



CONFIRMED MINUTES

Ordinary Council Meeting Tuesday, 26 May 2020

Date: Tuesday, 26 May 2020

Time: 5.00pm

Location: York Town Hall, York

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**MINUTES OF SHIRE OF YORK
ORDINARY COUNCIL MEETING
HELD IN THE YORK TOWN HALL, YORK
ON TUESDAY, 26 MAY 2020 AT 5.00PM**

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

1 OPENING

1.1 Declaration of Opening

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

1.2 Disclaimer

The Shire President advised the following:

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

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

1.3 Standing Orders

No Change

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Cr Denis Warnick, SY064-05/20 – Heavy Vehicle Bypass Alignment Definition Report

1.6 Declaration of Financial Interests

Nil

1.7 Disclosure of Interests that May Affect Impartiality

*Cr Denese Smythe, SY065-05/20 – Shire of York Sponsorship Allocations 2019/20
Cr Denese Smythe, SY077-05/20 – Confidential – Application for Rates Exemption A5845
Cr Stephen Muhleisen – SY066-05/20 – York Society Request for Multi Year Funding
Cr Kevin Trent – SY065-05/20 – Shire of York Sponsorship Allocations 2019/20
Cr Kevin Trent – SY066-05/20 – The York Society – Request for New Multi Year Funding Agreement*

2 ATTENDANCE

2.1 Members

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

2.2 Staff

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

2.3 Apologies

Nil

2.4 Leave of Absence Previously Approved

Cr David Wallace

2.5 Number of People in the Gallery at Commencement of Meeting

There were two (2) people in the Gallery at the commencement of the meeting.

3 QUESTIONS FROM PREVIOUS MEETINGS

3.1 Response to Previous Public Questions Taken on Notice

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.

Public Question Time Commenced at: 5.03pm.

4.1 Written Questions – Current Agenda

Nil

4.2 Public Question Time

As Mr Gill was not present at the Ordinary Council Meeting his submitted questions were taken on notice.

Mr Michael Gill
B Eng. Civil Hons
MIE Aust CP Eng. NER 860131
On Behalf of Avon Civil Engineering

Question 1:

My question is to the CEO

I refer to Item 3 of the 2019 Tender Review of Tender 01/1617 - Which states “Concerns have been raised about the Shire engaging Howson Technical to be on the assessment panel and undertake the design for the road construction and upgrade works. Officers are satisfied that this is not a conflict of interest as can be seen from the email engaging Howson Technical to do both parcels of work. This occurred on the same day, therefore prior to Howson Technical undertaking the review of the tenders. It could have been a potential conflict of interest if Howson Technical had assessed the tenders, then recommended that the design elements be removed and then was awarded the work.”.

I quote directly from the Tender Assessment Document received by the Shire on 12th January 2017 which states “It is recommended that both the survey and design be removed from the contract and handle by the Shire of York, as none of the tenderers have the design capacity and would need a to subcontract this to a separate consultancy firm.”

This tender assessment recommendation to remove the tender design appears to contradict the Tender Review Document which states that the design had been removed from the tender in December 2016 prior to the tender assessment commencing.

My question is do you still believe that a conflict of interest did not occur during this engagement process?

Response provided by the Shire President:

This question has been Taken on Notice

Question 2:

My question is to the CEO

I refer to page 78 of your review of Tender 01/1617 which states: - *“Therefore, notwithstanding the issues raised regarding compliance with the Procurement Policy identified above, based upon the information available at this time, officers are satisfied with the engagement of Howson Technical to undertake the design”*. Page 79 of the tender review then states:

In conducting this review, the following organisations have been consulted:

- *WALGA; Public Sector Commission; Office of the Auditor General; Crime and Corruption Commission*

Am I correct in interpreting these two statements as indicating that the Crime and Corruption Commission and the Office of the Auditor General have reviewed the circumstances surrounding the engagement of Howson Technical and have concurred with your position regarding the engagement?

Response provided by the Shire President:

This question has been Taken on Notice

Question 3:

My question is to the CEO

Your review of Tender 01-1617 has identified that 3 of the 4 tenders received were non conforming bids, ie they did not meet the criterium set out in then tender document. Given that the Tender Assessment is silent on the matter of non conforming bids, can you confirm (a) that it was the conforming bid, ie the tenderer who correctly submitted a price for design and construct, that was awarded the Contract and if not, (b) was the conforming tenderer given the opportunity to match the prices submitted by the 3 non conforming tenderers?

Response provided by the Shire President:

This question has been Taken on Notice

Question 4:

My question is to the CEO

I refer to the aforementioned Tender Review document and quote page 78. *“A review also identified that there were a number of examples when purchase orders for the engagement of Howson Technical were raised after invoices had been received. It should be noted that this was not limited to Howson Technical but an issue across the organisation in the 2016/17 financial year.”* *“This was identified in the Audit Regulation 17 review conducted by Moore Stephens in May 2017 and adopted by the Audit Committee in August 2017”*.

Via freedom of information it has been established that on the 5th October 2017 the Shire issued Howson Technical with Order Number 4174, for the sum of \$9187.20 relating to the preparation of the 2017/18 works program, after having received an invoice for that amount a month earlier on the 4th September 2017.

It has also been established that there were no quotations sought for these works in direct contravention of the Shire's Procurement Policy.

This breach brings to 24 the number of times Howson Technical was issued with order numbers after an invoice had been received.

Can you explain why your administration failed to correct its procedures some 5 months after the issue had been identified by Moore Stephens in the Audit Regulation 17 review?

Response provided by the Shire President:

This question has been Taken on Notice

Question 5:

My question is to the Shire President

I refer to the following statement made in the Tender Review *"In the absence of any written direction otherwise, it could be argued that the contractor was required to construct the roads in question in accordance with the RFT and therefore to the ARRB standards. Consequently, Officers are recommending that legal advice is sought in regard to the contractual obligations of SPA and the Shire for constructing the roads to the required standard. "*

Can you tell me what legal advice you have received regarding these contractual obligations having requested the CEO in December 2018 to obtain legal advice to determine if the contractor has any responsibility to rectify the issues associated with Talbot, Quellington and Spencers Brook roads constructed as part of this contract?

Response provided by the Shire President:

This question has been Taken on Notice

Question 6:

My question is to the Shire President.

I refer to the final two options identified by the CEO to the Committee and Council in his tender review document :

- 4) "Refer any of these issues identified as part of this review to the Public Sector Commission or other agency if they believe that misconduct or corruption has or may have occurred"
- 5) "Determine that the issues identified in this review or other matters are complex and involve many people in the organisation and therefore an independent review should also be undertaken by an external party"

Can you tell me if Council intends to pursue either or both of these options and if not why **not?**

Response provided by the Shire President:

This question has been Taken on Notice

Mr Keith Schekkerman
Chair, Avon Valley Residents Association Inc.
Represented by Jenny McColl

Question 1:

When / on which date, is the York Shire Council dealing with the application by Alkina Holdings to extend the Planning Permission for the proposed Allawuna Landfill?

Response provided by the Shire President:

A Special Council Meeting has been tentatively set for Tuesday, 9 June, 2020.

Ms Dee Robinson

Question:

How much extra funding is the York Festival receiving?

Response provided by the Shire President:

The requested information can be found in the current Agenda.

As there were no further questions – Public Question Time concluded at: 5.10pm.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 PRESENTATIONS

6.1 Petitions

Nil

6.2 Presentations

Nil

6.3 Deputations

Nil

6.4 Delegates' reports

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

RESOLUTION
010520

Moved: Cr Pam Heaton

Seconded: Cr Kevin Trent

That the minutes of the Ordinary Council Meeting held on 28 April 2020 be confirmed as a correct record of proceedings.

CARRIED: 6/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**Shire Presidents Meetings April 2020**

2 April 2020	Ratepayer query re travel	Phone
2 April 2020	Ratepayer query re Shire office closure	Phone
3 April 2020	Radio interview	Interview
3 April 2020	AROC Presidents Meeting	E-meeting
3 April 2020	COVID-19 Briefing	Webinar
4 April 2020	Christian Porter MP	E-meeting
6 April 2020	Meeting with CEO re YorKIND	E-meeting
7 April 2020	SEGRA Webinar	Webinar
7 April 2020	Concept Forum	E-meeting
8 April 2020	State Emergency Welfare plan	Webinar
9 April 2020	COVID-19 briefing	Webinar
10 April 2020	Radio interview	Interview
13 April 2020	CEO meeting	E-meeting
17 April 2020	COVID-19 briefing	Webinar
20 April 2020	CEO meeting	E-meeting
21 April 2020	Agenda briefing	E-meeting
21 April 2020	Special Council meeting	E-meeting
24 April 2020	COVID-19 briefing	Webinar
27 April 2020	CEO meeting	E-meeting
28 April 2020	Ordinary Council Meeting	E-Meeting

The Shire President expressed her thanks to Councillors and staff for attending Council meetings via Zoom e-meetings during the COVID-19 lockdown. The Shire President also thanked the community for their understanding during this difficult time.

9 OFFICER'S REPORTS

SY062-05/20 MANAGEMENT OF RESERVE 38895 (LOT 28798 ON PLAN 186423)

File Number:	NO2.31180
Author:	Carly Rundle, Senior Planner
Authoriser:	William Nunn, Co-Ordinator Development Services
Previously before Council:	Not Applicable
Appendices:	1. Location Plan 2. Site Plan

NATURE OF COUNCIL'S ROLE IN THE MATTER

Advocative.

PURPOSE OF REPORT

For Council to consider whether to accept the management of Lot 28798 on Plan 186423 (Reserve 38895).

BACKGROUND

Reserve 38895 is located in the locality of Burges on Mount Bakewell and consists of Lot 28798 on Plan 186423 which is 3,600m² in area.

A Location Plan and Site Plan is provided in **Appendices 1 and 2** respectively.

Reserve 38895 is a 'C' class reserve which is vested with the Minister for Works for the purpose of 'Radio Mast Public Works', although the land is undeveloped and is mostly covered in native vegetation.

The Shire has received correspondence from the Department of Planning, Lands and Heritage (DPLH) advising that the Department of Finance has requested to surrender management of Reserve 38895 as they believe that the Minister for Works is not a suitable management body. The DPLH has asked whether the Shire would be interested in taking over management of Reserve 38895 or possibly amalgamating it into adjoining Reserve 17487 which is already managed by the Shire.

The matter is presented to Council, as officers do not have necessary delegations to respond to DPLH.

COMMENTS AND DETAILS

Reserve 38895 is surrounded wholly by other reserves including:

- Reserve 40386 – Vested to the Commissioner of Railways (Public Transport Authority) to manage for the purpose of Radio Mast (Westrail);
- Reserve 45753 – Vested to the Shire of York to manage for the purpose of Radio Communications Site with power to lease; and
- Reserve 17487 – Vested to the Shire of York to manage for the purpose of parklands and grazing, with power to lease.

