheme No. 2 which specifies:

#### 5.1 Heritage Precincts and Places of Cultural Significance

##### 5.1.1 Purpose and Intent:

*The purpose and intent of the heritage provisions 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.*

### 5.1.2 Heritage List

5.1.2.1 *The local government shall establish and maintain a Heritage List of buildings, objects, structures and places considered by the local government to be of heritage significance and worthy of conservation.*

5.1.2.2 *For the purposes of clause 5.1, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the local government pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Heritage List.*

5.1.2.3 *The local government shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours*

It is not known if Council was basing the format/process of the MHI review on any other standards or guidelines at the time of its preparation/adoption. The place sheet adopted for the property in the Municipal Heritage Inventory is included at **Appendix A** and has sections which have not been completed such as the 'statement of significance'.

The Shire's current Heritage Advisor (Heritage Intelligence) has provided the following comment based on how the property's cultural heritage significance would now be assessed:

- *architectural identification of a style does not require an in-depth inspection and no entry into private property normally takes place;*
- *The assessment process is based on the Heritage Council Guidelines – Criteria for the Assessment of Local Heritage Places and Areas (issued March 2012) (Guidelines).*
- *'Residence, 34 Clifford Street is significant for its aesthetic contribution to the setting (criterion 1); it is an example of creative achievement of a particular period: Inter-war period with Arts and Crafts and Interwar bungalow influences (criterion 2); its degree of significance relates to its a rarity as a singular example of the scale and design of the period in York and as a good representation of Inter war architecture. In summary, Residence, 34 Clifford Street it is a good example of the inter war development of York, demonstrated by the expansive Inter war bungalow architectural style on an elevated corner location on the east side of the Avon River. It makes a significant contribution the historic townscape of York'. The condition, integrity and authenticity are still; fair/good, high degree and moderate/high degree respectively. Archive research indicates that the property was built in 1923, and that the columns are old Water Authority pipes. An updated place sheet prepared by the Heritage Advisor has been provided at Appendix 4.*

Based on the current Heritage Council Guidelines – Criteria for the Assessment of Local Heritage Places and Areas (March 2012, which is a guide and not currently a statutory document) there are gaps on the existing place sheet for the property, which would now be required to be completed to meet 'best practice standards' such as completion of the 'statement of significance' which provides a concise statement of the place's significance with reference to the Assessment Criteria published by the Heritage Council. In absence of this, the 'reason' the property is currently listed based on the information on the place sheet which includes:

*"Red Brick Residence with stone footings and rendered above dado/sill height. Verandah features timber posts and balustrade as well as rendered brickwork and columns. The roof is tiled with several gables and stucco chimneys and terracotta pots. The integrity, authenticity and condition are listed as 'good' and date of construction referred as 1900 – 1940's."*

The *Planning and Development (Local Planning Schemes) Regulations 2015* have also subsequently been adopted which provide the following provisions for a heritage list:

#### *Part 3 – Heritage Protection*

##### *7. Terms used*

*heritage list means a heritage list established under clause 8(1);*

#### 8. 8. Heritage list

(1) *The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.*

(2) *The heritage list —*

- (a) must set out a description of each place and the reason for its entry in the heritage list; and*
- (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and*
- (c) may be published on the website of the local government.*

The *Planning and Development (Local Planning Scheme) Regulations 2015* require that the heritage list must set out a description of each place and the reason for its entry in the heritage list and that places listed on a heritage list are places of cultural heritage significance and worthy of built heritage conservation. Officers consider that the existing municipal heritage inventory/heritage list adopted in accordance with clause 5.1.2 of the Scheme, is a heritage list under Clause 8(1) of the Regulations and that the information on the Municipal Heritage Inventory Place Sheet would be considered the reason the place is listed. Although it is considered that this is open to interpretation and in absence of a statement of significance of the place being completed, Council could consider it is uncertain why the property was listed.

The Shire does not currently have an adopted process to consider a request to remove a property from the MHI/Heritage List. The draft State Heritage Office Guidelines have been used as a guide for consideration of the request which provide that:

- *The inclusion or exclusion of places in the MHI should be on the basis of cultural heritage significance as identified through a recognised assessment process.*
- *Objections unrelated to heritage significance should not be entertained as a reason for exclusion or removal of a place from the MHI.*
- *Removal of a place from the heritage list may be appropriate where the local government considers that the heritage significance of a place has substantially changed, to the extent that it no longer displays the values for which it was included in the heritage list. This may be the result of substantial demolition of, or damage to a place, or presentation of new evidence about the place.*
- *A proposal to remove a place may be made by the local government or its officers, or by the owner of a place. If proposed by an owner, the onus will be on them to demonstrate that the cultural heritage significance of the place is below the threshold for inclusion on the heritage list.*
- *The Council's opinion as to the cultural heritage significance of a place is determined solely by a resolution of Council at a properly convened meeting.*

*Note that substantial development, demolition or loss of fabric will not automatically result in removal from the heritage list, as the place may still retain sufficient cultural heritage significance to support inclusion in the heritage list, particularly if the heritage values relate to social or historical significance.*

It is acknowledged that the place sheet should be updated for the reasons discussed above. In accordance with the State Heritage Offices draft guidelines, the Shire's Heritage Advisor has reviewed and provided the above statement of the cultural heritage significance which has been undertaken in accordance with the recognised process, the heritage advisor has recommended that the property does have cultural heritage significance and is worthy of built heritage conservation as it has 'considerable significance' to the cultural heritage significance of York that is recommended it be listed as meeting the criteria of a Category 2:

*'A Place of considerable cultural heritage significance to the Shire of York that is worthy of recognition and protection through provisions of the Shire of York Town Planning Scheme No. 2'*

*'Very important to the heritage of the locality. High degree of integrity/authenticity. Desired outcome: conservation of the plan is highly desirable. Any alterations or extensions should reinforce the significance of the place'.*

On this basis it is recommended that the request to remove the property from the Municipal Heritage Inventory and Heritage List not be supported, and that Council resolve to:

- update the place sheet on the Municipal Heritage Inventory as per **Appendix 4**;
- Provide notification to the owner and/or occupier of the place of the intention to modify the place sheet in the Municipal Heritage Inventory and its proposed entry/modification on the heritage list, with a description of the place and reasons for the proposed entry/modification.
- Endorse that as the specific assessment of this property is separate to the overall Municipal Heritage Inventory Review, that a consultation period of 21 days as set out in the Regulations be undertaken and consultation methods will only involve a notice being placed in the paper (at the Shire's cost), and a letter being sent to the owner/occupier.

This recommendation is based on the properties cultural heritage significance in accordance with the current management categories described in Local Planning Policy – Heritage Precincts and Places. Council should note that a Municipal Heritage Inventory and Heritage List review is currently being undertaken which is reviewing the management categories description, individual place sheets and significance of a place, and will review which places are to be/remain listed on the Shire's Heritage List.

## **OPTIONS**

Should Council choose, the following options are also available:

1. Remove the place from the Municipal Heritage Inventory and Heritage List, subject to consultation being undertaken in accordance with the Regulations.
2. Retain the place on the Municipal Heritage Inventory, although remove the place from the Heritage List, subject to consultation being undertaken in accordance with the Regulations.
3. Retain the place and update the place sheet of the property on the Municipal Heritage Inventory, although remove the place from the Heritage List, subject to consultation being undertaken in accordance with the Regulations.
4. Make no changes to the Municipal Heritage Inventory and Heritage List.

Council should note that removal or modification of a place will need to consider advertising being undertaken and any subsequent modifications to Local Planning Policy: Heritage Precincts and Places that may be required.

## **CEO Comment**

This report by its nature is assessing the request from the owners primarily in accordance with the draft guidelines from State Heritage Office relating to the cultural heritage significance of the place rather than in response to a dissatisfied ratepayer.

If Council believes that the process by which this property was added to the Municipal Inventory/Heritage List in the first instance was not appropriate and considers that the fact the organisation has not undertaken the reviews of the Municipal Inventory/Heritage List in accordance with legislation has contributed to the property remaining on the register, it could determine to remove the property at this point in time.

The consideration of the heritage value of the property and if it should be on the Municipal Inventory or the Heritage List into the future could then be determined as part of the broader review of these documents over the coming months in the context of all other properties in the Shire of York.

## IMPLICATIONS TO CONSIDER

### Consultative

The Heritage Advisor was consulted in considering the submission requesting removal of the property from the MHI and Heritage List. Should Council resolve to remove the property from the MHI and/or Heritage List (outside of the broader review process), it is recommended that the resolution be subject to a notice being publicly advertised advising of Council's intent to remove the property from the MHI and Heritage List allowing for submissions to be made.

### Strategic

The Strategic Community Plan provides the following desired outcome:

*Theme 2: To be a place which is renowned for its cultural heritage and the quality of its natural environment, and for the care taken by the community of both*

*To be a place which is renowned for its cultural heritage and the quality of its natural environment, and for the care taken by the community of both.*

*Particular desired outcomes:*

*2.2 Public and privately-owned heritage buildings are adequately maintained and protected for the future and the Shire leads the way in innovative promotion of the historic character.*

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

*2.9 There is a high level of community involvement in heritage and environmental protection and restoration.*

### Theme 5: Strong Leadership and Governance

*To be a community where there is effective and responsive leadership and governance, a sense of collective purpose and shared direction and a willingness and desire to work together for that future*

*Particular desired outcomes 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

Should Council resolve to make any amendments to the management category or alter the status of the property on the Heritage List, a subsequent amendment to Local Planning Policy: Heritage Precincts and Places will be required to reflect its removal from the policy or change of management category, and the modification is required to publicly advertised for comment in accordance with Clause 4 and 5 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

Clause 5(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, provides for the local government to make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

### Financial

There are no financial implications associated with this proposal for the Shire.

The Shire does not currently offer any financial incentives or other incentives for properties on a heritage list.

### Legal and Statutory

- Heritage of Western Australia Act 1990
- Shire of York Town Planning Scheme No. 2
- Planning and Development (Local Planning Schemes) Regulations 2015

Clause 8(3) requires a local government for any proposed entry, modification or deletion of a place from the heritage list to notify in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry and invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice. Following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.

### **Risk Related**

A risk assessment of the proposal has been undertaken, and the following risks were identified:  
Moderate risk - Compliance and Reputational.

The Shire has not complied with the Heritage Act 1990 which specifies timeframes for review of an MHI representing a moderate risk to the organisation which may result in reputational damage. Other risks from this non-compliance are unknown. A review is currently being progressed by the Shire which is the appropriate action to work towards resolving the risk. Officers recommendation proposes to undertake an update of the place sheet for this property, as deferring the updating of the place sheet in the MHI does not align with the Shire's requirement under the Heritage Act of Western Australia 1990 to undertake annual updates and reviews every four years. Although it is noted that this could have negative reputational impacts with the update being undertaken in response to a request from the landowner to remove a property from the MHI/Heritage List, and the updates reflect that the property should be a higher management category.

Whilst officers consider that the property is listed on the Shire's Heritage pursuant to clause 8(1) of the Regulations, as discussed above should Council consider that in absence of the statement of significance being clearly identified on a place sheet for the property that the reasons the property is listed on the Heritage List is unclear, there is a moderate compliance and reputational risk. Other risks are unknown. The recommended action to resolve this risk is to either adopt the officer's recommendation to update the place sheet or remove the property from the Heritage List. Removal of the property from the heritage list is not recommended as the place has cultural heritage significance identified as worthy of built heritage conservation and does not enable for adequate conservation and may result in reputational damage.

### **Workforce**

Nil.

### **VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council:

1. Notes the submission received from the owners of 34 Clifford Street (Lots 1, 2 and 3).
2. In respect of the place described as:
  - (a) 34 Clifford Street, York; and
  - (b) being the whole of the land contained in Lots 1, 2 and 3 on Deposited Plan 941

Resolves that Council give notice of its intention to:

- (i) Modify the place's place sheet in the Shire of York Municipal Heritage Inventory as set out in Appendix 4.
- (ii) Enter the place in the Shire of York Heritage List, in accordance with clause 8(3) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:

*“Residence, 34 Clifford Street is significant for its aesthetic contribution to the setting (criterion 1); it is an example of creative achievement of a particular period: Inter-war period with Arts and Crafts and Interwar bungalow influences (criterion 2); its degree of significance relates to it's a rarity as a singular example of the scale and design of the period in York and as a good representation of Interwar architecture. In summary, Residence, 34 Clifford Street it is a good example of the interwar development of York, demonstrated by the expansive Interwar bungalow architectural style on an elevated corner location on the east side of the Avon River. It makes a significant contribution the historic townscape of York.”*

3. In accordance with Clause 4, Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 give notice of its intention to modify Local Planning Policy – Heritage Precincts and Places in the following manner:
  - (a) In Appendix A 'York Municipal Inventory List of Heritage Places and Precincts', relating to the property referred to as 'Dwelling', 'Clifford Street. No. 34, Assessment No. 7811, the management category is to refer to '2' instead of '3'.
4. Endorses that, in respect to 2 and 3 above that giving notice will involve:
  - (i) Issuing a notice in writing to the owners and occupiers of the place inviting a submission to be made within 21 days of the date of the notice.
  - (ii) Publicly advertising the notice in a 'local paper' inviting submissions to be made on the proposal for a period of 21 days from the date the notice is published.

**SY028-03/19 FENCING LOCAL LAW APPLICATION & DEVELOPMENT APPLICATION FOR SOLID 2.4M COLORBOND FENCE WITH A 1.8M COLORBOND FENCE IN THE FRONT SETBACK: LOT 200 (32) BOUVERIE ROAD, YORK**

**File Number:** BO2.9340

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

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

**Previously before Council:** Not Applicable

**Appendices:**

1. Site Plan
2. Application & Development Plans
3. Submission Received

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

- Quasi-judicial

**PURPOSE OF REPORT**

For Council to make a determination on an application received to erect a dividing fence between Lot 200 (32) Bouverie Road, York and Lot 201 (30) Bouverie Road, York. The dividing fence proposes variation to the provisions of the Shire of York Local Laws Relating to Fencing, and the Residential Design Codes of Western Australia.

**BACKGROUND**

Lot 200 (32) and 201 (30) Bouverie Road, York are zoned Residential with a density code of R5 by the Shire of York Town Planning Scheme No.2. The properties are both approximately 2,400m<sup>2</sup> in area and share a lot boundary dividing the two lots of 80m in length. A Site Plan of both properties is provided in **Appendix 1**.

The existing dividing fence between Lot 200 and 201 consists of star pickets and chicken wire; and post and rail towards Bouverie Road.

An application has been received to erect a dividing fence of the following specifications:

- A solid colorbond fence with a maximum height of 1.8m in the front setback (first 12m from Bouverie Road); and
- Behind the front setback (rear 68m), a solid colorbond fence, being the colour of brown and green of a maximum of 2.1m in height, with 300mm aluminium slats for privacy screening. The total height of the fence will be 2.4m.

The application submitted is provided in **Appendix 2**.

In accordance with the Shire of York Local Laws Relating to Fencing, local government approval is required for:

- Part 3(6) specifies that the consent of the Building Surveyor is required to erect a fence greater than 1200mm, but not exceeding 1800mm in the front setback area (the front setback area is the first 12m from the lot boundary at Bouverie Road).
- The erection of a colorbond panel fence in a residential area exceeding a height of 1.8m.

The application to erect a 'solid' fence of 1.8m in the front setback area also subsequently proposes a variation to the 'deemed to comply' provisions of the Residential Design Codes which specifies

that a front fence within the primary street setback area is to be 'visually permeable' above 1.2m of natural ground level. Should approval be issued for the height of the fence, development approval is also required for the 'solid' fencing above 1.2m.

The application, submitted on behalf of the landowner of Lot 200 (32) Bouverie Road, York, was referred to the landowner of Lot 201 (30) Bouverie Road, York for a period of 14 days to submit any comments on the proposal for the Shire's consideration.

In accordance with the Shire of York Register of Delegation, as an objection to the application was received during the referral period, the application is referred to Council for determination.

## COMMENTS AND DETAILS

### Shire of York Local Laws relating to Fencing

The Local Laws Relating to Fencing details in its First, Second & Third Schedules the acceptable fencing options for each different use zone within the Shire (ie: Residential, Commercial, Rural).

Each of these options is deemed to be a 'Sufficient Fence'. Once a fence type is selected from the applicable schedule (Usually by mutual agreement between adjoining property owners) the fence can be erected without further consent from the Local Government subject to compliance with the applicable specification.

The First Schedule of the Local Laws Relating to Fencing lists the following fence types that are deemed to be a 'Sufficient Fence' in a residential zone:

- Open Aspect – Normally for large residential properties of 4,000m<sup>2</sup> and above (ie: R2.5 zoning), or
- Timber picket, or
- Corrugated compressed fibre cement, or
- Masonry – Brick, concrete or stone, or
- Composite – A combination of masonry piers with infill panels between piers, or
- Colorbond – Steel posts and rails with sheet steel infill panels.

The applicant is seeking to erect a colorbond fence on the property boundary, however the proposed fence is not a 'Sufficient Fence' as the fence will exceed:

- 1.2m in height (1.8m is proposed) forward of the front setback line (ie: The first 12.0m from the street boundary), and
- 1.8m in height (2.4m is proposed) behind the front setback line.

### Fence Behind Front Setback Line

With respect to the part of the fence behind the front setback line the applicant is seeking to erect a 2.1m high solid colorbond fence with a 300mm high slatted panel above (A total height of 2.4m).

The Local Laws Relating to Fencing defines that a 'Sufficient Fence' in a residential area will be a maximum of 1.8m, however Section 9 allows the Local Government to consent to a fence that does not comply with the requirements of the Local Laws subject to consideration being given to whether the fence will have an adverse effect on the safe and convenient use of the land or the safety or convenience of any person.

The applicant's representative has listed multiple reasons why a 2.4m high fence is required including that it will improve the amenity of the property by mitigating current problems of overlooking, glare and noise and environmental factors such as wind, rain and traffic noise. The reasons provided are considered to be subjective and cannot be substantiated without a detailed investigation.

The application was advertised to the adjoining property owner who has provided a detailed response to each of the applicant's reasons (**Appendix 3**). The adjoining property owner has raised objections with respect to an adverse effect on the amenity of their property (ie: Convenient use of the property), however the objections are also considered to be subjective.

The adjoining property owner has also expressed their opinion that an 'Open Aspect' fence is a 'sufficient fence' in the immediate area surrounding Bouverie Road. The Local Laws Relating to Fencing permits any of the fence types listed in Schedule 1 including an 'Open Aspect' type fence which is the predominant fence type in the immediate area. It is believed that this fence type would have been erected when the sub-division was originally released, however over the years there has been an increase in the density of several properties to the extent that the other residential fence types are considered to be more appropriate. In Schedule 1 'Open Aspect' fencing is recommended for larger residential properties of R2.5 and above. Some have interpreted this to mean R2.5 to R80 and above, however it is believed that the intent is for this type of fence to be used on properties with a land area of 4,000m<sup>2</sup> or greater.

It is usual for adjoining property owners to mutually agree to the location and type of fence that will be installed between their properties and subject to the fence being one of the 'Sufficient Fence' types listed in Schedule 1 the Local Government has no involvement. It is apparent in this particular instance that the applicant and adjoining property owner have competing interests in the type of fence to be installed to replace the existing dilapidated fence. It is believed that, based on the land area of the property, that fence types b to f are considered by the Local Government to be a 'Sufficient Fence'.

With respect to the height of the fence the applicant reasons and the adjoining owner's objections are believed to be subjective and therefore it is recommended that the application for an overheight fence (ie: A 1.8m high fence forward of the front setback line and a 2.4m high fence behind the front setback line be refused as to not meeting Part 3, clause 6 (2) of Shire of York Fencing Local Laws.

#### Fence Forward of Front Setback Line

With respect to the part of the fence forward of the front setback line the applicant is seeking to erect a 1.8m high solid colorbond fence.

The Fencing Local Laws allows the Building Surveyor to approve a fence exceeding 1.2m, but not higher than 1.8m, subject to the fence being truncated at the vehicle crossing point to ensure that drivers entering and leaving the property in a vehicle have splayed lines of vision of the road reserve.

If Council were to approve a fence exceeding 1.2m in height the first 2.0m of the fence from the street boundary would need to be reduced in height and/or redesigned to comply with Section 3 of the Fencing Local Laws.

However, the Residential Design Codes also provide specific requirements relating to sightlines for driveways which differ from the Local Law, and in this respect, it is recommended in the Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 1 Model Provisions, that a Local Planning Scheme prevail over a local law in the event of inconsistency. A provision to this effect has been included in the Shire of York draft Local Planning Scheme No. 3, which has been supported by Council for the purposes of public advertising, however advertising has not commenced for this to be considered 'seriously entertained'.

Officers recommend that sightlines for driveways be assessed against the provisions of the Residential Design Code provisions.

#### York Town Planning Scheme No. 2 (Scheme) and Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)

The erection of a boundary fence, front fence or wall on the same lot as a single house is 'permitted development' and does not require development approval provided it complies with relevant provisions of the Scheme and R-Codes. The R-Codes does not provide controls for materials or

fence heights (which is controlled by the local law) it only provides development standards for 'Street Walls and Fences' and specifies deemed to comply criteria that front fences within the primary street setback are to be visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.

Visually permeable is defined as:

*"In reference to a wall, gate, door or fence that the vertical surface has:*

- *Continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;*
- *Continuous vertical or horizontal gaps less than 50mm, occupying at least one half of the total surface area in aggregate.*
- *A surface offering equal or lesser obstruction to view;*

*as viewed directly from the street."*

It also specifies that for 'sightlines' fences are to be truncated or reduced to no higher than 0.75m within 1.5m of a driveway at the point where it meets a public street.

The erection of a solid colorbond fence up to a height of 1.8m in the primary street setback area (12m) is not 'visually permeable' above 1.2m, and the driveway appears to be within 1.5m of the 1.8m high fence, which requires development approval. The R-Codes requires the variation to be assessed on its merits and against the relevant design principles of the R-Codes which refer to:

- *'Front fences being low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per Clause 5.1.2).*
- *'Unobstructed sightlines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, crossovers and footpaths'*

The applicant has provided justification for the variations including that it is a dividing fence only and not the street frontage, is required for privacy, existing vegetation and other structures and objects currently restricts permeability and surveillance, the fence will reduce traffic noise, improve landscaping and provide shade and protection from wind and that the fence is consistent with established streetscape and amenity of the area.

The justification submitted by the applicant also makes reference to the objectives of draft State Planning Policy 7.0, Design of the Built Environment, which provides overarching principles for 'good design' of residential development and is not operational until 24 May 2019. The current R-Codes, part 5 (State Planning Policy 3.1) which includes design elements for all single house(s) and grouped dwellings and multiple dwellings in areas coded less than R30 will be updated to become Volume 2 of SPP7.0. The Western Australian Planning Commission's website advises that there are no changes proposed to the R-Codes (and assessment provisions relating to front fences). It is considered that assessment against the design principles of part 5 SPP3.1 broadly consider context and character, landscape quality, built form and scale, functionality and build quality, sustainability, amenity, legibility, safety, community and aesthetics.