Accepting management of Reserve 38895 is considered to be in the interests of the Shire because:

- Mount Bakewell is a place of importance to the community and accepting management enables the Shire to have better control over its use, development and protection in line with community expectation'

- the Trails Master Plan has identified Mount Bakewell as having potential for trail development. Accepting management will provide flexibility to consider use of this land as part of the trails if needed;
- the Shire already manages the adjoining significantly larger Reserve 17487, where the addition of 3,600m² of land is anticipated to incur minimal additional cost to the Shire.

Because the current purpose of Reserve 38895 is for 'radio mast public works' which is unlikely to be the purpose of the land should the Shire accept management, the DPLH advised that it would be an option for the land to form part of Reserve 17487 (parkland and grazing purpose with power to lease). The DPLH has advised this could occur in two ways:

1. That the Shire amalgamate Lot 26798 (Reserve 38895) with adjoining Lot 29140 (Reserve 17487) to form one lot where the management orders of Reserve 17487 would then apply. An amalgamation would incur costs traditionally associated with a subdivision such as the preparation of a new deposited plan and lodgement at Landgate. DPLH have advised the Shire would incur these costs.
2. That Reserve 38895 be cancelled and the boundaries of Reserve 17487 (and its management orders) be extended to apply over both lots. This option does not incur cost to the Shire.

At the current time, it is considered that amalgamation of the two lots (option 1) to form one lot would be of no benefit to the Shire and it is recommended that option 2 which does not incur cost to the Shire be supported.

Officers recommend that the DPLH be advised that the Council supports the vesting of Lot 28798 on Plan 186423 (currently Reserve 38895) to the Shire of York to manage and that it supports the cancellation of Reserve 38895, with the intention that Reserve 17487 be extended to apply to Lot 28798 on Plan 186423.

OPTIONS

The following options are available to Council:

1. Resolve to support the officer's recommendation;
2. Resolve to advise the DPLH that that it is not interested in accepting management of Reserve 38895; or
3. Advise the DPLH that it will accept management of Lot 28798 on Plan 186423 (currently Reserve 38895) and that the Shire will amalgamate it with Lot 29140 on Plan 218541 where Reserve 17487 will then apply. This option is anticipated to incur cost to the Shire in the order of \$4,000 to \$8,000. The resolution will need to identify funds to be reallocated for this project should Council choose this option; or
4. If Council were not supportive of accepting management, and it considers that there is another community group more suited to managing the Reserve, the Shire could resolve for further consultation with such groups to be undertaken to see if this is an option. Given vehicular access to Mount Bakewell is currently limited requiring access via private property this option is not recommended.

IMPLICATIONS TO CONSIDER

Consultative

No consultation has been undertaken.

Strategic

The Shire of York accepting management of Reserve 38895 is broadly consistent with the 2018 – 2028 Strategic Community Plan which identifies a community aspiration as being a leader in the environment and being a place renowned for the quality of its natural environment.

However, financial and workforce implications associated with accepting additional land to manage needs to be considered, so that it is not inconsistent with strategic goals to secure an infrastructure base which is affordable, financially sustainable in the short term and long term and able to be adequately managed to a level accepted by the community.

Policy Related

Nil.

Financial

The costs to the Shire associated with the vesting and acceptance of management of the Reserve are anticipated to be mainly related to fire management and weed control. The financial implications of this are anticipated to be minimal given that the Shire is already responsible for management of adjoining reserves and can be undertaken within existing budget allocations.

Should option 3 be progressed, budget allocation will need to be identified to meet the costs of this option.

Legal and Statutory

The following legislation is relevant with respect to this matter:

- The *Land Administration Act 1997* – provides for the creation and administration of reserves in Crown land.
- The *Local Government Act 1995* – provides at section 3.54 that “*the local government may do anything for the purpose of controlling and managing land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a board appointed under that Act*”.

Risk Related

A risk assessment was undertaken in relation to the Shire accepting management of the Reserve. The risks identified were considered low which do not require further consideration or management.

Workforce

Reserve 38895 is approximately 3,600m² in area and will adjoin reserves already managed by the Shire. Workforce implications are anticipated to be minimal.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION

020520

Moved: Cr Ashley Garratt

Seconded: Cr Kevin Trent

That Council:

1. **Advises the Department of Planning, Lands and Heritage that the Shire of York will accept management of Lot 28798 on Plan 186423 (currently Reserve 38895); and**
2. **Requests the cancellation of Reserve 38895, with the intention that the boundaries of Reserve 17487 will be extended to apply to Lot 28798 on Plan 186423 (currently Reserve 38895); and**
3. **Authorises the Chief Executive Officer to execute documents to implement resolutions 1 and 2 above.**

CARRIED: 6/0

SY063-05/20 GO KART CLUB ACCESS, LOT 103 SPENCER BROOK - YORK ROAD

File Number:	SP1
Author:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Authoriser:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Previously before Council:	Not Applicable
Appendices:	1. Proposed Easement Document

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

To consider a request for the Shire to agree to take over the responsibility of the railway crossing servicing Lot 103 Spencer Brook Road.

BACKGROUND

The Railway Crossing in question is an "occupational crossing" that services lots 1 & 103 Spencer Brook – York Road. The occupational crossing is in favour of lot 1 only, however this access has been extended to the personal use by the owner of lot 103. As a private access crossing, public access is not allowed. For some unknown reason, access to lot 103 wasn't formalised at the time of subdivision.

The owner of lot 103 has planning approval to develop a Go-Kart Facility. Condition 5 of the approval requires ;

"Prior to the commencement of development, the applicant is to submit a traffic access and parking plan, to be approved by the Shire of York on the advice of the Public Transport Authority, and thereafter implemented."

To proceed with the development to owner of lot 103 needs to secure legal access.

COMMENTS AND DETAILS

The owner of Lot 1 has given approval for the owner of lot 103 to use the private rail crossing for personal access to lot 103. However he is unwilling to allow greater usage. The PTA has indicated that the owner of Lot 103 has no legal right to use the crossover and while they currently won't deny access to Lot 103 for solely personal reasons, they would definitely not allow access for events as proposed for the Go-Kart Facility.

The Shire initially had discussions with the PTA and the owner of Lot 103 with a view to the Shire having the crossover gazetted as a public road. This would have been at a significant cost as ARC Infrastructure, as the current custodian of the railway line, required a fully constructed to a sealed standard rail crossing. The PTA has since sought legal advice and are not able to allow the gazettal as a road, rail crossings under their control.

The PTA is now offering to allow the Shire to have a public easement over the rail crossing. They have indicated that they don't allow public easements with individual or groups of property owners. Therefore it is a public easement agreement with the Shire or the current private access. Leaving Lot 103 with no access.

It does not appear that the Shire was in any way responsible for Lot 103 being created without access. However, the Shire does have some responsibility to ensuring that properties do have legal access.

There will be a minimal cost in bringing the crossing up to an acceptable standard, however the acceptable standard is understood to be considerably less than that which was to be required if the crossing was converted to a gazetted road. The owner of lot 103 has indicated that he is willing to undertake these works.

There will also be ongoing maintenance costs associated with the crossing.. These costs will be minimal with the possible exception of events associated with the Go-Kart Facility, when it is up and running. Therefore any event approval at the Go-Kart Facility should contain a clause requiring the event organiser to reinstate the crossover to the same standard as before the event.

It is therefore recommended that the Shire agrees to accept an easement for public access over the rail crossing servicing Lots 1 & 103 Spencer Brook – York Road subject to the owner of Lot 103 formally agreeing to the upgrading of the crossing to the required standard.

OPTIONS

Council can:

1. Accept the public access easement subject to the owner of Lot 103 agreeing to bring the crossover up to the required standard.
2. Accept the public access easement and bring the crossover up to the required standard at its own cost.
3. Not accept the public access easement, effectively leaving no other viable option for legal access to Lot 103 and therefore making it unlikely that the owner of Lot 103 will be able to meet his planning conditions for the Development of a Go-Kart Facility.

IMPLICATIONS TO CONSIDER

Consultative

The Shire has consulted with the PTA, ARC Infrastructure and the owner of Lot 103 regarding the issue. The PTA has consulted with the owner of Lot 1 and invited him to contact the Shire of York if he has any issues. To date owner of Lot 1 has not indicated that he has any issues, in principle, with the Shire having an easement over the rail crossing instead of it being a private crossing that he is responsible for.

Strategic

Theme 3: Driving the York Economy Forward

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

Theme 4: Built for Resilience

The Shire's rural roads are maintained and preserved at a level which provides safe and accessible bus routes and haulage roads and optimises asset life across the network

Policy Related

Nil

Financial

There may be an initial cost in setting up the easement, the PTA has provided a quote of \$900 for these works and indicated that they are likely to wear this cost.

The Shire would be responsible for bringing the crossing up to the required standard. However, the owner of Lot 103 has indicated that he is willing undertake these works.

The Shire will also be required to undertake ongoing maintenance. This will be minimal and when compared to the likely economic benefit to the community of an operating Go-Kart Facility

Legal and Statutory

The Shire will be required to accept an easement document (Appendix 1)

Risk Related

There is low financial risk in taking on the maintenance of the rail crossing.

There is moderate reputational risk in not assisting the development of a visitor facility.

Workforce

There will be minimal additional works required in maintaining the crossing.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION

030520

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

That Council:

- 1. Resolves to enter into a public access easement document with the Public Transport Authority (PTA) over the rail crossing servicing Lots 1 & 103 Spencer Brook – York Road, subject to the owner of Lot 103 agreeing to upgrade the rail crossing to the standard required by the PTA and ARC Infrastructure.**
- 2. Authorises the CEO to execute the public access easement documentation for the rail crossing servicing Lots 1 & 103 Spencer Brook – York Road as required.**
- 3. Authorises the CEO to enter into an agreement with the owner of Lot 103 for the upgrade of the rail crossing servicing Lots 1 & 103 to the standard required by the PTA and Arc Infrastructure.**

CARRIED: 6/0

Disclosure of Interest – Cr Denis Warnick - Proximity – I own property and live on Knotts Road

At 5.14 pm, Cr Denis Warnick left the meeting.

SY064-05/20 YORK HEAVY VEHICLE BYPASS ALIGNMENT DEFINITION REPORT

File Number:	TR.RDT 4
Author:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Authoriser:	Darren Wallace, Executive Manager, Infrastructure & Development Services
Previously before Council:	SY107-09/16, 19 September 2016 SY146-11/16, 26 November 2016 SY109-09/17, 18 September 2017
Appendices:	1. Terms of Reference 2. Stakeholder Engagement 3. York Bypass Draft Report

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report seeks endorsement of the Final Draft York Heavy Vehicle Bypass Alignment Definition report for community consultation.

BACKGROUND

In 2013 the Wheatbelt Development Commission identified a future Bypass of York as a major economic development initiative for the region as part of Avon Subregional Economic Strategy.

In 2015 the Wheatbelt Development Commission provided funding to Main Roads WA to identify a route corridor for a future potential bypass of York which can be used in long term planning.

At Councils ordinary meeting of 19 September 2016, Council Resolved;

“That Council:

- 1. Notes that Wheatbelt Development Commission has provided funding to Main Roads to identify a route corridor/envelope for a future potential Bypass/Heavy Haulage Route for York.*
- 2. Requests the Chief Executive Officer to work with Main Roads and Wheatbelt Development Commission to: (a) Prepare a draft Terms of Reference for the Working Group for the project and present this to Council for consideration. (b) Prepare a draft Community Engagement Plan for the project for Councils consideration.”*

At Council ordinary meeting of 28 November 2016, Council Resolved:

“That Council:

- 1. Endorses the Terms of Reference for the York Bypass/Heavy Haulage Working Group as attached at Appendix 1.*
- 2. Appoints members to the York Bypass/Heavy Haulage Working Group in accordance with the Terms of Reference as attached at Appendix 1.*

3. Endorses the Stakeholder Engagement and Consultation Plan for the project as attached at Appendix 2."

The endorsed Terms of Reference is attached as Appendix 1 and the endorsed Stakeholder Engagement and Consultation Plan is attached as Appendix 2.

On 18 September 2017, Council considered a report with the outcomes of public consultation undertaken by Main Roads WA on the York Heavy Haulage Route/York Bypass route options including recommended options.

Council resolved;

"That Council:

- 1. Thanks the community for the input into the project to date including the submissions received on the options for the York Bypass/Heavy Haulage route.*
- 2. Nominates Option 1 and Option C, as shown in Appendix A, as the Shire of York's preferred alignment for the York Bypass/Heavy Haulage route.*
- 3. Requests the Chief Executive Officer to notify Main Roads of Council's position."*

Details of all option are explained in the York Heavy Vehicle Bypass Alignment Definition Report (Draft Final) attached as appendix 3.

The Shire has recently received the York Heavy Vehicle Bypass Alignment Definition Report, (Draft Final), appendix 3, from Main Roads. This report was developed having taken onboard the Council resolution above regarding the preferred alignment.

The report takes a more detailed look at the issues and costs involved with the development of the bypass on the preferred alignment.

COMMENTS AND DETAILS

The draft final report, as attached, is based on previous consultation in line with the Stakeholder Engagement plan as adopted and in line with the Council endorsed preferred alignment. However, it has been some years since the consultation was undertaken and it is therefore considered prudent to seek public comment on the Draft Final report before Council adopts the report. This is additional consultation to the adopted Stakeholder Engagement and Consultation Plan

It is recommended that the York Heavy Vehicle Bypass Alignment Definition Report (Draft Final) be advertised for public comment for a minimum of 4 weeks and be advertised (as a minimum);

- In York Community Matters.
- The Shire's Social Media
- The Shire's Website.
- Community notice boards.

With a report back to Council at the 28 July 2020 meeting.

OPTIONS

Council can;

1. Undertake further consultation as per the recommendations of this report.
2. Undertake further consultation at a different standard to that recommended in this report.
3. Consider that there has already been extensive community consultation, as it has been above that detailed in the adopted Stakeholder Engagement and Consultation Plan, and consider the report for adoption as presented. In considering the report for adoption, Council can either adopted as presented, adopt with changes or not adopt (not adopting would leave the Shire with nothing to support and advocacy of funding the bypass).

IMPLICATIONS TO CONSIDER

Consultative

Drop In' Sessions were held in December 2016 and March 2017 and Main Roads engaged with approximately 40 community members regarding the project.

A Community Forum, designed to gain input from the community regarding the need for a future bypass and feedback on the potential alignment was held at the York Recreation Centre on 29 May 2017. The forum was advertised on local radio, in the local newspaper, via posters in the town and through invitations sent to all mail boxes in York. Fourteen community members attended the forum.

The community confirmed that there is need for a future bypass and provided feedback on the evaluation criteria against which the alignments were assessed. Feedback was also given on the several identified alignments.

A further public comment period in late 2017 provided additional opportunity for the community and affected landowners to provide feedback. This was additional to the adopted Stakeholder Engagement and Consultation Plan.

Due to the time that has elapsed since the previous consultation it is recommended that the community be given an opportunity to comment on the draft Final Report as outlined in the comments section of this report.

Strategic

The overall purpose of the alignment study is to identify an appropriate alignment for the bypass corridor, enabling a road reservation to be set aside and provide certainty for stakeholders and landowners. This has influenced the current review of the Local Planning Strategy and Scheme being finalised by the Shire.

Policy Related

There are two Council Policies relevant to this item being:

- G 2.5 Reference Groups.
- G 2.9 Community Consultation and Engagement.

Financial

Wheatbelt Development Commission has provided funds to Main Roads to undertake the investigation into the corridor for the proposed Bypass/Heavy Haulage Route.

There are no funds identified at this time for construction. Reservation of private land to protect the corridor from inappropriate development ahead of construction may trigger the requirement for compensation in accordance with the Planning and Development Act 2005. The Shire will continue to liaise with Main Roads and the Department of Planning, Land and Heritage to consider the financial implications of this. The review of the local planning strategy will consider the most appropriate planning mechanisms, to ensure the Shire does not incur land costs associated with state infrastructure

The Shire is not expected to incur any significant costs during this process. Any costs incurred by the Shire As part of the community engagement will be minor and charge to "Public Relations GL Account 41112".

Legal and Statutory

The Working Group is not a Committee in accordance with the *Local Government Act 1995*.

Risk Related

A key risk to this project is the community not being adequately engaged in this process. The recommendation is designed to address this risk.

Workforce

There are no Shire of York workforce implications.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**040520****Moved: Cr Kevin Trent****Seconded: Cr Stephen Muhleisen****That Council:**

- 1. Endorses the York Heavy Vehicle Bypass Alignment Definition Report (Draft Final), Appendix 3, for community consultation.**
- 2. Requests the CEO to advertise the York Heavy Vehicle Bypass Alignment Definition Report (Draft Final) for public comment for a minimum of 4 weeks and be advertised (as a minimum);**
 - In York Community Matters**
 - The Shire's Social Media**
 - The Shire's Website**
 - Community notice boards**
- 3. Requests the CEO present the York Heavy Vehicle Bypass Alignment Definition Report (Draft Final), to Council at the 28 July 2020 meeting for consideration of any community feedback and consideration of adoption.**

CARRIED: 5/0

At 5.15 pm, Cr Denis Warnick returned to the meeting.

The Shire President advised Cr Denis Warnick of the Council Resolution.

Disclosure of Interests –**Cr Denese Smythe – Impartial – My daughter is employed by YDHS**

Cr Smythe read the Impartiality Declaration - ... With regard to the Shire of York Sponsorship Allocations 2019/20 the matter in Item SY065-05/20 I disclose that I have an association with the applicant (or person seeking a decision). The association is my daughter is employed by York District High School. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

Cr Kevin Trent – Impartial – I am a member of the Veteran Car Club

Cr Trent read the Impartiality Declaration - ... With regard to the Shire of York Sponsorship Allocations 2019/20 the matter in Item SY065-05/20 I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a member of the Veteran Car Club. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

SY065-05/20 SHIRE OF YORK SPONSORSHIP ALLOCATIONS 2019/20

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

This report was prepared for the 31 March 2020 Ordinary Council Meeting but was withdrawn due to the declaration of the State of Emergency in relation to the COVID-19 pandemic. It is now presented for Council's consideration.

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

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

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

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

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

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

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

COMMENTS AND DETAILS

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

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

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

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

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

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

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

Officers have received several requests for renewal of multi-year funding agreements and recommend that these are considered individually on their merits and in accordance with Council's policies and the sponsorship guidelines. However, officers are also seeking direction from Council regarding entering into further multi-year agreements with those activities, events and/or organisations that are required to apply annually through the community funding rounds offered.

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

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

It should be noted that officers are currently reviewing the community sponsorship guidelines to reflect a focus on activities that contribute to the revitalisation of York following the COVID-19 pandemic.

OPTIONS

Council could choose to:

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

4. In light of the current COVID-19 Pandemic, Council could choose not to enter into any multi-year funding agreements at this time, divert all sponsorship funds to a COVID-19 Relief Fund and ask for applications from the general community for events that contribute to community recovery for the 2020/21 financial year.

Given that it is important to provide some surety for organisations and event organisers that have repeatedly contributed to the vibrancy of York, Officers are recommending Option 2 and propose that officers consult with the following to negotiate a multi-year agreement;

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

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

The Place to Live

1.7 Positive, active and involved community

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.4 Open and accountable systems

Policy Related

C1.3 Community Funding: Grants and Sponsorship

C1.4 Sponsorship of Tourism Events

Financial

The financial implications have been discussed earlier in this report.

Legal and Statutory

Nil

Risk Related

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

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**050520****Moved: Cr Pam Heaton****Seconded: Cr Ashley Garratt****That Council:**

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

CARRIED: 6/0

Disclosure of Interests –**Cr Kevin Trent – Impartial – I am a member of The York Society**

Cr Trent read the Impartiality Declaration - ... With regard to The York Society – Request for new Multi-Year Funding Agreement the matter in Item SY066-05/20 I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a member of the York Society. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

Cr Stephen Muhleisen – Impartial – My wife is a member of The York Society

Cr Muhleisen read the Impartiality Declaration - ... With regard to The York Society – Request for New Multi-Year Funding Agreement the matter in Item SY066-05/20 I disclose that I have an association with the applicant (or person seeking a decision). The association is my wife is a member. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

SY066-05/20 THE YORK SOCIETY - REQUEST FOR NEW MULTI-YEAR FUNDING AGREEMENT

File Number: LE.CNT.3; CS.LCS.5

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

Authoriser: Chris Linnell, Chief Executive Officer

Previously before Council: Not applicable

Appendices: 1. The York Society Multiyear Funding Proposal

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

This report was prepared for the 26 March 2020 Ordinary Council Meeting but was withdrawn due to the declaration of the State of Emergency in relation to the COVID-19 pandemic. It is now presented for Council's consideration.

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

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

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

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

That Council:

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

Since this time TYS has elected a new executive and do not wish to co-deliver Heritage Week events in partnership with the Residency Museum and York Library. TYS intends to deliver its own events during this time and has provided a proposal outlining these events which is attached as Appendix 1 to this report. This proposal includes a request to renegotiate a new funding agreement commencing 1 July 2020.

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

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

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

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

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

COMMENTS AND DETAILS

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

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

OPTIONS

The following options are proposed for Council's consideration;

1. Not support TYS on a multiyear basis. However, TYS is a small, volunteer-run organisation that benefits from the surety of a multiyear funding agreement.
2. Not provide funding to TYS at all. This would potentially jeopardise the operations of the organisation and imply a lack of recognition of the work of TYS to contribute to the social and cultural objectives of the Shire.
3. Support TYS to the full extent of the request received (\$10,000). Without a detailed outline of the outcomes to be provided, it is difficult to determine the specific benefits to justify such an increase.
4. Provide support to a maximum of \$6,500 per annum subject to all the conditions of the agreement being met on an annual basis.
5. In light of the current COVID-19 Pandemic, Council could choose not to enter into any multi-year funding agreements at this time, divert all sponsorship funds to a COVID-19 Relief Fund and ask for applications from the general community for events that contribute to community recovery for the 2020/21 financial year.