In considering the design principles, Bouverie Road is designated as a 'local access road', carrying low volumes of traffic and the dwellings on both Lots 200 and 201 are substantially setback from Bouverie Road (over 30m). The established character of Bouverie Road consists of predominantly low fencing in the primary street setback which does not exceed 1.2m or is visually permeable above 1.2m. A site visit indicated there is one example of minor non-compliance along Bouverie, where a solid fence in the front setback was measured at 1.5m, as opposed to 1.2m which can be investigated further by officers. The solid fences above 1.2m to 1.8m are present on corner lots, which are not required to comply with the R-Codes, as they are not the 'primary street setback'.

Officers consider that the construction of a solid fence of 1.8m in the front setback would be inconsistent with the established amenity, built form, scale, landscape quality, context and character on Bouverie Road, and the construction of a solid fence does not contribute to surveillance being able to be achieved, or promote the front elevation of the dwelling addressing the street to provide

surveillance and provides an undesirable precedent. For sightlines, it is also considered appropriate that the required sightlines be provided for safety.

It is recommended that the development application be refused, which would require construction of the fence to comply with the deemed provisions of the R-Codes.

## **OPTIONS**

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

1. Approve the application made pursuant to the local law with or without conditions and approve the development application subject to conditions.
2. Refuse the application, and list reasons.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

The outbuilding was referred to the adjoining landowner of Lot 201 (30) Bouverie Road, York. A submission was received which objected to the proposed fence on the basis that it would be inconsistent with the Shire's legislation, established amenity and character and raised arguments against the applicant's justification for the fence.

A copy of the submission is attached in **Appendix 3**. Officers have outlined the criteria of the Local Law's and Scheme/R-Codes to be given due regard in assessment of the fencing application in 'comments' above which includes amenity and character. It is not considered necessary to address matters outside of this.

### **Strategic**

The Strategic Community Plan provides the following desired outcome for development:

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

### **Policy Related**

The recommendation does not result in any policy implications for the Shire.

### **Financial**

There are no financial implications associated with this proposal for the Shire.

### **Legal and Statutory**

Shire of York Local Laws Relating to Fencing

Shire of York Town Planning Scheme No. 2

*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**

Not Applicable.

## **VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council refuse the development application for a solid 2.4m high fence with a 1.8m high Colorbond Fence in Front Setback at Lot 200 (32) Bouverie Road, York for the following reasons:

1. Does not meet Part 3, clause 6.2 of the Local Law. The front point of the fence will be less than 1m from the driveway and only 3.5m from the road edge. With a 1.8m high front setback line, this leaves no 2m diagonal site line as required within the Local Law (Part 3, clause 6.2 (A)).
2. The height of the fence (2.4m) is not justified as both Dwellings are well away from the boundary, one dwelling being approximately 10m and the other dwelling being approximately 7.5m away from the boundary.
3. It would be inconsistent with the established streetscape and does not permit surveillance.
4. It would obstruct sight lines reducing the visibility of and for vehicles exiting the property.

**SY029-03/19 PROPOSAL TO CULL CORELLAS ON LOCAL GOVERNMENT PROPERTY  
WITHIN THE SHIRE OF YORK****File Number:** RS.ANC**Author:** John Goward, Ranger**Authoriser:** Darren Wallace, Executive Manager, Infrastructure & Development Services**Previously before  
Council:** Not Applicable**Appendices:**

1. Proposed Operating Procedure Corella Cull
2. Photographs of Damage Caused
3. Information Sheet Biodiversity Conservation Act 2016 - Managed Fauna

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

- Legislative

**PURPOSE OF REPORT**

The purpose of this report is to:

1. Consider commencement of an annual culling program of the Butlers Corella and Little Corella on Shire of York property in accordance with the *Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulations 2018*.
2. Consider approval of the proposed operating procedure to carry out this annual cull.

**BACKGROUND**Impacts to Biodiversity from Corellas:

The damage they cause to trees is a long-term issue, particularly for trees that are potential nest sites for other species including the threatened black cockatoo species.

They are also significant competitors for nesting hollows with black cockatoo species and other native hollow nesters (parrots, owls, raptors and some duck species).

Large flocks of corellas make a large amount of noise when attracted to feeding sites and congregating at roost sites, and droppings can foul trees, buildings and vehicles.

Flocks can cause damage to the grass surfaces of sports fields when they are digging for corms, bulbs and roots.

Natural branch trimming behaviour while roosting can affect the health of trees when the behaviour is repeated in the same trees over time and can lead to an increase in park and maintenance costs.

Disease risk to humans from Corellas:

Like other wildlife, corellas can carry bacteria and viruses. Psittacosis and Chlamydia are diseases that are common in parrots and can be passed onto humans through bites, scratches, contact with faeces and the inhalation of feather dust.

Impact of Corellas on Shire of York property:

Native to Western Australia, the Butlers Corella and Little Corella flock to York in increasing numbers annually.

This is due to favourable breeding conditions, the presence of a water supply and the abundance of food as the result of grain cropping activities.

These corellas are attracted to Shire of York properties including the York playing fields, parks and verges, causing significant damage to these areas and various mature trees, some in excess of 60 to 80 years old.

The corellas have recently ripped up large areas of grass and dug holes 80mm to 100mm deep on the oval and playing fields. This is an annual occurrence.

Because they are attracted by the sugar content, these corellas regularly strip bark and foliage from the tips of existing trees, both ornamental and native. This results in branches becoming infected with fungus or borers causing catastrophic branch failure. If the damage is severe enough the trees will decline and die. Falling tree debris can cause a risk to vehicles and pedestrians.

The corellas have severely damaged two Tipuana trees planted at Candice Bateman Park last year.

Such damage occurs annually, requiring the Shire of York Depot Staff to backfill holes in the oval and playing fields, clean up leaves and remove of branches or trees which have failed over time.

#### The change in the relevant legislation:

In past years the Shire has been required to apply for an annual licence to take protected fauna causing damage to property in accordance with the provisions of the *Wildlife Conservation Act 1950 Regulation 5*. This licence has previously been issued by the Department of Parks and Wildlife.

Under the provisions of this annual licence the Shire Ranger and approved shooters have in past years carried out an annual cull of corellas by means of firearms on Shire managed lands including Forrest Oval, the recreational grounds, Avon River Precinct and parks and gardens.

The state government has recognised that some species of fauna which are protected under the *Biodiversity Conservation Act 2016* can cause significant damage or can have major negative impacts on other native species, mostly because they have established outside their natural range or are overabundant due to human influence. Managed Fauna under this Act are those species that can be managed or taken in specific areas using specific methods without the need to obtain a licence under this Act.

Under the *Wildlife Conservation Act 1950*, such species were declared under 'Open Season' notices and the areas where they could be taken were defined as 'Open Season Areas'. Under the *Biodiversity Conservation Act 2016* the species are now referred to as 'Managed Fauna' and the areas where they can be taken are defined as 'Managed Fauna Areas.'

The *Biodiversity Conservation Regulations 2018* having become active as of 1 January 2019 in conjunction with the *Biodiversity Conservation Act 2016* are now the applicable pieces of legislation in relation to the taking of Managed Fauna which includes the Butlers Corella and Little Corella.

#### **COMMENTS AND DETAILS**

##### Summary of the new legislative requirements:

Schedule 4 of the *Biodiversity Conservation Regulations 2018* lists species to be prescribed as Managed Fauna within Local Government areas.

Managed Fauna are those species that can be managed or taken in specific areas and using specific methods without the need to obtain a license (as was previously required).

Amongst the species listed as Managed Fauna within the Shire of York are the Butlers Corella and the Little Corella.

The *Biodiversity Conservation Regulations 2018* Section 103 states that in all cases the taking or disturbance of birds is to be by means of firearm or the disturbance is by means of a noise or light generating device.

The use of firearms is regulated under the *Fire Arms Act 1973*.

To be taken, the species according to the regulations must be known to be causing, or is reasonably expected to cause, economic damage to property, agricultural activity or infrastructure or be reasonably expected to have a potential impact on biodiversity or biodiversity values.

The taking of Managed Fauna must be done in accordance with the responsibilities under the *Animal Welfare Act 2002*, *that is* in a manner that is humane with respect to the individual animal, and any young which may be dependent on that animal.

Private property owners may take both the Butlers Corella and Little Corella in accordance with the *Biodiversity Act 2016* and *Biodiversity Conservation Regulations 2018* as Managed Fauna.

An Information Sheet Biodiversity Conservation Act 2016 is attached in Appendix 3.

#### Proposed operating procedure for the culling of corellas:

A copy of the proposed operating procedure is attached to this report at Appendix 3.

The Shire of York will need to authorise any approved shooters in writing.

The Shire of York requires any action but particularly shooting associated with the culling of Corellas to be carried out in a safe manner and in a way that does not cause fear, trauma or concern in the community.

While there is acceptance that Corellas are a nuisance within the town site, it is a requirement that due care, attention and common sense must be applied by shooters at all times.

It is proposed that the shire uses 4 approved shooters only who have carried out the cull on behalf of the shire in previous years. The suggested names of the shooters for this season's cull are listed in the proposed operating procedure. (Appendix 1)

It is recommended that the Shire Ranger will also carry out the cull when required.

It is recommended that any proposed approved shooters be afforded the conditions applicable other to Local Government volunteers.

### **OPTIONS**

1. Approve the annual culling program of the Butlers Corella and Little Corella on Local Government property within the Shire of York.
2. Council may choose not to proceed with the annual culling program of the Butlers Corella and Little Corella on Local Government property within the Shire of York and continue to use a cap gun (noise only) to deter the birds.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative**

It is proposed that the Shire advises all residents within close proximity of proposed locations via a letter drop of the culling, as to the times that the cull is to be carried out on Shire property and that dispersal using a starter will be carried out outside of the culling timeframe.

That the Shire advises all residents of the culling by a notice placed on prominent town site display boards and in the Local Paper as to the times that the cull is to be carried out and that dispersal using a starter pistol will be carried out outside the culling timeframe

#### **Strategic**

Theme1: The place to live. 1.8 The Shire has a clear, nuisance free and safe living environment.

Theme 5: Strong lead and governance. 5.4 There is a major focus on systems which improve, maintain accountability and transparency.

#### **Policy Related**

No current policy exists.

#### **Financial**

Advertising costs associated with placement of the advertisements in the local paper.

Costs incurred through the ongoing maintenance to repair the damage to grounds, removal of failed trees and failed branches and costs associated with the cull. These costs to be met through operational budgets.

## Legal and Statutory

### Biodiversity Conservation Act 2016

#### Authority to take Managed Fauna:

##### 149. Taking fauna other than threatened fauna or managed fauna

(1) A person must not take fauna unless the person has lawful authority to take it.

Penalty for this subsection:

- (a) if the offence involves a cetacean — a fine of \$500 000;
- (b) if the offence involves specially protected fauna that is not a cetacean — a fine of \$200 000;
- (c) in any other case — a fine of \$50 000.

(2) Subsection (1) does not apply if the fauna is —

- (a) threatened fauna; or
- (b) managed fauna.

(3) Subsection (1) does not apply if the fauna is taken by —

- (a) a CALM Act officer, or a person assisting a CALM Act officer, in exercise of the power in section 165; or
- (b) an inspector under the *Animal Welfare Act 2002*, or a person assisting an inspector under that Act, in exercise of the power in section 41(1) of that Act.

#### Section of the Act allowing the regulations to prescribe Managed Fauna:

##### 163. Managed fauna

(1) The regulations may provide that prescribed fauna or fauna of a prescribed class is managed fauna for the purposes of any one or more of sections 149, 152 and 153.

(2) Regulations made for the purposes of subsection (1) may —

- (a) provide that prescribed fauna or fauna of a prescribed class is managed fauna throughout the State or in a prescribed part of the State; and
- (b) prohibit, impose requirements or conditions in relation to, or otherwise control or regulate, the taking, disturbance, possession or disposal of managed fauna; and
- (c) confer power on wildlife officers to give directions, in prescribed circumstances, prohibiting the taking, disturbance, possession or disposal of managed fauna.

(3) Without limiting subsection (2)(b), regulations relating to the disturbance of managed fauna may regulate the conduct of people in the vicinity of managed fauna including the distance to be kept between those people and managed fauna.

(4) This section does not authorise the making of regulations that would allow the taking or disturbance of any native species of duck, goose or quail for the purposes of sport or recreation.

(5) In subsection (4) —

**purposes of sport or recreation** includes either or both of those purposes whether or not combined with the objective of taking ducks, geese or quail for food.

(6) This section does not limit or otherwise affect the operation of section 255(2) or (4).

**Biodiversity Conservation Regulations 2018****Part 5 — Protection and management of fauna****Division 1 — Managed fauna****Regulation stating that the species specified in Schedule 4 is Managed Fauna:****102. Managed fauna**

- (1) Fauna of a species specified in Schedule 4 is managed fauna for the purposes of sections 149, 152 and 153 of the Act in the local government districts specified opposite the species in that Schedule.
- (2) Subregulation (1) does not apply in relation to fauna that is to be taken for a commercial purpose.

**Regulation specifying that birds specified as Managed Fauna must only be taken by fire arm or disturbed by noise or a light generating device:****103. Birds**

A person must not take or disturb a bird of a species specified in Schedule 4 unless —

- (a) in the case of a bird specified in Schedule 4 item 1, 2, 3, 5, 6 or 9 — the bird is causing, or is reasonably expected to cause, economic damage; and
- (b) in all cases —
  - (i) the taking or disturbance is by means of a firearm; or
  - (ii) the disturbance is by means of a noise or light generating device.

Penalty: a fine of \$10 000.

**Requirement of a person to obtain written authorisation before entering and taking managed fauna on land of which they are not the owner or occupier:****105. Access to land for management activity**

- (1) In this regulation —  
***management activity*** means taking or disturbing managed fauna.
- (2) A person who is seeking to carry out a management activity must not, for the purposes of the management activity, enter land that is not in the possession or under the control of the person without the written authorisation of an owner or occupier of the land to enter the land and to carry out the management activity.

Penalty for this subregulation: a fine of \$5 000.

**Power of a wildlife officer to prohibit the taking of managed fauna (birds) believed on reasonable grounds not causing or not reasonably expected to cause economic damage:****108. Power to give direction**

- (1) This regulation applies to the following fauna —
  - (a) a bird specified in Schedule 4 item 1, 2, 3, 5, 6 or 9;
  - (b) a kangaroo.
- (2) A wildlife officer may give a direction to a person (not being the holder of a licence) prohibiting the taking or disturbing of fauna to which this regulation applies if the wildlife officer has reasonable grounds to believe that the fauna is not causing, or is not reasonably expected to cause —
  - (a) in the case of a bird — economic damage; or
  - (b) in the case of a kangaroo — damage to an agricultural activity or related agricultural infrastructure.

## Schedule 4 — Managed fauna

Division 1 — Birds 3.	Butler's corella (western corella (northern and central Wheatbelt subspecies)) ( <i>Cacatua pastinator</i> <i>derbyi</i> ( <i>Cacatua</i> <i>pastinator butleri</i> ))	Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Brookton, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chittering, Claremont, Cockburn, Coorow, Corrigin, Cottesloe, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Narembeen, Narrogin, Nedlands, Northam, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Quairading, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagan, Wandering, Wanneroo, Waroona, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Yilgarn, York
6.	Little corella ( <i>Cacatua</i> <i>sanguinea</i> )	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Brookton, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Carnarvon, Chapman Valley, Chittering, Claremont, Cockburn, Coorow, Corrigin, Cottesloe, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Derby-West Kimberley, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagan, Wandering, Wanneroo, Waroona, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Wyndham-East Kimberley, Yilgarn, York

### Risk Related

If these birds are not culled damage to Shire of York parks, gardens, playing fields and infrastructure will continue.

If the cull is not commenced the Shire of York may receive criticism from members of the community in favour of the cull.

If the cull is commenced the Shire of York may receive criticism from members of the community who object to the cull.

### Workforce

The rangers time to organise and assist with the cull and to carry out Corella dispersal by noise (starting pistol) outside of the cull timeframes.

Increased time is spent on shire property to remedy the damage caused by corellas which has budgetary implications.

Depot staff become demoralised as day after day they are required to clean or carry out repairs to remedy Corella damage.

The debris and noise pollution caused by corellas has a detrimental effect to the aesthetic appeal of parks and gardens for tourists and residents alike.

### VOTING REQUIREMENTS

**Absolute Majority: No**

**RECOMMENDATION**

That Council:

1. Resolves to authorise commencement of an annual culling program of the Butlers Corella and Little Corella on Local Government property within the Shire of York in accordance with the provisions of the Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulations 2018.
2. Resolves to approve the proposed operating procedure necessary to carry out the annual culling program of the Butlers Corella and Little Corella on Local Government property within the Shire of York in accordance with the provisions of the Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulations 2018.

**SY030-03/19 2019 FESTIVAL OF CYCLING PROPOSAL****File Number:** FI.DON.2**Author:** Esmeralda Harmer, Events and Economic Development Officer**Authoriser:** Paul Martin, Chief Executive Officer**Previously before Council:** SY091-07/18 2017 Festival of Cycling Acquittal & 2018 Festival of Cycling Event Proposals**Appendices:**

1. 2018 Festival of Cycling Acquittal
2. 2019 WA Gravity Endurance Proposa
3. 2019 York XCO Event Proposa
4. 2019 Festival of Cycling Event Outlin

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

Executive

**PURPOSE OF REPORT**

This report presents Council with the 2018 Festival of Cycling acquittal in accordance with the C1.4 Community Funding; Grants & Sponsorship Acquittal requirements.

This report also presents new proposals received from Perth Mountain Bike Club and WA Gravity Enduro for inclusion in the 2019 Festival of Cycling for Council's consideration.

**BACKGROUND**

In July 2018 at Council's Ordinary Meeting, Council considered item *SY091-07/19-2017 Festival of Cycling Acquittal & 2018 Festival of Cycling Event Proposals* where Council resolved;

*"That Council:*

1. *Receives the acquittal of the 2017 Family Festival of Cycling as presented by WestCycle.*
2. *Approves the 2018 Family Festival of Cycling which includes the following events and activities;*
  - a. *York Cyclocross event on Sunday 19 August 2018*
  - b. *WA Gravity Enduro National Cup on Saturday 25 & Sunday 26 August 2018*
  - c. *Family Festival of Cycling on Saturday 1 & Sunday 2 September 2018*
3. *Approves a maximum of \$15,000 as a cash contribution from GL 132150 Festivals Assistance to WestCycle for the 2018 Family Festival of Cycling.*
4. *Approves a maximum of \$6,000 from GL132150 Festivals Assistance as an in-kind contribution to assist deliver elements of the York Cyclocross and WA Gravity Enduro National Cup events as detailed in this report.*
5. *Requires Cycle West to complete the acquittal template attached at Appendix D to this report for the 2018 event."*

Following the delivery of the 2018 Festival of Cycling, a debrief between Shire staff, individual event organisers and WestCycle was undertaken. Key themes discussed include:

- Competitor satisfaction regarding race venues and the range of racing disciplines offered
- Options to consider growing spectator numbers to each event
- If criterium racing is a good fit for York
- The impact approving multiple events to occur on one day has on local emergency services
- Mitigation strategies to improve emergency management services at events
- Options to improve overflow parking and ACROD parking at events
- Environmental impacts and assessment of Mount Brown trails used for competition

The inclusion of mountain bike trail and off road-based (cyclo cross) competitions worked well with over 400 cyclists competing in the Mount Brown and Cyclo Cross events included in the 2018 Festival of Cycling. York CBD's unique positioning at the base of Mount Brown and its proximity to competition racing areas rated as the most popular aspects amongst this new rider demographic.

Officers have included all acquittal documentation received from individual event organisers and WestCycle as **Appendix 1** for Council's consideration.

It is acknowledged that the WA Gravity Enduro did not receive Shire funded support to delivery this event, however acquittal documents have been provided by the club and included in Appendix 1 to reflect the club's contributions towards delivery of this event under the 2018 Festival of Cycling umbrella.

## COMMENTS AND DETAILS

Officers have met with all clubs who participated in the 2018 Festival of Cycling. The following are the details of the event proposals received for this year's Festival of Cycling program;

**WA Gravity Enduro (WAGE)** - Gravity Enduro is a mountain bike descent racing discipline utilising Mount Brown tracks, where riders ride varying trail distances and trail grades, usually 4-6 stages in one event. Descents are timed and the climbs/connection to other stages are untimed. This event was new to the 2018 Festival of Cycling and was run on 24 August 2018 to coincide with the York Motor Show. WAGE is proposing York to host its fourth race (of seven offered for the 2019 season) on 9 June. The event would involve use of six of Mount Brown's descending trails. Trail marking, bunting and practice is proposed to occur on 8 June, with event competition commencing 9 June. Competitor numbers are estimated between 250 – 300 entrants.

In 2018, WAGE committed to providing two community consultation sessions in York to provide information on the locations of the trails proposed for use and the groups environmental management strategies. WAGE will provide these community sessions again in 2019 at Council's request.

No cash contribution has been requested from WAGE to support this event, however Officers have identified in-kind contributions from the Shire to improve trail markings on some of the trails proposed and to enable exclusive use of the Mongers Reserve area as the 'rider village' location. No road closures are requested or expected for this event to occur and all competitors are expected to observe usual road rules when riding between race trails and venues.

Further details regarding WAGE and the proposed event have been included as **Appendix 2. WA Gravity Enduro 2019 Event Proposal** for Council's consideration.

## Perth Mountain Bike Club – York XCO (Cross Country Olympics) Mountain Bike Event

This event proposal is new to the Festival of Cycling program. The proposed York XCO race is seventh in the series of the Western Australian cross country mountain bike racing calendar. The course is between 4-6 km long and the amounts of laps each category of riders do is set to match the overall race time. The York XCO round will consist of several smaller races (over the same course) but at different grades (ages), and over a different number of laps. There will also be several youth races.

The event would involve use of a 5km trail on Mount Brown. The 5km racing trail course will be run over existing single tracks and firebreaks used as part of the proposed WA Gravity Enduro event (four weeks prior to this event occurring). The race route will be signed during the morning of the 6 July 2019 utilizing small signage arrows (15cm x 30cm) at ground level held in place by small stakes. No trails will be bunted or blocked at this time. On the morning of the race, (7 July) additional bunting and trail diversions (if required) will also be put in place to direct non-racing users of the trails, whilst the event is in progress. This will then be fully removed including the small signage arrows on the afternoon of 7 July immediately after the event. Environmental assessment following the event and remedial repairs, if required, will be undertaken by Perth Mountain Bike Club following the usual consent being obtained from the Shire.

No cash contribution has been requested from Perth Mountain Bike Club to support this event, however organisers are seeking exclusive use of the Mount Brown Picnic area, overflow parking at the cemetery and a partial road closure to the top of Mount Brown to avoid public vehicle parking across racing areas during the event.

Further details regarding the proposed event have been included as **Appendix 3** 2019 York XCO Event Proposal for Council's consideration.

West Cycle, WA's peak body for cycling and cycle sport targets competitive and elite state and national road cyclists. The West Cycle managed events York has hosted in the past include road racing along Knotts road, timed ascents along Pioneer Drive and Mount Brown and criterium town races (closed circuit racing around York's CBD). These events have occurred in September over the past two years to coincide with the York Agricultural Show (first weekend in September).

This year WestCycle would like to program their weekend of events to occur on 24 & 25 August and would like to include the following in the weekend program.

### **King & Queen of the Mountain – Saturday 24 August**

Starting early on the Saturday morning, the race is an Individual Time Trial Hill Climb that is 3km in distance. Riders will start in 30-second intervals, travelling along South Street turning onto Suburban Road and finishing on the top of Mount Brown. No road closures for this event are requested, however WestCycle does supply a traffic management plan for this event that indicates event ahead signage locations, start and finish points and where road marshals are located along the course for the duration of the competition.