Given that it is important to provide some surety for organisations and event organisers that have repeatedly contributed to the vibrancy of York, officers are proposing option 4 as the preferred option based on the proposal received.

IMPLICATIONS TO CONSIDER

Consultative

The York Society Inc.

Strategic

The Place to Live

1.7 Positive, active and involved community

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.4 Open and accountable systems

Policy Related

C1.3 Community Funding: Grants and Sponsorship

Financial

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

Legal and Statutory

Nil

Risk Related

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

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**060520****Moved: Cr Denis Warnick****Seconded: Cr Pam Heaton****That Council:**

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

CARRIED: 6/0

SY067-05/20 YORK ARTS & EVENTS INC - REQUEST FOR NEW MULTIYEAR FUNDING AGREEMENT 2020-2022

File Number: LE.CNT.3

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

Esmeralda Harmer, Events and Economic Development Officer

Authoriser: Chris Linnell, Chief Executive Officer

Previously before Council: Not Applicable

Appendices: 1. YAE Multi-Year Funding Proposal 2020-2022

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

In December 2016, it was resolved;

That Council;

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

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

COMMENTS AND DETAILS

Following a meeting with officers in mid-February this year, YAE has provided a proposal for multi-year funding of \$39,500 per annum from 2020-2022. With the onset of COVID-19 and the resulting restrictions, officers have been liaising with YAE and a revised proposal has been submitted with consideration for recovery and reactivation of the festival following COVID-19. The proposal is

attached at Appendix 1 and proposes the following in the first two years of the three-year funding agreement;

- September / October 2020: Maintenance upgrades to the Wara Art Trail undertaken by WA artists involved in the construction of the wheat straw sculptures.
- 2020 York Festival deferred to March 2021: Delivery of a smaller one week / two weekend 'mini' Festival to occur between 27 March – 5 April 2021. The mini Festival would be held to coincide with first term school holidays and Easter long weekend. The Easter Antique Fair and Medieval Fayre could be incorporated into the multi weekend event, with a focus on youth and family led activities.
- 2021 York Festival full program returns: Proposed to be delivered between 25 September – 3 October 2021 and planned to coincide with the Indian Ocean Craft Triennial and include Avon Valley Writers Festival, Garden Art Trail, Avon Terrace shop activations and an additional Wara Art sculpture.

Ensuring the Wara Art trail continues to be well cared for is an important part of York's tourism recovery post pandemic and positions the town well in what is likely to be a competitive intrastate tourism market. Officers recommend however, that Shire funds utilised for Wara art trail maintenance are clearly detailed in the new draft agreement for clarity for both parties and acquittal purposes.

YAE is seeking \$30,300 to support the mini Festival event in March 2021 and \$39,500 to support the York Festival event (in its full format) in September, and then \$39,500 for 2022. This is a significant investment increase from previous years' support provided by Council. Although the benefits of the Festival, its brand and market following are considered significant, Officers suggest equal consideration be given to:

- External grant funding available to contribute to both events in March & September 2021;
- The Shire's post pandemic event recovery planning and the budgets required to support these.

The proposal includes targets for local attendance, visitors, estimated spend by visitors to York and the multiplier effect of the Shire's contribution. Each year has seen an increase in Festival activities and attendances, however post pandemic it is hard to gauge if this tourism and community confidence will continue. Officers recommend a balanced approach to ensure the Shire's financial risk can be managed at a level that is acceptable, whilst equally providing the surety to YAE that a multiyear agreement provides.

A gradual increase in funding could be considered over the length of the agreement. This approach reflects an understanding of the current and projected tourism market experienced whilst managing the financial risk to the Shire. Officers are proposing the following:

- Funding of \$15,000 to support the March 2021 event in consideration of the reduced program, reduced visitor numbers likely and incorporating the maintenance costs detailed in the proposal.
- Funding of \$23,500 to support the September 2021 full Festival program event and maintenance costs detailed in the proposal.
- Funding of \$25,000 to support the 2022 Festival program & additional maintenance costs likely due to the addition of a Wara art sculpture to the existing trail

Funding to support both the 2021 events could be considered as part of the 2020/21 financial budgeting process. With all annual events now cancelled for the 2020 calendar year (excluding the Christmas Festival), funds budgeted for these events could be considered as a carry forward amount as part of the 2020/21 budgeting process to support one of the two 2021 Festival events.

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

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

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

There has been some conjecture regarding the collection and reporting of attendance data. Officers have been informed that YAE uses methodology provided by Tourism WA to calculate both attendance numbers and the economic impacts of the event. Notwithstanding, the York Visitor Centre has reported significant increases in visitation during the Festival period particularly during the past three years.

Officers concur with this approach and believe that KPI indicators included in the multiyear agreement should also reflect these elements.

OPTIONS

The following options are proposed for Council's consideration;

1. Not support YAE on a multiyear basis. However, it is argued that the York Festival makes a significant contribution to the Shire's community, social, cultural and economic objectives and entering into a multiyear agreement is in accordance with Council's policy *C1.3 Community Funding: Grants and Sponsorship*.
2. Not provide funding to YAE at all. This would jeopardise the provision of one of the largest events in the York calendar which brings significant numbers of visitors to town and imply a lack of recognition of the event's contribution to the community, social, cultural and economic objectives of the Shire.
3. Support YAE to the full extent of the request received (\$39,500 per annum for the two festivals delivered in the full format). Based on reported attendances, this represents a contribution of \$1.97 per attendance. Even based on 50% of reported attendances, the amount represents a contribution of \$3.95 per attendance but would impact the Shire's Community Funding budget allocations.
4. Provide support to a lesser amount per annum in recognition of the Shire's capacity to contribute in current circumstances.
5. In light of the current COVID-19 Pandemic, Council could choose not to enter into any multi-year funding agreements at this time, divert all sponsorship funds to a COVID-19 Relief Fund and ask for applications from the general community for the 2020/21 financial year.

Given that it is important to provide some surety for organisations and event organisers that have repeatedly contributed to the vibrancy of York, officers are proposing option 4 as the preferred option, recognising that the event already receives the second highest amount of sponsorship provided on an annual basis by Council.

However, in recognition of the growth of the event and its significant contribution to tourism and the Shire's community, social, cultural and economic objectives, officers are proposing a gradual increase in funding for the 2020 – 2022 funding years to be included in the new agreement.

IMPLICATIONS TO CONSIDER

Consultative

York Arts and Events Inc.

Strategic

The Place to Live

1.7 Positive, active and involved community

A Leader in Cultural Heritage and Environment

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

Driving the Economy Forward

3.4 Innovative growing and self-reliant tourism sector

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.4 Open and accountable systems

Policy Related

C1.3 Community Funding: Grants and Sponsorship

C1.4 Sponsorship of Tourism Events

Financial

Should Council approve the Officer recommendation, a gradual increase in funding to honour the financial commitments in the multiyear agreement will be required as part of each budgeting process allocated to GL132150 Festivals Assistance.

A proposed funding schedule is detailed below:

FY	Activity	Request	Proposed (per annum)	Milestone payments
2020/21	Wara art maintenance and mini festival to be held in March 2021	\$30,300	\$15,000	September 2020
2021/22	2021 Festival to be held in September 2021	\$39,500	\$23,500	March & October 2021
2022/23	2022 Festival to be held in September 2022	\$39,500	\$25,000	March & October 2022

There is existing budget allocation of \$15,000 in GL132150 Festivals Assistance in the 2019/20 financial budget that could be considered as a carry forward amount as part of the 2020/21 budgeting process to support the March 2021 event. These funds remain unspent due to cancelled 2020 events.

Similar budget allocations will need to be considered in the 2020/21 & 2021/22 financial year budgeting processes to honour each year of the funding agreements. However, due to the timing of the event, payments for the 2021 and 2022 festivals will occur across financial years.

As detailed in the table above, additional funds to support the increased amounts could be considered from GL132150 Festivals & Events, however this would mean a reduced funding pool available to consider applications received through the Shire's community funding program offered twice yearly.

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

Legal and Statutory

Nil

Risk Related

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

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

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION			
070520			
Moved: Cr Kevin Trent		Seconded: Cr Ashley Garratt	
That Council:			
1. Receives the request for multiyear funding from York Arts and Events Inc. for the York Festival as attached at Appendix 1 to this report.			
2. In recognition of the York Festival’s contribution to the Shire’s community, social, cultural and economic objectives, requests the Chief Executive Officer to negotiate a multiyear funding agreement with York Arts and Events Inc. under the following conditions;			
a) The Agreement will commence 1 July 2020 and expire on 30 June 2023.			
b) The amount of sponsorship will be provided in accordance with the table below:			
FY	Activity	Proposed (per annum)	Milestone payments
2020/21	Wara art maintenance and mini festival to be held in March 2021	\$15,000	September 2020
2021/22	2021 Festival to be held in September 2021	\$23,500	March & October 2021
2022/23	2022 Festival to be held in September 2022	\$25,000	March & October 2022
c) Payment will be subject to all milestone conditions of the Agreement being met on an annual basis.			
3. Authorises the Shire President and the Chief Executive Officer to engross the final agreement.			
			CARRIED: 6/0

SY068-05/20 DRAFT BRANDING CONCEPTS FOR PUBLIC COMMENT

File Number:	OR.CIM.2
Author:	Suzie Haslehurst, Executive Manager, Corporate & Community Services Joanna Bryant, YRCC Project Officer
Authoriser:	Chris Linnell, Chief Executive Officer
Previously before Council:	Not Applicable
Appendices:	1. Brand Concepts for Public Comment

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report presents draft concepts for rebranding of the Shire of York for Council's endorsement for public advertising.

BACKGROUND

The Shire of York does not currently have a consistent and comprehensive brand. The Shire's logo dates back to the early 1900's and does not adequately reflect the current vision and objectives for the Shire of York. With a major review of the Strategic Community Plan being undertaken this year, it was appropriate to consider updating the Shire's branding to reflect the community's reviewed vision and the organisation's growing status as a contemporary, responsive and professional local government authority.

An allocation for this project was included in the 2019/20 budget and following the commencement of the major strategic review, a 'request for quotation' process was undertaken to appoint a graphic designer to work with Council and the community to develop a new brand.

Steve Castledine, the selected contractor was provided with the outcomes of the consultation undertaken to inform the Shire's new Strategic Community Plan. The concepts provided at Appendix 1 to this report have been developed with regard for the priorities identified by the community.

COMMENTS AND DETAILS

The following information is provided in relation to the Shire's current logo (source: Residency Museum archives).

- *The yellow shield around the crest is nothing more than a heraldic crest, which means the shield is just added to make something look fancy and important.*
- *At the time the crest was developed in the early 1900's, this was highly fashionable.*
- *While the shield itself is just decorative, the other motifs are symbolic of the area's and the state's successes.*
- *The wheat stalks, plough and sheep with a prize ribbon around its middle is representative of the area's agricultural importance, while the crossed shovel and pickaxe are representative of the state's goldfields.*

- *At the time the crest was created, the goldfields were experiencing their boom and York was important to this event as it was the last rail and supply stop on the way to the goldfields.*
- *The 7 stars in the cross represent the original 7 wards of the York roads board.*

It is argued that the crest no longer adequately represents what York stands for and its reputation for tourism, heritage and agriculture. Indeed, some of the elements of the crest are no longer relevant (ie pickaxe and the seven stars).

Four draft concepts were presented to Council and officers at a Concept Forum in early May. Following this and based on the feedback provided, Steve has refined three of the concepts for consideration by the community. It should be noted that these concepts are in draft form and will be further refined to develop the final concept. Once the final concept is agreed, a comprehensive style guide will be developed to direct how the branding can be used across a range of media.

The concepts are based on the following priorities identified during the community consultation for the Strategic Community Plan:

- Heritage
- Environment
- Community

It is proposed that Council endorses the concepts included in Appendix 1 to this report for consultation for a period of 4 weeks and that the final concepts are presented to Council at the July Ordinary Council Meeting.

OPTIONS

Council could choose to present all four draft concepts to the community for consideration. However, it was unanimously agreed by Councillors and staff that one of the drafts initially presented should not be pursued.

Council could choose to seek community feedback on a single preferred concept. Officers propose that the community should be given the opportunity to consider alternative concepts.

IMPLICATIONS TO CONSIDER

Consultative

The draft concepts, once endorsed by Council will be advertised via the following;

- Media release
- Information included in the Shire's Community Matters page
- Shire website
- Shire noticeboards
- Social media

Strategic

Strong and Effective Leadership

5.6 High levels of community engagement

Policy Related

CP1.2 *Use of the Shire of York Crest and Logo*

Financial

An allocation of \$25,000 was adopted as part of the 2019/20 budget for this project (GL 42169).

Legal and Statutory

Nil

Risk Related

There is a reputational risk should the Shire continue to present itself in an inconsistent and potentially, unprofessional manner. Given the work being planned to revive the economy, attract new businesses and events to town, it is timely that the Shire emerges from the current situation with a refreshed and professional brand.

Workforce

Nil

VOTING REQUIREMENTS**Absolute Majority: No****RESOLUTION
080520****Moved: Cr Denis Warnick****Seconded: Cr Stephen Muhleisen****That Council:**

- 1. Endorses the draft brand concepts attached at Appendix 1 to this report for public advertising and feedback.**
- 2. Requests the Chief Executive Officer to present the feedback received and final brand concept design to the July Ordinary Council Meeting for Council's consideration.**

CARRIED: 6/0

SY069-05/20 PARTICIPATION IN THE NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE

File Number:	CS.SSP.8
Author:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Authoriser:	Chris Linnell, Chief Executive Officer
Previously before Council:	Not applicable
Appendices:	1. National Redress Scheme Information Paper

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

This report seeks Council's direction regarding participation by the Shire of York in the National Redress Scheme for Institutional Child Sexual Abuse.

BACKGROUND

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of York) will be required to consider leading practice approaches to child safeguarding separately in the future.

National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;

- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme with the Western Australian Government (the State) participating in the Scheme from 1 January 2019.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), local governments may be considered a State Government institution.¹

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

Following extensive consultation, the State Government, in December 2019:

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

¹ Section 111(1)(b).

The WALGA State Council meeting of 4 March 2020:

1. *Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;*
2. *Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and*
3. *Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.*

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

COMMENTS AND DETAILS

The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the Shire of York's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that Council formally indicates the intention to be considered a State Government institution (for the purposes on the National Redress Scheme). The Shire of York will not be included in the WA Government's amended participation declaration, unless Council formally decides to be included. The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

Considerations for the Shire of York

Detailed below is a list of considerations for the Shire of York to participate in the Scheme:

1. Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the Shire will receive a Redress application. A Service Agreement will only be executed if a Redress application is received.

Council needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

2. Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

3. Application Processing / Staffing and Confidentiality

Administratively the Shire of York will determine:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements

4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The Shire of York's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in *The Act*.

5. Redress Decisions

The Shire of York should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of York do not have any influence on the decision made and there is no right of appeal.

OPTIONS

The option also exists for the Shire of York to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should Council formally decide not to participate with the State or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire of York having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire of York.

IMPLICATIONS TO CONSIDER

Consultative

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State's decision, in particular to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

Officers have consulted with other Wheatbelt local governments with a majority indicating that they are proposing to opt in to the Scheme.

Strategic

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.7 Shire and community exhibit a positive, can-do philosophy

Policy Related

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

Financial

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping);
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the Shire may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit of the Department of Justice.

The State's decision also mitigates a significant financial risk to the Shire in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This

means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

Legal and Statutory

In agreeing to join the Scheme, the Shire of York is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

Risk Related

While the risk of a redress application being received is considered low, the decision to participate in the National Redress Scheme mitigates the risks identified in the Options section of this report. Should Council choose not to participate, there are reputational and financial risks to the Shire as discussed above.

Workforce

There will be workforce implications in the event that a Redress application is received to ensure that statutory timeframe and privacy requirements are met. However, these are anticipated to be able to be managed within current resources.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION 090520

Moved: Cr Pam Heaton

Seconded: Cr Kevin Trent

That Council:

1. Notes;

- a) the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries regarding the National Redress Scheme and the participation of WA local governments as attached at Appendix 1 to this report;
- b) that the Shire of York will not be included in the WA Government's amended participation declaration (and afforded the associated financial and administrative coverage), unless the Council makes a specific and formal decision to the be included;

2. Endorses the participation of the Shire of York in the National Redress Scheme as a State Government institution to be included as part of the State Government's declaration;

3. Grants authority to the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;

4. Notes that a confidential report will be provided to Council if a Redress application is received by the Shire of York.

CARRIED: 6/0

SY070-05/20 YORK GOLF CLUB - REQUEST TO AMEND MANAGEMENT ORDER - RESERVE 24166 & AMEND PURPOSE - RESERVES 24166 & 24167

File Number: LE.CNT.1

Author: Natasha Brennan, Administration and Governance Coordinator

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

Previously before Council: Nil

Appendices:

1. Current Lease - Confidential (under separate cover)
2. Map - Reserves

NATURE OF COUNCIL’S ROLE IN THE MATTER

Executive & Review.

PURPOSE OF REPORT

The York Golf Club Inc has been leasing Reserve 24168 and using a portion of Reserves 24166, 24167, Great Southern Highway York, for a considerable number of years. A copy of the lease is attached and labelled Appendix 1.

Currently, the Council only has the power to lease Reserve 24168.

It would be ideal for the Shire to have consistency across all three (3) reserves and the power to lease (subject to Minister’s approval). The purpose of reserves 24166 (gravel) & 24167 (sand) needs to be changed to reflect the dual purpose of Recreation.

This report presents to Council a proposal to revoke the current management order on Reserve 24166 and issue a new Management Order with the power to lease, and to consider changing the purpose of Reserves 24166 & 24167 to include Recreation.

BACKGROUND

The Shire of York is in the process of preparing a new lease between the Shire and the York Golf Club Inc, which covers an area of land across three (3) Crown Reserves.

A request was sent to the Department of Planning, Lands and Heritage (DPLH) regarding the possibility of changing the management order on Reserves 24166 & 24167 to provide the power to lease as well as having a dual purpose on reserve 24166 – gravel & recreation and reserve 24167 – sand & recreation.

A summary of the current purpose and vesting of these reserves is provided below, as well as the requested proposal:

Reserve No	Purpose	Vesting	Proposal
24168	Recreation (Golf Links)	Reserve under Management Order Government Gazette 1955 – Power to lease the whole or any portion of the said reserve for any term not exceeding 21 years from the date of the lease	No action required.

24166	Gravel Reserve	Reserve under Management Order Government Gazette 1974 – should vest in and be held by the Shire of York in trust for the purpose of “Gravel” There is no power to lease	Management Order - power to lease Dual purpose – gravel & recreation (golf links)
24167	Sand Reserve	Cannot locate Management Order No power to lease	Management Order - power to lease Dual purpose – sand & recreation (golf links)

A copy of a map outlining the reserves is attached and labelled Appendix 2.

COMMENTS AND DETAILS

Following discussions with members from the York Golf Club, it was agreed that the Club is in favour of leasing a portion of all three (3) reserves.

Reserve 24168

The management order for this reserve currently includes the power to lease and there is nothing that needs to be done.

Reserve 24166

It is noted that the management order can be revoked and a new one issued, thereby giving the Council approval to lease this reserve. The reserve purpose can also be changed to ensure that it is consistent with Reserve 24168.

Reserve 24167

It is noted that the Department of Lands cannot issue a Management Order with the Power to Lease or Licence on this reserve and that there are also Native Title implications which will need to be addressed. This reserve can still be utilised but cannot be leased.

Before the Shire can prepare a draft lease with the York Golf Club Inc, these legal matters need to be addressed.

OPTIONS

Option 1

Do Nothing.

If we do nothing, then the Shire may have a non-compliant lease that will not be approved by the Minister for Lands or Landgate.

Option 2

Reserve 24166 – proceed with changing the Management Order so the Council has the power to lease. This will involve revoking the current Management Order so that a new one can be issued. Also proceed with changing the purpose of the reserve to a dual purpose to include Recreation.

Reserve 24167 – Note the Department of Planning’s recommendation to leave this reserve as is but change the purpose of the Reserve to a dual purpose to include Recreation. The reserve will still be able to be utilised, but it cannot be leased.

Option 3

Reserve 24166 – proceed with changing the Management Order so the Council has the power to lease. This will involve revoking the current Management Order so that a new one can be issued.

Also proceed with changing the purpose of the reserve to a dual purpose to include Recreation. (remains the same as option 2).

Reserve 24167 - Note the Department of Planning's recommendation to leave this reserve as is. Do not proceed with changing the purpose of the reserve as the Council cannot lease the land anyway.

Option 2 is the preferred option.

IMPLICATIONS TO CONSIDER

Consultative

York Golf Club Inc
Department of Planning, Lands & Heritage
Shire Officers

Strategic

Theme 5: Strong Leadership and Governance.

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

Policy Related

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

Financial

If the DPLH supports the Shire's request, and the Council chooses to proceed, the applicant / agency is responsible for the payment of all costs and disbursements associated with the document preparation.

There could also be additional legal fees associated, if officers require further assistance from the Shire's legal advisors.

Legal and Statutory

With the request for access to land, consideration is given to the status of Native Title and other interests that may exist. In order for the State to grant land tenure, it needs to comply with provisions of the *Native Title Act 1993* (Cth) (NTA) and other legislative requirements.

Risk Related

There are risks associated with entering into a lease, without the power to lease. The Minister for lands could reject the lease, if it does not comply with the Land Administration Act.

If the Council does not change the management order on these reserves, then the Golf Club may have to alter / move their existing course.