### **Criterium and Cyclocross racing (two separate race events and disciplines, occurring simultaneously) – Saturday 24 August**

WestCycle would like to program criterium racing (several laps around a closed circuit) along Avon Terrace, South street, Lowe Street and Christies Retreat in the afternoon of the Saturday event, following the completion of the King & Queen of the Mountain event.

Criterium racing is aimed at elite competitive riders, however WestCycle aim to include in the criterium program;

- Little critters; aimed at kids and families and includes a shorter timed course completion. Little critters ride for free and receive a number plate for their bike to keep. Parents will be encouraged to ride with younger participants.
- Penny Farthing Novelty Race; aimed at showcasing York's historic significance, an exhibition style race will be undertaken on the closed-circuit track by local Penny Farthing owners and enthusiasts.
- WA Cyclocross; presented as a stand-alone event in 2018 and receiving over 80 competitors, Cyclocross consists of many laps of a short (2.5–3.5 km) timed course featuring pavement, wooded trails, grass, steep hills and obstacles requiring the rider to quickly dismount, carry the bike while navigating the obstruction and remount. With road closures in place for the Criterium event, WestCycle is proposing the Cyclocross event could occur on the Saturday utilising the Mongers Reserve area, Stephen Street, South Street area. Additional traffic management planning would be required to include these additional road closures into WestCycle's existing traffic management plans. A race headquarters for cyclocross competitors is proposed at the Imperial Hotel, pending consultation and approval from the Imperial Hotel. Similar contributions provided by Council in 2018 to support this event are requested.

The road racing competition along Knotts Road and Talbot Roads is proposed to be undertaken on Sunday 25 August. Early interest received regarding the event indicates the event is likely to attract significant numbers as in 2018. Officers also predict the cycle events proposed to occur on the Saturday of the Festival of Cycling are likely to aid the increase in professional riders competing in the Sunday elements. As in previous years, no roads along the competition route will be closed, however traffic management and marshals will be along the course at regular interval to monitor and

manage vehicle access during the event. Detailed traffic, risk and emergency management plans will be required as the applications are assessed through the events approvals process.

Further details regarding the proposed WestCycle events have been included as **Appendix 4** 2019 WestCycle Event Proposal for Council's consideration.

### **Summary**

In summary, Officers see merit in continuing to offer the Festival of Cycling as a multi - discipline event culminating in the WestCycle two-day event in August. Moving the events proposed out of peak seasons such as August and September into low visitation seasons is also a favourable outcome. This is a deliberate move to encourage events to York over quieter periods and to better manage the challenges faced in 2018 with emergency services and event parking congestion. Officers also acknowledge that use of the Shire's existing trails in cooler climates enables the trails to rehabilitate from use significantly quicker than in warmer, dryer times of the year. Officers also see the Shire's ongoing relationship with West Cycle is imperative to providing access points for wider cycling community engagement and the Shire's aspirations to promote and make use of its natural built environment and trail networks.

WestCycle has requested cash sponsorship funding of \$15,000 to enable the Festival of Cycling event to occur in York. Considering the success of last year's event and increased attraction York has received with the recreational riding community, Officers are recommending the financial support for this event be considered as part of the 2019/20 financial year budgeting process.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative**

Officers have workshopped concepts with applicants to gain a clear understanding of the proponent's expectations of support for each proposal. WestCycle has agreed to market all the events under the Festival of Cycling umbrella and provide a website page to ensure all marketing collateral in relation to each event is consistent. This platform will also be continually updated to provide relevant information and links as specific to each event. Pending Council's resolution, Officers will continue to work closely with all applicants to determine the appropriate level of support from local groups, voluntary associations, assess promotional capabilities and to ensure a robust delivery of activity is achievable.

In addition to this consultation, WA Gravity Enduro has offered to host two community drop in sessions prior to the event occurring as previously provided in 2018 to share the event details and plans developed for the Mountain Bike event. These sessions have included their environmental impact and management plan and trail networks the group intend to use.

Event applications, including relevant fees for each event under the Festival of Cycling umbrella would still need to be processed and assessed against its individual merits as part of the event application process. Consultation with local Balladong Noongar residents is also undertaken as part of the events approvals process and an acknowledgement of country is included in marketing collateral related to the Festival of Cycling events.

#### **Strategic**

All applications received meet identified actions in the Corporate Business Plan to;

- Fund from existing budgets, economic development including tourism, marketing, and events.
- Continually develop positive partnerships between the Shire and external stakeholders
- Strengthen the capacity of the Shire administration to undertake and deliver projects, work collaboratively with the community, and understand and meet strategic issues and challenges

#### **Policy Related**

*Events for York Policy, C1.4 Sponsorship of Tourism Events Policy and Events for York Policy*

## Financial

Council is requested to consider the following funding amounts and GL accounts to support each event to occur:

Event	Funding Allocation	Purpose	Proposed GL Account
York Cyclocross Event	4,000	Traffic Management for the event	GL 132150 Festival Assistance
WA Gravity Enduro	1,000	Assistance to undertake the event on Mount Brown	GL 132150 Festival Assistance
Family Festival of Cycling	15,000	Assistance to undertake the two-day event in York	GL 132150 Festival Assistance

It is noted that the WA Gravity Enduro event will occur in the 2018/19 financial year and could be considered from GL132150 Festivals Assistance.

Funding requested for the WestCycle events (including the Cyclo cross event) would need consideration as part of the 2019/20 budget process due to the timing of the events occurring.

Acquittal documentation in accordance with the Shire's *C1.4 Sponsorship of Tourism Events* policy will also be required for all events in receipt of Council funding.

## Legal and Statutory

All Council supported events would still need to comply and be assessed against any statutory policies and legislation.

## Risk Related

The events detailed in this report proposed under the Festival of Cycling umbrella are considered medium - high risk due to the nature of the competitions proposed, multiple venues proposed, and road closures required to manage the event/s safely.

Should Council support the Officer recommendation, further consultation will be undertaken with the event organisers requesting risk management plans that detail the risk controls and mitigation strategies for each event. The documents received will also be sent to the Shire's insurer for review and comment.

## Workforce

The recommendations detailed in this report can be undertaken in house utilising existing resources.

## VOTING REQUIREMENTS

**Absolute Majority: No**

**RECOMMENDATION**

That Council

1. Receives the acquittal document for the 2018 Festival of Cycling as presented by WestCycle and its associated event partners
2. Approves the 2019 Festival of Cycling which includes the following events and activities;
  - a. WA Gravity Endurance event on Sunday 9 June 2019
  - b. Perth Mountain Bike event on Sunday 7 July 2019
  - c. Festival of Cycling on Saturday 24 & Sunday 25 August 2019
3. Approves a maximum of \$5,000 as a cash contribution from GL132150 Festivals Assistance to WA Gravity Enduro and WestCycle to assist deliver the elements of the Cyclocross event and WA Gravity Enduro event as detailed in this report.
4. Approves an amount of \$15,000 as a cash contribution to support the 2019 Festival of Cycling on Saturday 24 & Sunday 25 August 2019 and requests the Chief Executive Officer to include this allocation in the draft 2019/20 financial year budget process.

**SY031-03/19 POLICY REVIEW - EVENTS FOR YORK**

**File Number:** CS.CEV

**Author:** Esmeralda Harmer, Events and Economic Development Officer

**Authoriser:** Paul Martin, Chief Executive Officer

**Previously before Council:** May 2011 – Item OR.CMA.4 Shire of York Events Policy

**Appendices:**

1. C1.5 Public Events in York
2. Public Events Guide - March 2019

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

Executive

**PURPOSE OF REPORT**

This report outlines proposed amendments to Council's Events for York Policy after a recent review was undertaken. This report also seeks Council's endorsement of the amendments made to the policy and the associated documents developed to support the Events for York Policy.

**BACKGROUND**

In May 2011, Council considered Item OR.CMA.4 Shire of York Events Policy where Council resolved;

***"That Council:***

**1. Rescind the existing events policy and adopt the Shire of York Events Policy No 13.1 with the following amendments;**

*Insert under Appendix 6 – Disabled Toilets to be provided in accordance with Council requirements.*

*Delete in Item 8 of the Policy Statement (Food Hygiene) Regulations 1993 and substitute the words Food Act 2008*

**2. Adopt the following fees and charges in the 2011/2012 budget:**

**\$120.00 – Events Application Fee**

**\$500.00 – Hire Fee for Council Parks Ovals and facilities for event purposes.”**

Officers acknowledge that requirement for public events in York have developed significantly since the policy was adopted in 2011. Officers undertook an evaluation of the existing Events for York policy, associated forms and received feedback from event organisers on the user-friendly nature of the event application and approvals process.

Officers involved in the assessment of event applications made to the Shire recognise that improvements to the current policy and its associated documents to adequately reflect current legislative requirements and risk management standards would be beneficial.

**COMMENTS AND DETAILS**

This information has assisted to detail the review included in this report with Officer recommendations included below for Council's consideration.

**Amendments to the existing Events for York Policy**

The *Department of Health Guidelines for Concerts, Events and Organised Gatherings 2009* is used as a basis for event policies across the wider sector. The guideline includes input from Department of Environment and Conservation, Police, Racing, Gaming and Liquor, other emergency service organisations and small and large local governments.

Officers are recommending the amendments made to the policy be considered as they reflect best practice and the basic standards expected for public events as determined by these regulating bodies. The key amended areas include;

- Defining the Assessment and Approvals Process
- Updating references in the policy to be consistent with regulatory requirements
- Separating some of the information from the policy document to develop this further into a Public Events Guide for event organisers to reference when planning an event in York

The amended Public Events in York Policy as recommended by Officers has been attached as **Appendix 1** to this report for Councils consideration.

### **Addition of a Public Events Guide**

Officers have developed the Public Events Guide to assist event organisers to identify basic standards and safety measures to consider when delivering an event in York. The guide is also designed to simplify the event application document given to potential event organisers when an enquiry is made. Simplifying the event application form was identified by event organisers as a suggested area of improvement.

A key inclusion in the Public Events Guide is the Shire's definition of a small, medium and large event. The tiered system was designed to assist event organisers to understand the size of their proposed event and provide a scale to gauge what each event may require, determined by expected numbers and level of risk related to the event. Categories have been defined in the following way;

Category	Anticipated numbers (per day)	Considerations
A – Small	1000 or less patrons	<ul style="list-style-type: none"> <li>• Low risk activities</li> <li>• Single venue</li> <li>• No road closures</li> <li>• No sale of Alcohol</li> <li>• Minimal stallholder or stakeholder involvement</li> </ul>
B – Medium	Between 1001 – 5000 patrons	<ul style="list-style-type: none"> <li>• Medium risk activities</li> <li>• More than one venue or multi day event</li> <li>• Some road closures (or partial) expected</li> <li>• Consumption or sale of Alcohol</li> <li>• Multiple stallholders and/or stakeholder involvement in the event.</li> </ul>
C – Large	5000 or more	<ul style="list-style-type: none"> <li>• Medium / High risk activities</li> <li>• Multi venue or multi weekend</li> <li>• Multiple road closures</li> <li>• Consumption and sale of alcohol at one or more venues</li> <li>• Large volumes of people at any one time within the event/s venues</li> <li>• Multiple stakeholder involvement</li> </ul>

It is proposed applications determined as Category A & B events be assessed against the Public Events Guide and Public Events in York policy presented in this report. At this level, event organisers would be encouraged to comply with the Public Events Guide and its recommendations. The level of detail and documents required would be assessed on a case by case basis, workshopped with

event organisers and determined in relation to risk. It is also recommended that approval of events in these categories be issued at an officer level.