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**100520****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council:**

- 1. Authorises the Chief Executive Officer to consent to revoking the current Management Order on Reserve 24166 to seek a new Management Order which allows the Council the power to lease this reserve;**
- 2. Authorises the Chief Executive Officer to proceed with changing the purpose of Reserve 24166 from Gravel Reserve to dual purpose, to include Recreation; and**
- 3. Notes the Department of Planning's recommendation to leave Reserve 24167 as is, but authorises the Chief Executive Officer to proceed with changing the purpose of Reserve 24167 from Sand Reserve to dual purpose, to include Recreation.**

CARRIED: 6/0

SY071-05/20 REQUEST TO CONDUCT ARCHERY, REMOTE CONTROL CARS AND LASER TAG ALONG A SECTION OF MONGER'S RESERVE

File Number: FI.BUD2021; FI.FEE; CCP.19

Author: Natasha Brennan, Administration and Governance Coordinator

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

Previously before Council: 25 February 2020

Appendices: Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Executive
- Review
- Legislative

PURPOSE OF REPORT

This report provides a recommendation to alter the Council resolution of the Ordinary Council Meeting 25 February 2020 regarding a request to conduct archery, remote control cars and laser tag along a section of Monger's Reserve.

It also provides details of a proposed new fee for Reserve 34841 (Lot 587) South Street, York (known as Monger's Reserve) to be incorporated into the 2020/21 Schedule of Fees and Charges for the purpose of recreation activities.

Considering the use of Monger's Reserve has highlighted the need to consider other reserves that could also be included for hire in the 2020/21 fees and charges. Eg: Candice Bateman Park.

BACKGROUND

At the Ordinary Council meeting held 25 February 2020, Council considered a proposal from Mr Nicholas Klasssen from NHK Archery Park to conduct activities on a portion of Reserve 34841, Lot 588 South Street York.

Council resolved the following:

Resolution 200220

That Council:

1. *Agrees in principle to the proposal from Mr Nicholas Klaassen from NHK Archery Park for the purpose of conducting activities such as archery, laser tag and remote control cars on part of Lot 588 South Street and supports the application for planning approval.*
2. *Subject to receiving planning approval, requests the Chief Executive Officer to bring a report back to Council for consideration of a draft lease and development application.*

COMMENTS AND DETAILS

Mr Klaasen has advised that at this stage he will be only operating two (2) days per week, for two (2) hours at a time, which equates to total of four (4) hours per week and the preferred term for a lease would be one (1) year, with possible extension. The business operates as a mobile business which means that nothing will be left onsite and no utility services are required eg; power, water.

When considering the options for a lease, the following are general terms that need to be considered:

- Rates, Rubbish Bins & Waste Levy, ESL levy etc
- Utilities – water, power
- Annual Rental
- Legal Fees associated with lease preparation
- Term of the lease – generally minimum 5 years
- Minister for Lands approval
- Development approval
- Advertising of proposal (commercial)
- Exclusive use of the leased area of land

Following discussions with Mr Klaassen, officers now consider that a fee & charge would be a better alternative.

As the land is zoned recreation & open space for the purpose of recreation, the land is no different from hiring a Shire park eg: Peace, Avon Park or even Forrest Oval, as exclusive use of the area is not required. This would also mean that the area could be hired by other users.

The Shire would still be responsible for making the decision that the land is appropriate to be designated as an area available to hire for certain uses, and then making sure the area has adequate facilities for the hire space (i.e utilities, parking, access etc).

Development approval would therefore not be required by Mr Klaassen however regard would need to be given to the provisions of the Local Planning Scheme (i.e parking/access, appropriateness of uses to occur in this area).

It is noted that this area of land, in the past, has been requested for use during the Medieval Fayre as well as the Enduro riders who have used it for a track.

Monger's Reserve also intersects Aboriginal site ID 3536-Swan River. Officers have been previously advised by the Department of Aboriginal Affairs (when looking at the Dog Exercise Area) that as long as no significant works are to take place at Monger Reserve, then there would be no foreseeable issues.

Candice Bateman Park was also discussed as another reserve that could be hired to the public, which is not included in the current fees and charges.

In accordance with Sections 6.16 and 6.19 of the *Local Government Act 1995*, a Local Government may impose a fee or charge for any goods or service it provides. Fees and Charges must be imposed when adopting the annual budget, however, may also be imposed or amended during the course of the year if necessary.

OPTIONS

Option 1

Stay with original recommendation regarding archery, remote control cars and laser tag activities and proceed with lease negotiations.

Option 2

Agree that a hire arrangement is a more appropriate mechanism to allow the use of a portion of Monger's Reserve for the proposed archery, remote control cars and laser tag activities, and approve new fees & charges in the 2020/21 Budget for the hiring of a portion of Monger's Reserve as well as Candice Bateman Park.

Option 3

Consider the use as an event application and approval be given to hold this as a regular activity, with annual event fee & hirers fee payable eg: monthly markets.

Option 2 is the preferred option as it meets the needs of the applicant without the burden of excessive red tape and provides an opportunity for the Shire to hire these reserves to other parties.

IMPLICATIONS TO CONSIDER**Consultative**

Mr Nick Klaassen

Strategic

Theme 1: A Place to Live

- 1.1 Children and young people feel valued – providing more accessible recreational options for the community to participate in.
- 1.7 Positive, active and involved community.

Policy Related

N/A

Financial

The proposed fees will provide the potential to increase Shire income under the GL: *Other Recreation fees and charges*.

It is noted that currently hire fees are only charged for commercial groups / events. Not-for-profit groups / community groups are not charged. This will remain the same, however a recommendation has been put into the fees and charges for private hire eg: weddings and birthdays to be taken out.

Legal and Statutory

Local Government Act 1995

6.16. Imposition of fees and charges

- (1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

- (2) *A fee or charge may be imposed for the following —*
 - (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) *supplying a service or carrying out work at the request of a person;*
 - (c) *subject to section 5.94, providing information from local government records;*
 - (d) *receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) *supplying goods;*
 - (f) *such other service as may be prescribed.*

- (3) *Fees and charges are to be imposed when adopting the annual budget but may be —*
- (a) *imposed* during a financial year; and*
 - (b) *amended* from time to time during a financial year.*

** Absolute majority required.*

6.17. Setting level of fees and charges

- (1) *In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —*
- (a) *the cost to the local government of providing the service or goods; and*
 - (b) *the importance of the service or goods to the community; and*
 - (c) *the price at which the service or goods could be provided by an alternative provider.*
- (2) *A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.*
- (3) *The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —*
- (a) *under section 5.96; or*
 - (b) *under section 6.16(2)(d); or*
 - (c) *prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.*
- (4) *Regulations may —*
- (a) *prohibit the imposition of a fee or charge in prescribed circumstances; or*
 - (b) *limit the amount of a fee or charge in prescribed circumstances.*

6.18. Effect of other written laws

- (1) *If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —*
- (a) *determine an amount that is inconsistent with the amount determined under the other written law; or*
 - (b) *charge a fee or charge in addition to the amount determined by or under the other written law.*
- (2) *A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.*

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) *its intention to do so; and*
- (b) *the date from which it is proposed the fees or charges will be imposed.*

Risk Related

If Council chooses to proceed with the lease option there is a potential reputational risk to the Shire in that a lease could be considered onerous on an applicant providing activation. This risk is rated Low (3). There is also a possible financial risk in lost revenue if a fee is not set for these reserves. This risk is also rated Low (3).

Workforce

Minimal impact on staff for extra bookings. Minimal foreseeable maintenance for Works Department. Site inspections to be carried out on a regular basis.

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION**110520****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council:**

- 1. Agrees that a hire fee is an appropriate mechanism to address the proposal from Mr Nicholas Klaassen from NHK Archery Park for the purpose of conducting activities such as archery, laser tag and remote control cars on part of Lot 588 South Street (Monger's Reserve).**
- 2. Requests the Chief Executive Officer to include a hire fee for Monger's Reserve and Candice Bateman Park in the 2020/21 Fees and Charges to be considered by Council as part of the Budget process.**
- 3. Notes that this resolution will supersede Resolution 200220 resolved at the 25 February 2020 Ordinary Council Meeting.**

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY072-05/20 PROPOSED FEES AND CHARGES 2020/21

File Number:	FI.BUD.2021
Author:	Tabitha Bateman, Finance Manager
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not Applicable
Appendices:	1. Schedule of Fees and Charges 2020/21

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive
Legislative

PURPOSE OF REPORT

Each year the Council is required to establish a Schedule of Fees and Charges for the use of Shire facilities and for the provision of services. This report provides details of the proposed fees and charges and recommends that Council endorses the Schedule of Fees and Charges for advertising prior to coming into effect on 1 July 2020.

BACKGROUND

In accordance with Sections 6.16 to 6.19 of the *Local Government Act 1995*, a Local Government may impose a fee or charge for any goods or service it provides. Fees and charges must be imposed when adopting the annual budget however, may also be imposed or amended during the course of the year if necessary. In accordance with section 6.12 of the *Local Government Act 1995*, a Local Government may resolve to waive a fee or provide a discount.

The fees and charges form part of the annual budget which is expected to be adopted by Council on 14 July 2020. However, to be able to provide earlier public notice of the fees and charges for 2020/21, it is recommended to adopt these prior to the annual budget.

COMMENTS AND DETAILS

Council reviews all fees and charges on an annual basis prior to finalisation of Council's annual budget. The basis for imposing fees and charges for Shire services can be categorised as either statutory fees and charges, or fees and charges for goods or services. There are a number of statutory fees and charges determined under other legislation which dictate the level of fees and charges that may be imposed by Council.

The Schedule must identify all fees applicable for the year including:

- User charges for the hiring and use of various facilities including associated bonds or deposits.
- Fees for accessing information
- Fees for lodgement of statutory forms and applications

The Schedule of Fees and Charges does not include:

- Rates levied
- Fines and Infringements

On 11 March 2020 the World Health Organisation declared the COVID-19 virus a Pandemic. Following this, the State Government declared a State of Emergency for Western Australia. In an attempt to contain the virus and minimise the spread, the Federal and State governments have responded with various measures which have had a significant effect both economically and socially on local businesses and the wider community. Officers have given consideration to this in the development of the fees and charges, in particular, relief options, to alleviate some of the financial pressures experienced as a result of COVID-19 and provide financial support to those affected.

The draft fees and charges were discussed at a budget workshop held between officers on 7 May 2020. Key highlights and questions from the discussion included the following;

- Obvious gaps in our knowledge. When will the full effects of COVID-19 be realised?

At the time of preparing this report it is difficult to determine the effects COVID-19 has had or will have on various sectors of the community. It is clear that many local businesses and sporting clubs have been directly affected whereas it is less clear what impact COVID-19 has had or will have on the agricultural industries.

- Should any fees be charged while under the State of Emergency?

While it's the Shire's intention to provide financial relief where possible, financial sustainability must be considered. Given that nearly half of the total fees and charges relates to Waste Collection and Services, officers are proposing that waste collection fees are charged to offset the cost of collection. The draft budget has been developed however, with no increase to the 2019/20 fees.

- Could a moratorium be applied for some fees as long as the State of Emergency is in effect?

This could pose the risk if the State of Emergency is in place for longer than expected. Officers are proposing to reinstate all fees and charges following either the end of the State of Emergency or 1 January 2021, whichever is the latter. Clear identification of fees to be waived would be required.

- Should a waiver be applied to all fees and charges? If not, how are these waivers determined?

Fees and charges received to date for the 2019/20 financial year (as at the time of preparation of this report) comprise the following;

Rates related charges including instalment fees	\$ 34,849
Animal Control	\$ 13,437
Health	\$ 19,202
Rubbish collection	\$ 667,105
Facility hire and usage fees	\$ 131,117
Building and Planning	\$ 40,225
Standpipe Water Usage	\$ 62,763
Rent	\$ 54,502
Cemetery	\$ 21,190
Other (including YRCC sales, stock for resale)	\$ 257,051
Total year to date	\$1,301,441

Officers are proposing no increases to the 2020/21 Fees and Charges.

In addition, it is proposed that income from the following fees and charges is reduced or removed from the draft budget;

- Instalment Administration Fees for ratepayers who choose the instalment option by the due date. This equates to approximately \$20,000 for the year or \$30 per property on the instalment option.
- Health fees and charges - While the proposed schedule of fees and charges reflects the fees that would be charged for the 2020/21 financial year, it is recommended that a number of fees relating to businesses directly affected by COVID-19 be reduced to \$0 for the 2020/21 financial year. The financial impact of this equates to approximately \$17,000. This waiver is intended to apply to Home Business Fees, Food Business fees, Trading in Public Places (Alfresco) fees, Stall Holder fees and Lodging House Licences. This waiver is not intended for Caravan and Camping Licences as these are set by Regulation nor is it intended for effluent systems, offensive trades and the like.
- Local Sporting Clubs annual fees. Sporting Clubs are an integral part of the local community and assist in providing social support and community cohesion. Following the COVID-19 measures introduced by the Federal Government including the closure of all indoor sports centres and the cessation of sporting activities and gatherings, the YRCC and surrounding areas were temporarily closed. This has severely affected not only the revenues for sporting clubs but also the wellbeing and morale of the community. It is proposed that Council waives the applicable fees equating to approximately \$18,000.
- Local Not-for-Profit Community Groups (regular hirers) of the Town Hall, Lesser Hall and Recreation Stadium. Allowing free use of the above facilities for the regular hirers such as dance groups and similar could cost up to \$6,000. Officers are proposing to cap the number of free bookings to 12 and revert to the adopted fees and charges as at 1 January 2021 or the end of the State of Emergency, whichever is the latter.

The fees and charges will be effective from 1 July 2020. Adopting these now will allow more time for the public to be advised of the fees and charges for 2020/21. The alternative would be to adopt the Fees and Charges with the annual budget in July 2020. However, this does not allow sufficient public notice unless the effective date of the fees and charges is moved to a later date.

Copies of the draft fees and charges will be available from the Shire's website and Administration Office.

If adopted by Council, the new fees and charges will be advertised on the Shire's website on 1 June 2020 and, following the period of public notice, will be effective from 1 July 2020.

OPTIONS

Council could choose not to accept or to vary the officer's recommendation. Based on recommendations from the State Government and in accordance with Council resolution 020420 (SCM 21/04/20), fees and charges were carefully reviewed to identify possible reductions or waivers. The review produced the following options;

Option 1

Council could choose to reject the officer's recommendation and instead, apply an increase to all fees and charges based on the current CPI index. This is not recommended as it does not provide support for local businesses and the community and goes against clear advice received from the State Government.

Option 2

Council could choose not to charge any fees and charges for the 2020/21 financial year at a cost of around \$1,300,000. This option is also not recommended due to the value of fees imposed for cost recovery purposes, such as rubbish collection services and standpipe water usage. Fees and charges assist to fund operating activities of the Shire.

Option 3

Council could choose to accept the officer recommendation to freeze any increases to the 2020/21 Schedule of Fees and Charges and provide fee waivers at a cost of approximately \$61,000 as detailed earlier in this report.

Option 3 is recommended.

IMPLICATIONS TO CONSIDER

Consultative

State and Federal Government

WA Local Government Association

Department of Local Government, Sport and Cultural Industries

Strategic

Strong and Effective Leadership

5.3 A financially sustainable Shire

Financial

The Draft budget is prepared with consideration for the Schedule of Fees and Charges.

The financial implications will vary depending on which option Council chooses. If Council endorses the officer recommendations, the loss of revenue is estimated at approximately \$61,000 for the 2020/21 budget.

Adopting the 2020/21 Fees and Charges earlier than the annual budget has no financial or budget implications but does allow more public notice to be given of any new or changed fees and charges for 2020/21.

Legal and Statutory

Local Government Act 1995

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

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *waive or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money, which is owed to the local government.*

** Absolute majority required.*
- (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

6.16. Imposition of fees and charges

- (1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*
- (2) *A fee or charge may be imposed for the following —*
 - (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) *supplying a service or carrying out work at the request of a person;*

- (c) *subject to section 5.94, providing information from local government records;*
 - (d) *receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) *supplying goods;*
 - (f) *such other service as may be prescribed.*
- (3) *Fees and charges are to be imposed when adopting the annual budget but may be —*
- (a) *imposed* during a financial year; and*
 - (b) *amended* from time to time during a financial year.*

** Absolute majority required.*

6.17. Setting level of fees and charges

- (1) *In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —*
- (a) *the cost to the local government of providing the service or goods; and*
 - (b) *the importance of the service or goods to the community; and*
 - (c) *the price at which the service or goods could be provided by an alternative provider.*
- (2) *A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.*
- (3) *The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —*
- (a) *under section 5.96; or*
 - (b) *under section 6.16(2)(d); or*
 - (c) *prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.*
- (4) *Regulations may —*
- (a) *prohibit the imposition of a fee or charge in prescribed circumstances; or*
 - (b) *limit the amount of a fee or charge in prescribed circumstances.*

6.18. Effect of other written laws

- (1) *If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —*
- (a) *determine an amount that is inconsistent with the amount determined under the other written law; or*
 - (b) *charge a fee or charge in addition to the amount determined by or under the other written law.*
- (2) *A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.*

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) *its intention to do so; and*
- (b) *the date from which it is proposed the fees or charges will be imposed.*

Risk Related

There are inherent risks, both financial and reputational, associated with the options aforementioned. The effects of the COVID-19 pandemic is having a significant effect on the community with many people facing financial difficulties during this time. By providing this support the Shire can assist its ratepayers and businesses during these difficult times.

The financial implications of the recommendations of this report and those of the Council Resolution 020420, will impact the Shire's financial position and affect the ability to provide current levels of service, however this will be considered in the preparation of the annual budget for 2020/21.

If Council resolves not to provide some alleviation from fees and charges as proposed the Shire may be criticised for a lack of support for the community during the COVID-19 pandemic.

The possible risk associated with not adopting the proposed 2020/21 Schedule of Fees and Charges is that it may result in a reduction of anticipated income and the ability for the Shire to complete budgeted activities.

Workforce

Resolving to adopt the fees and charges earlier than the budget will have no material impact on the workforce.

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION**120520****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt****That Council:**

- 1. Adopts the Schedule of Fees and Charges (which forms part of the 2020/21 Budget) effective 1 July 2020 as attached to this report.**
- 2. Waives the Instalment Administration fee for rates paid by instalments in the 2020/21 financial year.**
- 3. Waives the annual fees and charges applicable for;**
 - a) Home Businesses**
 - b) Food Businesses**
 - c) Trading in Public Places (Alfresco)**
 - d) Stall Holders**
 - e) Lodging Houses**
 - f) Local Sporting Clubs**
- 4. Suspends hire fees for regular users of the Town Hall, Lesser Hall and Old Stadium capped at 12 free bookings for a maximum of three hours, noting the adopted fees and charges will be applicable from 1 January 2021 or the end of the State of Emergency, whichever is the latter.**
- 5. Notes the reduction in revenue as a result of the waivers equates to approximately \$61,000 to be factored into the 2020/21 Annual Budget.**
- 6. Authorises the Chief Executive Officer to make any necessary minor typographical changes prior to publication.**
- 7. Requests the Chief Executive Officer to advertise the 2020/21 Fees and Charges on the Shire's website for a period of 28 days.**

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY073-05/20 REVIEW DELEGATION DE3-1 - AUTHORITY TO MAKE PAYMENTS FROM TRUST AND MUNICIPAL FUNDS

File Number: OR.CMA.1

Author: Tabitha Bateman, Finance Manager

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

Previously before Council: 25 November 2019 – SY170-11/19

Appendices:

1. Delegation DE3-1 Authority to Make Payments from Trust and Municipal Funds with Proposed Amendments
2. Policy F1.5 with Proposed Amendments

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Review
- Legislative

PURPOSE OF REPORT

This report presents the Delegation DE3-1 Authority to Make Payments from Trust and Municipal Funds and associated Policy F1.5 with amendments for Council's consideration and endorsement.

BACKGROUND

Sections 5.42 and 5.44 of the *Local Government Act 1995* (the Act) enables a Local Government to delegate certain duties to the Chief Executive Officer who can then sub-delegate to others. In accordance with Section 2.7(2) of the Act, Council is to determine the Shire's policies.

The current delegations provide an appropriate level of authority to the Chief Executive Officer to enable effective and timely consideration of day to day statutory functions. Delegations promote accountability and facilitate efficient service delivery to the community and allow Council to focus on strategic planning and community leadership.

The Register of Delegated Authority is a comprehensive document that also includes delegations made under legislation other than the *Local Government Act 1995*.

All delegations made by Council must be carried by an Absolute Majority and be in accordance with section 5.42 of the Act.

COMMENTS AND DETAILS

The proposed amendment to the current delegation extends the authority to make payments from the Shire's bank accounts from three officers to four. This proposed amendment ensures payments can be made on time and suitably caters for periods of staff leave or other absence. Considering the current circumstances, in the event that more than one member of the Executive Management Group took leave simultaneously, the Shire would be unable to make payment to creditors and staff.

It is further noted that the Executive Manager Infrastructure and Development Services has, in the past, undertaken the role of Acting CEO and has required access to the Shire's bank accounts.

Furthermore, given the recruitment of a new Executive Manager, Corporate Services is likely to take some time, the proposed amendments are also a risk mitigation measure.

Appendix 1 provides a 'tracked changes' version of Delegation DE3-1 for Council's review and consideration. The table below summarises the proposed amendments.

Delegation No:	Title	Proposed Amendments
DE3-1	Authority to make Payments from Trust and Municipal Funds	Extend the power or duty to the Executive Manager Infrastructure and Development Services

Appendix 2 provides a ‘tracked changes’ version of Policy F1.5 for Council’s review and consideration. The table below summarises the proposed amendments.

Delegation No:	Title	Proposed Amendments
Policy F1.5	Authority to make Payments from Trust and Municipal Funds	In accordance with DE3-1, extend the power or duty to make payments from the Shire’s accounts to the Executive Manager Infrastructure and Development Services

OPTIONS

Council could choose to limit the delegations to the Chief Executive Officer and sub-delegations made to officers. However, the proposed amendment is recommended to ensure the effectiveness and efficiency of the Shire’s operations whilst still remaining accountable to Council.