For high risk and/or large events, the same process would apply however these events would be classed as Category C events in consideration of the numbers the event is likely to attract or the high-risk nature of the event proposed. Officers recommend compliance with the Public Events Guide be compulsory for all events assessed as Category C events. Multiple meetings with the event organisers (including site visits) and a higher level of detail with regard to risk, traffic and emergency management planning would be expected. Potential overflow and ACROD parking strategies, as applicable to the event would also be encouraged. Due to volume of numbers and complexity of events in this category, Officers are recommending Category C events are escalated to the Chief Executive Officer for final approval.

The Public Events Guide developed has been attached as Appendix 2 to this report for Council's consideration.

Officers consider the proposed improvements to the event policy and approvals process good practice as it provides more clarity around the roles and responsibilities of each party in relation to public events in York, a higher level of transparency and is consistent with other local government guidelines.

York has experienced a significant increase in events in the past two years, particularly events designed to attract large tourism numbers. Although a positive outcome for both the Shire and its community, these events have also increased in complexity, often occurring in multiple venues, over consecutive dates which has increased the level of detail required as part of the events approvals process. To provide consistency with existing legislation and a uniform approach in assessment of the event applications received, Officers are recommending the Policy and guidelines presented in this report be adopted.

## **OPTIONS**

Council could choose to keep the existing Events for York Policy with no amendments. Officers are not recommending this option as it does not reflect or reference current regulations in relation to events.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

Officers have workshopped the policy and associated documents with existing and potential event organisers. A number of policies developed by other local governments, Police and emergency organisations were reviewed to ensure that the policy and associated documents are consistent with the wider sector and include the basic standards necessary to satisfy these authorities.

### **Strategic**

Community Aspirations; Strong Leadership and Governance;

*To be a community where there is effective and responsive leadership and governance, a sense of collective purpose and shared direction and a willingness and desire to work together for that future.*

*Desired outcome 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**

Council's Events for York policy is currently located within the Miscellaneous section of the Shire of York Policy Manual. In consideration of the frequent events in York and use of this policy, Officers are recommending the amended policy presented in this report be included under the Community Policies heading for ease of reference.

**Financial**

There are no financial implications required to support the Officer recommendations in this report.

**Legal and Statutory**

Should Council adopt the policy and endorse the documents presented, it is suggested that a transition period will be required to assist annual event organisers to comply with the policy and guidelines presented. Officers are recommending a grace period of two months from adoption of the policy be considered.

Event applications received during this time would still need to comply and be assessed against any statutory policies and legislation.

**Risk Related**

The current Events for York policy is rated as insignificant – minor with reputational and compliance risks considered low. Although the existing controls are rated as adequate, scope for improvement exists. Adoption of the documents detailed in this report is a deliberate effort to improve these existing controls to an effective acceptable level.

**Workforce**

The recommendations detailed in this report can be undertaken in house utilising existing resources.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council

1. Rescind the existing Events For York Policy.
2. Adopts the amended Public Events in York Policy as attached for inclusion in the Shire of York Policy Manual.
3. Notes the Public Events Guide as attached has been developed to identify the basic standards and safety measures applicable to public events in York.
3. Requests the Chief Executive Officer to provide a local public notice of the new policy and update the Shire of York Policy Manual accordingly.

**SY032-03/19 ADOPTION OF THE SHIRE OF YORK STAKEHOLDER AND COMMUNITY ENGAGEMENT PLAN FOR THE TRAILS MASTERPLAN PROCESS AND ADVERTISING OF THE DRAFT TRAILS MASTERPLAN FOR PUBLIC COMMENT****File Number:** CS.LCS.13**Author:** Carol Littlefair, Arts and Cultural Heritage Officer**Authoriser:** Paul Martin, Chief Executive Officer**Previously before Council:** Not Applicable**Appendices:**

1. Stakeholder and Community Engagement Plan, Common Ground Trail
2. York Trail User Survey Preliminary Result

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

Executive

**PURPOSE OF REPORT**

This report informs Council of progress to date with the Trails Masterplan for the Shire of York and requests that Council:

1. Adopts the Stakeholder and Community Engagement Plan proposed by trails consultants Common Ground Trails.
2. Approves advertising for public comment and feedback of the Draft Trails Masterplan, when preliminary work has been completed.

**BACKGROUND**

The Shire of York undertook a quotation process in late 2018 to engage a specialist trail consultancy firm to review the existing Trails masterplans which had never been adopted by Council and examine possibilities for Trails of all types within the Shire of York. The brief is summarised as 'to capitalise on the region's natural, built and intangible heritage to deliver a network of high quality walking, cycling, equestrian, mountain biking and self-drive trail experiences with one priority project identified and developed to a level of detailed design as described on p84 of the 'Western Australian Mountain Bike Guidelines Consultation Draft'. This detailed design should provide enough information to suffice as a 'shovel-ready' plan that can be used to apply for external funding for construction.

Common Ground Trails was selected on 25 October 2018 by the project management group as best meeting these criteria. They have an excellent track record of Trails Master Planning and Strategy throughout the State and Australia; a few examples include: WA State Bushwalking and Trail Running Strategy [current] Peel Regional Trails Strategy, Great Southern Regional Trails Business Case, Perth & Peel Mountain Bike Master Plan.

**COMMENTS AND DETAILS**

Officers are aware that the adoption of the Stakeholder and Community Engagement Plan for the Trails Masterplan process was inadvertently missed from the February Council Meeting and apologise to Council for this oversight.

The consultants are very slightly behind the original schedule for this project due to the aforementioned State Bushwalking Strategy going on at the same time. Due to the need to adhere to the extremely tight project deadline the following aspects have been undertaken:

- Establishment of a Project Management Group
- Inception meetings with Trails Consultants
- Background review of existing literature, initial overview site visit and establishing links with project stakeholders.
- Initial consultation with State Government Agencies, Dept. of Biodiversity, Conservation & Attractions, Regional Trails Peak organisations
- Online survey with potential and actual users of Trails within the Shire of York – Preliminary Results [Appendix 2]
- Interviews with local group representatives
- Invitation to participate to 16 key representatives of the Ballardong Noongar community

From this point onwards the following is proposed to occur in relation to consultation for the Trails Masterplan process:

- Meeting with Department of Biodiversity, Conservation & Attractions Interpretation Unit
- Meeting with Noongar Elder/s who have expressed interest in the process
- Further interviews by consultants with Perth-based individuals and groups
- Public Open Workshop at York CRC on April 11<sup>th</sup>
- Advertising of the Draft Trails masterplan for public comment and feedback for a period of four (4) weeks

## **OPTIONS**

1. Council can agree to the proposed recommendations, which will ensure the Draft Masterplan can be publicised for 4 weeks of public comment and feedback during 3 - 31 May. This allows for feedback to be incorporated into the Final Trails Masterplan which can then be presented at the June Council meeting.
2. Council can request to have the initial Draft Masterplan presented at the 29 April Council meeting, which effectively means the Draft document must be made public by 18 April, a deadline that the trails consultants are unlikely to be able to fulfil.
3. Council can request to have the initial Draft Masterplan [prior to public comment] presented at the May Council meeting, which effectively means that the Draft Masterplan will not be able to be presented at the June Council meeting for adoption as this timeline will be insufficient to allow for 4 weeks public comment and feedback.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

Common Ground Trails have proposed a Stakeholder and Community Engagement Plan in line with the Shire of York Community Engagement and Consultation Policy G2.9. For a Trails Master Plan the requirements are:

Engagement (Involvement/ collaboration) with targeted stakeholders for user/ special interest issues and vision

and

Consultation with general community on Draft documents.

The Stakeholder and Community Engagement Plan proposed by trails consultants Common Ground Trails meets these criteria well and Officers request Council support for the roll out of the Plan, which will include an Open Public Workshop in late March/early April.

The Shire of York generally publicises such documents as the Draft Trails Masterplan to the general community for a period of 4 weeks for public comment and feedback. This is anticipated to be during May in order to incorporate feedback into the Draft Masterplan to be submitted to Council at the June Council meeting.

However it is unlikely that the Draft Trails Masterplan will be ready for submission to the April Council meeting for Council's prior approval, as items for this meeting will be made public along with the Agenda on 18 April.

On this basis, Officers are recommending that the CEO be authorised to approve the Draft Trails Masterplan for advertising.

### **Strategic**

This project relates to:

The Strategic Community Plan: Revitalisation: Driving the York Economy Forward, in the context of:

- a programme to use the town's strengths, including heritage

and specifically,

The Corporate Business Plan: Economic Development

Theme 3 Prepare a comprehensive Trails Master Plan that incorporates walk, bike, drive, bridle trails, signage and interpretation, which is required to be completed this financial year

### **Policy Related**

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

### **Financial**

The Trails Masterplan budget allocation for 2018/19 is \$35,000. No overrun of this costing is anticipated.

### **Legal and Statutory**

Nil.

### **Risk Related**

Publicising the Draft Trails Masterplan prior to its examination in a Council meeting has to be balanced against the need for 4 weeks public consultation and completion by and presentation at the June Council meeting.

### **Workforce**

- The administration, liaison and internal contribution towards the Trails Masterplan will be within the existing workload of Officers

## **VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council:

1. Adopts the proposed Stakeholder and Community Engagement Plan for the Trails Masterplan process.
2. Authorises the CEO to advertise The Draft Trails Masterplan during May 2019 for a period of four [4] weeks.
3. Requests that any comments and feedback received during the four week period be presented to Council with the Draft Trails Masterplan at the June Council meeting.

**SY033-03/19 COUNCILLOR PROFESSIONAL DEVELOPMENT**

**File Number:** OR.CLR.2

**Author:** Helen D'Arcy -Walker, Council and Executive Support Officer

**Authoriser:** Paul Martin, Chief Executive Officer

**Previously before Council:** Nil

**Appendices:**

1. Report on Planning Practices - The Essentials 2018 WALGA Training
2. Report on Integrated Strategic Planning 2018 WALGA Training

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

Review

**PURPOSE OF REPORT**

The purpose of this report is to formally present Council with reports from Councillors on any Professional Development events attended within the last 6 months.

**BACKGROUND**

Council policy G 1.2 *Councillors: Professional Development* requires the following:

6. *Report Back*
- 6.1 *Within 30 days of attending a Professional Development event of more than one day duration, the Councillor must submit an individual or combined report for inclusion on the Council agenda. It must identify major points of interest for the Shire and where relevant comment on any future relevance for the training program.*

**COMMENTS AND DETAILS**

Attached to this report is a copy of reports received by the Chief Executive Officer from Cr Trent following his attendance to the WALGA Elected Member Training – Integrated Strategic Planning – The Essentials held on the 18 & 19 February, 2019.

**OPTIONS**

Nil

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

Nil

**Strategic**

Nil

**Policy Related**

This item addresses the report requirements of Council Policy G 1.2 *Councillors: Professional Development*.

**Financial**

Nil

**Legal and Statutory**

Nil

**Risk Related**

Nil

**Workforce**

Nil

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council notes the reports received from Cr Trent attached to this item in accordance with Policy G 1.2 Councillors: Professional Development.

**SY034-03/19 PROGRESS REPORT ON THE YRCC MANAGEMENT TRANSITION PROCESS**

**File Number:** CCP.7.1.

**Author:** Joanna Bryant, YRCC Project Officer

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

**Previously before Council:** OCM 28 November 2016 SY141-11/16  
OCM 27 February 2017 SY14-02/17  
OCM 24 April 2017 SY039-04/17  
OCM 26 June 2017 SY069-06/17  
OCM 18 September 2017 SY113-09/17  
OCM 30 October 2017 SY000-10/17  
OCM 17 December 2018 SY184-12/18  
OCM 25 February 2018 SY014-02/19

**Appendices:** 1. Club Letters

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

Executive

**PURPOSE OF REPORT**

This report presents a progress report regarding the YRCC Management Steering Group as per Resolution 141218 from the OCM on 17 December 2018.

**BACKGROUND**

At the Ordinary Council Meeting on 17 December 2018, it was resolved that Council:

1. *Notes that the process of transitioning management of the YRCC Bar and Restaurant to a Sporting and/or Community Association may take considerably longer than anticipated, with no guarantee that an agreement will be reached.*
2. *Agrees to extend the time allowed for the transition of the management of the YRCC Bar and Restaurant to a sporting and/or Community Association to June 30, 2019.*
3. *Agrees that should a transition agreement not be reached by June 30, 2019, that Officers will put the management of the YRCC Bar and Restaurant to public tender.*
4. *Requests the Chief Executive Officer to conduct a review of the service levels provided at the YRCC Bar and Restaurant, with a view to improving management efficiency, and bring suggested changes to Council.*
5. *Requests that Officers report to Council on progress relating to the YRCC each month until June 30, 2019.*

This report focuses on point 5.

**COMMENTS AND DETAILS**

The YRCC Management Steering Group met on 24 January 2019, and an initial response to the draft contract was requested by 25 February (later extended to 1 March) to allow the matter to come to the March Ordinary Council Meeting.

Club and community delegates met on 3 occasions: 12 February; 18 February (with CEO, P. Martin, EMCCS S. Haslehurst and Cr D. Warnick present for second half of meeting) and 25 February 2019.

Members were also asked to provide a letter from their Clubs giving their position.

Responses have been received from:

- York Lawn Tennis Club
- York Imperials Cricket Club
- York Imperials Junior Cricket Club
- York Bowling Club
- York Junior Football Club
- York Football Club

The clubs listed above have confirmed their agreement in principle to the formation of a community / sporting association for the purpose of managing the hospitality facilities at the York Recreation and Convention Centre.

No response has been received from:

- The Agricultural Society
- York Netball Club
- York Basketball Club
- York Hockey Club

A further meeting of the Management Steering Group has been scheduled in order for the Group to prepare a response to be put to Council at the April Ordinary Council Meeting.

The meeting will cover:

- (a) Position of The Agricultural Society, York Netball Club, York Basketball Club and York Hockey Club
- (b) Discussion paper produced by the delegates
- (c) Draft management contract – review notes
- (d) Adjustment of meeting start time to 7.30pm

Key issues raised by the group to date regarding the draft contract include:

**1. Financial implications.**

Financial establishment of a new not for profit incorporated association and the quantum of funds that may be required and being able to trade from the outset as a financially viable entity.

**2. Transitional arrangements.**

The transition of management operations with the Shire closing the bar/cafe one day and a new body opening the next.

Officers' view is that whilst a short interval may be required for a stock take, there is unlikely to need to be much down time required.

**3. Club MOUs and a general plan for the operation of the Precinct.**

MOUs and a Precinct Master Plan are required to define existing practice and to clarify arrangements regarding the rights of individual clubs to use the premise as their shared clubhouse.

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

YRCC Management Steering group

**Strategic**

A review of the YRCC Management was included as a strategic priority in Year One of the *Corporate Business Plan 2016-2020* adopted by Council in May 2016. This action was changed to reflect implementations of the new management model in the *Corporate Business Plan 2018 – 2022* adopted February 2018.

This matter also relates to the following in the Council's Corporate Plan 2018-2022;

*The Place to Live*

*1.7 Positive, active and involved community*

*Strong and Effective Leadership*

*5.1 Effective and informed governance and decision-making*

**Policy Related**

There are no policy implications as a result of the recommendations of this report.

**Financial**

There are no financial implications as a result of the recommendations of this report.

**Legal and Statutory**

Not Applicable

**Risk Related**

There are no risk implications as a result of the recommendations of this report.

**Workforce**

Not applicable

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council notes the progress of the YRCC Management Steering Group and requests the Chief Executive Officer to continue negotiations with the Group and report back to Council.

**SY035-03/19 LOCAL GOVERNMENT ORDINARY ELECTIONS: 2019**

**File Number:** OR.ELN.3.6

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

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

**Previously before Council:** Not Applicable

**Appendices:** 1. WA Electoral Commission Correspondence

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

Legislative.

**PURPOSE OF REPORT**

It is proposed that Council declares the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections and that the method of conducting the election will be as a postal election.

**BACKGROUND**

Correspondence has been received from Mr David Kerslake, Electoral Commissioner regarding the next ordinary local government elections which are to be held on 19 October 2019. Appendix 1 refers.

The Commission is offering to conduct a postal election and has advised that it is required by the *Local Government Act 1995* (the Act) to conduct local government elections on a full cost recovery basis.

The correspondence includes an estimate of the cost to the Shire of York of conducting the 2019 elections. The figures provided are an estimate only and may vary due to a range of factors including additional postage rate increase by Australia Post, only one staff member to work in the polling place on election day, option of Australia Post Priority Service rather than regular service.

**COMMENTS AND DETAILS**

The previous Local Government Elections, held in October 2017, were conducted for the Shire of York by the WA Electoral Commission as an in-person election.

The Electoral Commission has advised that the only Councils that hold in-person voting are Broome, Derby/West Kimberley, Halls Creek and York.

In-person voting is only conducted in those northern shires due to the large number of communities without a postal service.

The current procedure required by s4.20(2) of the Local Government Act is that written agreement must be obtained, if someone other than the CEO is to be the returning officer.

To facilitate this process, the Commissioner's letter provided as Appendix 1, acts as written agreement that the Commissioner will be responsible for the conduct of the ordinary elections in 2019 for the Shire of York, in accordance with section 4.20(4) of the Act, together with any other elections or polls that may also be required.

This agreement is subject to the proviso that the Shire of York also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

Council will need to move a formal recommendation, by absolute majority for this to occur in accordance with s4.61 of the Act.

Generally, it is projected that the percentage of votes received through postal voting is higher than that of in person voting.

The process for Postal Voting is quite different to In Person Voting.

For local government elections, rolls close at 5.00pm, 50 days prior to polling day. All electors should check their enrolment details are up to date before rolls close.

For postal elections, all eligible electors will receive a postal voting package around three weeks prior to polling day. The package will include a list of candidates, ballot papers, instructions on how to vote and a declaration.

The Returning Officer must receive postal voting packages before 6.00pm on polling day. If voters do not think that their postal voting package can be returned by post in time, it can be delivered by hand to a polling official on the day.

Under the Act, a polling place must remain open between the hours of 8.00am and 6.00pm to accept the delivery of late election packages only.

Replacement packages can be issued at the polling place on the election day for people who have misplaced their original package.

It should be noted that early voting in person would not be available.

## **OPTIONS**

The other option is to hold an in-person election, as per the previous local government elections held October 2017.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

WA Electoral Commission  
Senior Staff

### **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**

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

### **Financial**

The next ordinary elections are being held on 19 October 2019. Council will need to consider the cost of this election in the 2019/20 budget.

The quote estimate for conducting a postal ballot is \$22,000 inc GST, which is based on the following assumptions:

- 2,800 electors
- Response rate of approximately 50%
- 4 vacancies
- Count to be conducted at the offices of the Shire of York
- Appointment of a local Returning Officer
- Regular Australia Post delivery service to apply for the lodgement of the election packages.

If Council opts for the Australia Post Priority Service for the lodgement of election packages there would be an additional cost of \$560.

Costs not incorporated in this estimate include:

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- One local government staff member to work in the polling place on election day
- Any additional postage rate increase by Australia Post
- Extra staff may be required to assist with the counting of votes at the close of polling which will incur further minimal costs.

Officers have sought an estimate to conduct in person elections and have been advised that it will cost approximately the same amount of \$22,000. However, this method will attract additional costs to provide staff at polling places and to count votes.

### **Legal and Statutory**

*Local Government Act 1995 – Part 4 Elections and other polls*

#### **Division 7 Provisions about electoral officers and the conduct of elections**

4.20. CEO to be returning officer unless other arrangements made

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint\* a person other than the CEO to be the returning officer of the local government for —
  - (a) an election; or
  - (b) all elections held while the appointment of the person subsists.

*\* Absolute majority required.*

- (3) An appointment under subsection (2) —
  - (a) is to specify the term of the person's appointment; and
  - (b) has no effect if it is made after the 80<sup>th</sup> day before an election day.
- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

*\* Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80<sup>th</sup> day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80<sup>th</sup> day before election day cannot be rescinded after that 80<sup>th</sup> day.

### **Division 9 Electoral Process**

**4.61. Choice of methods of conducting election**

(1) The election can be conducted as a —  
**postal election** which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or  
**voting in person election** which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(2) The local government may decide\* to conduct the election as a postal election.  
\* *Absolute majority required.*

(3) A decision under subsection (2) has no effect if it is made after the 80<sup>th</sup> day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.

(4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.

(5) A decision made under subsection (2) on or before the 80<sup>th</sup> day before election day cannot be rescinded after that 80<sup>th</sup> day.

(6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.

(7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

**Risk Related**

Reputational risk if not conducted effectively. (High).

**Workforce**

Nil.

**VOTING REQUIREMENTS**

**Absolute Majority:** Yes

**RECOMMENDATION**

That Council:

1. Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections together with any other elections or polls which may be required;
2. Decides, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election using the Australia Post Priority Service; and
3. Requests the Chief Executive Officer to include costs for the 2019 ordinary elections in the 2019/20 budget process.

**SY036-03/19 PROPOSAL TO MAKE SHIRE OF YORK LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW****File Number:** LE.LLW.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 Shire of York Local Government Property Amendment Local Law 2019
2. Department of Local Government - Comments

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

The purpose of this report is to consider implementation of the attached Draft Shire of York Local Government Property Amendment Local Law 2019 by:

1. Considering comments received 14 December 2018 from the Legislation Officer, Department of Local government, Sport and Cultural Industries after a letter including a copy of the proposed Local Law was sent for consideration of the Minister for Local Government on 12 November 2018;
2. Giving notice of the purpose and effect of the Shire of York Proposed Local Government Property Amendment Local Law 2019;
3. Authorising the Local Law's gazettal in the Government Gazette;
4. Giving local public notice, (after gazettal), of the date the Shire of York Proposed Local Government Property Amendment Local Law 2019 will come into effect; and
5. Authorising the affixing of the Common Seal to the Local Law.

**BACKGROUND**

At its ordinary meeting of 22 October 2018, Council considered the process to make a *Shire of York Local Government Property Amendment Local Law 2018* and resolved:

*"That Council:*

1. *Pursuant to Section 3.12 of the Local Government Act 1995, endorses the proposed Local Government Property Amendment Local Law 2018 as attached at Appendix D to this report for the purposes of public advertising;*
  - a) *the purpose of which is to restrict and prohibit certain activities on local government property and review the modified penalties; and*
  - b) *the effect of which is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.*
2. *Requests the Chief Executive Officer to:*

- a) *give state wide and local public notice of the proposed law, its purpose and effect and invite public submission for a period of 42 days in accordance with Section 3.12(3) of the Local Government Act 1995;*
- b) *send a copy of the local law and a copy of the public notice to the Minister for Local Government.*

3. *Notes that, following the close of the public advertising period, a report will be brought back to Council to consider the submissions received and any proposed amendments required prior to adoption.”*

The procedure for making Local Laws requires Council to advertise state wide, advising of its intention to make a Local Law, and invite submissions to be made on the proposed Local Law for a 6-week period. At the closure of the submission period, Council is to consider all submissions before making a Local Law.

An advertisement was placed in The West Australian on 7 November 2018, in the November 2018 edition of the York Community Matters, on local advertisement boards and on the Shire website, with the submission period for public comment closing on 18 January 2019.

No submissions were received from the public.

One (1) submission was received from the Department of Local Government, Sport and Cultural Industries. Appendix 2 refers.

## COMMENTS AND DETAILS

The **Purpose** of the proposed Shire of York Local Government Property Amendment Local Law 2019 is to restrict and prohibit certain activities on local government property and review the modified penalties.

The **Effect** of the proposed Shire of York Local Government Property Amendment Local Law 2019 is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.

The proposed amendments to the Shire of York Local Government Property Local Law are set out in the attachment to the report.

Council could if it wished, repeal the Shire of York Local Government Property Local Law and remake the local law, however as previously outlined in the 22 October 2018 Council Report this would have required a more detailed review of the entire local law.

Advice received from the Joint Standing Committee on Delegated Legislation was that it is more common for a local government to make an amendment local law.

The amendment local law 2019 has now incorporated both the outstanding undertakings from the Joint Standing Committee for the Shire of York Local Government Property Amendment Local Law 2012 and incorporated additional minor amendments proposed by the Department of Local Government.

To avoid duplication of the two (2) amendments, advice received from the Department of Local Government is that Council repeals the 2012 amendment and replace it with the 2019 amendment.

## OPTIONS

The Department of Local Government has advised that the Shire's local law appears to be a duplicate of an amendment local law published in the Government Gazette 1 May 2012.

The Shire had the following options:

1. make the specific amendments requested by the Joint Standing Committee rather than republishing the entire 2012 amendment a second time; or
2. republish the entire amendment, with a clause inserted repealing the 2012 amendment so the two amendment local laws do not clash.

Officers have chosen the second option as the preferred option.

## **IMPLICATIONS TO CONSIDER**

### **Consultative**

In accordance with s3.12 of the *Local Government Act 1995*, the Shire has given local and state-wide public notice of the proposed *Shire of York Local Government Property Amendment Local Law 2018*, inviting submissions. The Shire has advertised the proposed local law for a period of seventy-one (71) days.

This is well over the statutory period of not less than 42 days (not including the day of advertising and the day of the close of submissions).

The local law was advertised both in the local paper (Community Matters, November Edition 2018) and West Australian on 7 November 2018 and placed on the York website.

No submissions were received from the public, however minor edits were received from the Department of Local Government, Sport and Cultural Industries, which intended to clarify language and formatting.

The only major amendment identified was for the title of the local law to be changed to 2019, as this is the year when the local law is to be gazetted. Appendix 2 refers to the Department's submission.

Officers also consulted with the Department of Local Government with regards to the amendment local law published in the *Government Gazette*, 1 May 2012. Rather than republishing the entire 2012 amendment a second time, it was recommended to repeal the 2012 amendment and replace it with the York Local Government Property Amendment Local Law 2019.

### **Strategic**

#### **Strong and Effective Leadership**

5.1 Effective and informed governance and decision-making.

### **Policy Related**

G4.8 Legislative Compliance

### **Financial**

Advertising costs associated with placement of the Local Law in the Government Gazette and giving local notice of the date the local law takes effect.

### **Legal and Statutory**

In accordance with s3.12 of the *Local Government Act 1995*, the following steps of the process have been carried out:

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

##### **3.12. Procedure for making local laws**

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*

(2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

(3) The local government is to —

- give Statewide public notice stating that —
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and
  - a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
  - submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

- as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
- provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

(3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.

(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.

\* Absolute majority required.

In accordance with s3.12 of the *Local Government Act 1995*, the following steps now need to be carried out:

- After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- After the local law has been published in the Gazette the local government is to give local public notice —
  - stating the title of the local law; and
  - summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - advising that copies of the local law may be inspected or obtained from the local government's office.
- The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- In this section —  
**making** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

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

### **3. Prescribed manner of giving notice of purpose and effect of proposed local law (Act s. 3.12(2))**

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) *the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- (b) *the minutes of the meeting of the council include the purpose and effect of the proposed local law.*

### Risk Related

If the advice from the Department of Local Government, Sport and Cultural Industries, is not incorporated into the proposed local law, there is a risk that the local law will fail to be gazetted which could affect the Shire's reputation. (Medium).

### Workforce Implications

Nil.

### VOTING REQUIREMENTS

**Absolute Majority:** Yes

### RECOMMENDATION

That Council:

1. Notes no submissions were received from the public during the advertising process of the proposed York Local Government Property Amendment Local Law 2019.
2. Resolves to repeal the 2012 amendment and replace it with the York Local Government Property Amendment Local Law 2019, incorporating the amendments outlined by the Department of Local Government, in accordance with section 3.12 of the Local Government Act 1995 as attached at Appendix 2 to this report:
  - (a) The purpose of the proposed Shire of York Local Government Property Amendment Local Law 2019 is to restrict and prohibit certain activities on local government property and review the modified penalties.
  - (b) The effect of the proposed Shire of York Local Government Property Amendment Local Law 2019 is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.
3. Requests the Chief Executive Officer to:
  - (a) Publish the Shire of York Local Government Property Amendment Local Law 2019, as per item (2) above, in the Government Gazette and provide copies of the local law to the Minister for Local Government; and
  - (b) Forward a copy of the Gazetted Local Law, explanatory memoranda and associated documentation to the WA Parliament's Joint Standing Committee on Delegated Legislation for review.
4. Authorises the fixing of the Common Seal of the Shire of York Local Government Property Amendment Local Law 2019.
5. Requests the Chief Executive Officer to provide local public notice of the Shire of York Local Government Property Amendment Local Law 2019.

**SY037-03/19 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 February 2019**Appendices:** 1. Applications for Payment Agreements - March 2019 - 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 four payment arrangement applications the Shire has received, that do not qualify under Delegation DE3-3.

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

**BACKGROUND**

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

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

**COMMENTS AND DETAILS**

Council has already considered 31 applications for the 2018/19 financial year.

The Shire has since received four (4) further applications that do not qualify under DE3-3 and therefore, require Council consideration.

Three of the applicants are experiencing financial difficulties. The other relates to a longstanding debt where the registered owner is a company in liquidation and the mortgagees took possession of the property.

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

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

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

**OPTIONS**

Council could elect to approve or reject the officer recommendation. 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 28 February 2019 is \$92,228.26.

This represents approximately 4.49% of the outstanding rates and charges as at 28 February 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 occurrence is Likely (4).

The overall risk rating is High (12).

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

The financial risk reduces as the debts are paid.

**Workforce**

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

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

That Council:

1. Approves the applications for a payment agreement as detailed within Confidential Appendix 1, with the condition that any default may result in legal action.
2. Requests the Chief Executive Officer to report back to Council regarding progress after 30 June 2019.

**SY038-03/19 FINANCIAL REPORT FOR FEBRUARY 2019****File Number:** FI.FRP**Author:** Tabitha Bateman, Finance Manager**Authoriser:** Suzie Haslehurst, Executive Manager, Corporate & Community Services**Previously before  
Council:** Not Applicable**Appendices:**

1. Monthly Financials - February 2019
2. Creditors Payments Listing - February 2019
3. Business Card Statement - January 2019

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

- Legislative
- Review

**PURPOSE OF REPORT**

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

**BACKGROUND**

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

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

**COMMENTS AND DETAILS**

The Financial Report for the period ending 28 February 2019 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 28 February 2019
- List of Creditor's 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 28 February 2019;

### Outstanding Rates and Services

The total outstanding rates as at 28 February 2019 were \$2,039,449 compared to \$2,274,636 as at 31 January 2019. The fourth and final instalment is due 18 March 2019.

Current Year	Properties	28/02/2019	%	Properties	28/02/2018	%
3 years and over	68	\$415,726.14	20%	50	\$273,208.08	13%
2 years and over	96	\$209,596.25	10%	83	\$254,392.37	12%
1 year and over	150	\$266,993.43	13%	155	\$296,075.20	15%
<b>Total Prior Years outstanding</b>		<b>\$892,315.82</b>	44%		<b>\$823,675.65</b>	40%
Current Rates	1214	<u>\$1,147,132.77</u>	56%	1302	<u>\$1,134,345.06</u>	58%
<b>Total Rates Outstanding</b>		<b><u>\$2,039,448.59</u></b>			<b><u>\$1,958,020.71</u></b>	

The outstanding rates balance is reducing. While the Shire is generally on par with collection of current rates when comparing to the 2017/18 financial year, the main issue between years relates directly to the long-outstanding rates in the 3 years or more category.

During February, officers finalised the transfer of two properties that had balances in the 3 years and over category in accordance with Council Resolutions 140418 and 240918. One property was sold via private treaty (A60376) and the other (A60484) was transferred to the Shire's ownership. The combined outstanding balance for the two properties totalled \$82,121.

Officers continue to work through the debt collection process to actively reduce the rate debt however, the process of collection can be timely and complex in nature. Once rates become outstanding for 3 years or more a local government can take possession of the property under the Local Government Act and sell the property. Officers are currently liaising with various mortgagees and liquidators relating to a number of properties and are actively seeking payment of outstanding rates and charges. This confidential information and details of the collection process is regularly reported to Council.

### Outstanding Sundry Debtors

Total outstanding sundry debtors as at 28 February 2019 were \$292,587 compared to \$313,199 as at 31 January 2019. Additionally, \$252,000 of the outstanding value reported in the 90 days and over category relates to a single debt which the Shire is currently in the process of trying to finalise. A contingent liability for this amount has been included in the Balance Sheet. Officers have recently sought further legal advice regarding this debt and will be presenting a report to Council in coming months detailing options moving forward.

Current Year	28/02/2019	%	28/02/2018	%
90 days and over	\$272,335.95	93%	\$275,424.02	89%
60 days and over	\$2,748.34	1%	\$505.28	0%
30 days and over	\$14,456.50	5%	\$3,557.45	1%
Current	<u>\$3,046.05</u>	1%	<u>\$30,478.13</u>	10%
<b>Total Debtors Outstanding</b>	<b><u>\$292,586.84</u></b>		<b><u>\$309,964.88</u></b>	

### 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 F1.5 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**

- **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.*

*[Regulation 34 inserted in Gazette 31 Mar 2005 p. 1049-50; amended in Gazette 20 Jun 2008 p. 2724.]*

## Risk Related

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

## Workforce

Not applicable

**VOTING REQUIREMENTS****Absolute Majority: No****RECOMMENDATION**

That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 28 February 2019 as summarised below:

28 February 2019

MUNICIPAL FUND	AMOUNT
Cheque Payments	82,851.58
Electronic Funds Payments	751,131.85
Payroll Debits	192,175.42
Payroll Debits - Superannuation	41,243.74
Bank Fees	1,265.14
Corporate Cards	75.62
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	<u>1,912.02</u>
<b>TOTAL</b>	<b>1,070,891.99</b>
TRUST FUND	
Electronic Funds Payments	4,920.92
Cheque Payments	-
Direct Debits Licensing	<u>117,749.30</u>
<b>TOTAL</b>	<b>122,670.22</b>
<b>TOTAL DISBURSEMENTS</b>	<b>1,193,562.21</b>

**SY039-03/19 INVESTMENTS - FEBRUARY 2019****File Number:** FI.FRP**Author:** Tabitha Bateman, Finance Manager**Authoriser:** Suzie Haslehurst, Executive Manager, Corporate & Community Services**Previously before Council:** Not applicable**Appendices:** 1. Investments - February 2019**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 28 February 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 28 February 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**

### **RECOMMENDATION**

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

**11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

**13 BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**

**14 MEETING CLOSED TO THE PUBLIC**

14.1 Matters for which the Meeting may be closed

**RECOMMENDATION**

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

**SY040-03/19 - Confidential - Recognition Requests**

This matter is considered to be confidential under Section 5.23(2) - b 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 the personal affairs of any person.

14.2 Public Reading of resolutions to be made public

**15 LATE REPORTS****16 LATE CONFIDENTIAL REPORTS****17 NEXT MEETING**

The next Ordinary Meeting of Council will be held on Monday, 29 April 2019 at 5.00pm in Council Chambers, York Town Hall, York.

**18 CLOSURE**