IMPLICATIONS TO CONSIDER

Consultative

Office of the Auditor-General
 Executive Management Group

Strategic

- 5 *Strong and Effective Leadership*
- 5.1 Effective and informed governance and decision-making
- 5.4 Open and accountable systems

Policy Related

F1.5 Authority to Make Payments from Trust and Municipal Funds
 DE3-1 Authority to Make Payments from Trust and Municipal Funds

Financial

Nil

Legal and Statutory

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*
 - (a) *this Act other than those referred to in section 5.43; or*
 - (b) *the Planning and Development Act 2005 section 214(2), (3) or (5).*

* Absolute majority required.

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

[Section 5.42 amended by No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

Under Section 5.42 of the *Local Government Act 1995* (the Act), a local government may delegate to the Chief Executive Officer any of its powers or the discharge of any of its duties under the *Local Government Act 1995*, other than those prescribed under Section 5.43 and any of its duties under the *Planning and Development Act 2005* Section 214(2), (3) or (5).

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,**are subject to any conditions imposed by the local government on its delegation to the CEO.*
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*

(5) *In subsections (3) and (4) —*

conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

(1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*

- (a) *a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*
- (b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*

(2) *Nothing in this Division is to be read as preventing —*

- (a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
- (b) *a CEO from performing any of his or her functions by acting through another person.*

Sections 5.74 to 5.76 of the Act require that an employee whom a duty of power has been delegated under the Act must lodge an Annual Return by 31 August each year.

2.7. Role of council

(1) *The council —*

- (a) *governs the local government's affairs; and*
- (b) *is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to —*

- (a) *oversee the allocation of the local government's finances and resources; and*
- (b) *determine the local government's policies.*

Local Government (Financial Management) Regulations 1996, Regulation 13

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(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.*

(2) *A list of accounts for approval to be paid is to be prepared each month showing —*

- (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name; and*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction; and*
- (b) *the date of the meeting of the council to which the list is to be presented.*

(3) *A list prepared under subregulation (1) or (2) is to be — (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and (b) recorded in the minutes of that meeting.*

Risk Related

Delegations and policies have an impact on financial processes. Payments not processed in a timely manner could result in damage to the Shire's reputation.

There could also be a perceived financial risk given that the recommendation is to expand the number of officers that can authorise payments from Shire funds. However, it can be noted that officers are unable to make payments solely, in accordance with Shire policy. Furthermore, the compliance requirements outlined in Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, mitigates this risk.

As and when delegations are amended, it is recommended the associated policies are reviewed also. Failure to do so could result in non-compliance with Shire policies.

Workforce

Where an officer is delegated or sub-delegated authority, he/she is required to complete a primary and annual return in accordance with Sections 5.75 and 5.76 of the *Local Government Act 1995*.

VOTING REQUIREMENTS

Absolute Majority: Yes

**RESOLUTION
130520****Moved: Cr Pam Heaton****Seconded: Cr Kevin Trent****That Council:**

- 1. Adopts the amended Delegation DE3-1 Authority to Make Payments from Trust and Municipal funds as attached at Appendix 1 to this report.**
- 2. Adopts the amended Policy F1.5 Authority to Make Payments from Trust and Municipal funds as attached at Appendix 2 to this report.**

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY074-05/20 REVIEW OF CASH RESERVE FUNDS

File Number:	FI.BUD.2021
Author:	Tabitha Bateman, Finance Manager
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not Applicable
Appendices:	1. Review of Shire Reserve Funds

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive
Legislative

PURPOSE OF REPORT

The purpose of this report is to review existing Council reserve accounts and to identify potential sources of funding from those accounts, to be made available during the COVID-19 recovery period if required, in preparation of the 2020/21 Annual Budget.

BACKGROUND

On 9 April 2020, the *Local Government Regulations Amendment Regulations 2020* were gazetted. The regulations amended three sets of regulations including how a local government deals with the use of Reserve Funds. The purpose of these amendments is to increase the flexibility of a local government to respond to the COVID-19 pandemic.

Regulation 18 of the *Local Government (Financial Management) Regulations 1996* contains exemptions from the requirement for a local government to give local public notice of a change of 'use of money' set aside in a Reserve Account (this currently requires one month's public notice). During a state of emergency in a local government district, a further exemption is being provided to allow the local government to change the 'use of money' required to address a need arising from the hazard or from the impact or consequences of the hazard to which the state of emergency declaration relates. This decision, and the reasons for it, must be recorded in the formal minutes of the council.

Use of reserve funds forms part of the annual budget which is expected to be presented for Council's consideration on 14 July 2020.

COMMENTS AND DETAILS

On 11 March 2020, the World Health Organisation declared the COVID-19 virus a Pandemic. Following this, the State Government declared a State of Emergency for Western Australia. The Federal and State governments have responded with various measures which have had significant financial impacts on the Shire, local businesses and the wider community. Officers have considered this in the development of the draft budget, in particular, recovery measures, to alleviate some of the financial pressures experienced as a result of COVID-19.

At the Special Council Meeting held 21 April 2020, Council resolved the following (*Res 020420*);

That Council requests the Chief Executive Officer to implement the following actions in response to the COVID-19 State of Emergency:

- 1. Halt the accrual of penalty interest charges relating to rates and charges effective from 1 April 2020.*

2. *Review the Shire's reserves with a view to re-purposing funds to projects that will contribute to the local economy and present a report to the May Ordinary Council Meeting if re-purposing is contemplated.*
3. *Undertake a detailed review of the impacts of COVID-19 as part of the 3rd quarter Finance and Costing Review and present a report to the Audit Committee and to the May Ordinary Council Meeting.*
4. *Develop the 2020/21 draft budget with consideration for:*
 - a. *no increase to the rate in the dollar;*
 - b. *identification of funds that could be used to provide grant funding to businesses and community groups;*
 - c. *review of fees and charges to identify possible reductions or waivers;*
 - d. *review of reserves with a view to re-purposing funds to projects that will contribute to the local economy;*
 - e. *no interest or administration fees to be charged on rates and service charges;*
 - f. *the effects of relaxed debt recovery and compliance follow-up;*
 - g. *potential borrowings required to fund capital works projects;*
 - h. *review of staffing and leave accruals to ensure the structure meets organisational needs.*

The Shire holds a number of reserve accounts which are for specific projects or purposes identified by the Council. There are currently seven reserves with a value of less than \$10,000, many of which are no longer relevant and could potentially be repurposed. Details of the Shire's current reserves are provided within Appendix 1.

Following a review of reserve accounts, officers are proposing use of the reserves in a two-staged approach with an end result of closing nine of the twenty-four reserves. These funds would potentially be transferred to the existing Disaster Reserve for the purpose of meeting expenditure associated with COVID-19.

Stage One - \$113,137

The following reserves were identified for repurposing immediately;

- Town Planning Reserve \$7,376 – closure of this Reserve is recommended due to the low value of funds held. Additionally, the most recent review was funded from municipal funds and likewise future planning reviews will be allocated in the Long Term Financial Plan as an operational expense.
- Public Open Space Reserve \$447 – public open space funds received as part of a planning development are required to be held in Trust. Closure of this reserve is recommended due to the insignificant value. Furthermore, there are currently no plans in the LTFP to build up this reserve. Any expansion or development of open spaces would be funded in consultation with the community.
- Community Bus Reserve \$86,377 – the purpose of this reserve is to fund the purchase of a new community bus if and when required by transferring the operational surplus in any given year. Due to the nominal proceeds received from use of the bus, it is proposed that any future purchase is funded by the Plant Replacement Reserve and grant funds.
- Archives Reserve \$6,980 – future construction of an archives building could be funded from municipal funds or the building reserve in future years if and when required.
- Water Supply Reserve \$6,778 – records show funds were held in reserve following restructure of Loan 60 in 2000/01. The loan was paid in full in 2015/16. Funds are no longer required for this purpose and therefore it is proposed to transfer funds to the Disaster Reserve.

- Cemetery Reserve \$5,179 – it is anticipated that future renewals for the existing site can be funded from municipal and potentially, grant funds. The development of a new site could be funded from Reserve 50 - Land and Infrastructure if and when required.

Stage Two - \$230,467

The following reserves were identified for repurposing if and when the need arises;

- Forrest Oval Lights and Synthetic Surfaces Reserves (Bowls and Tennis) - balance \$30,467 – these three reserves were created following the development of the Forrest Oval Precinct. It is proposed that future renewals be funded in the Long Term Financial Plan based on information from the Asset Management Plans. The basis for transfer to reserve each year was linked to the income received for the use of these assets. However, the amounts transferred to this reserve annually and held for future renewals could be considered almost insignificant in relation to capital costs.
- Plant Replacement Reserve – balance \$693,849. Given the significant value of this reserve, officers are recommending that \$50,000 could be made available to support COVID-19 response measures if required and still respond to any emergencies arising in relation to plant replacement. It should be noted though, that depending on Council's decision, this reserve may also be required to fund future replacement of the Community Bus.
- Roads Reserve – Considering the development of Asset Management Plans and detailed capital works programmes moving forward, approximately \$150,000 could be made available targeted at supporting future road stimulus projects related to COVID-19 recovery.

The intended purposes for funds transferred from the above accounts to the Disaster Reserve include, but are not limited to;

- Additional expenditure due to COVID-19
- Support for ongoing community services, local businesses and the community in general
- Additional unbudgeted employee costs due to COVID-19
- Funding support for future stimulus projects
- Additional equipment costs to ensure the Shire can respond to issues arising as a result of COVID-19

OPTIONS

Council could choose not to accept or to vary the officer's recommendation. Reserves were reviewed however, to identify possible repurposing to assist with COVID-19 recovery measures in accordance with Council Resolution 020420.

Option 1

Council could choose not to repurpose Reserves and instead, fund all COVID-19 response measures from Municipal Funds. However, this may impinge on the Shire's ability to meet operational needs within the 2020/21 financial year.

Option 2

Council could choose not to repurpose Reserves at this time and wait until the impacts of COVID-19 and the recovery period are fully realised, and determine at that point, use of reserve funds for recovery. The repurposing of reserves could be undertaken with the preparation of the annual budget. Given that the budget is expected to be presented to Council on 14 July 2020, recovery funds may be required prior to adoption of the annual budget.

Option 3

Council could choose to repurpose more reserve funds for COVID-19 recovery, however officers have taken a conservative approach to repurposing reserves due to the uncertainties around the recovery process at the present time.

Option 4

Council could choose to accept the officer recommendation, noting the staged approach to the review. In the event additional funds are required, stage two of the review could be activated whereby reserve funds are allocated to support stimulus projects.

Option 4 is the preferred option.

IMPLICATIONS TO CONSIDER**Consultative**

State and Federal Government

WALGA

Department of Local Government

Strategic

Strong and Effective Leadership

5.3 A financially sustainable Shire

Financial

The draft budget is prepared with consideration for Reserves. The financial implications will vary depending on which option Council chooses.

To date, officers have investigated and costed a number of options with a view to supporting the community through the COVID-19 pandemic and into the recovery stages totaling in excess of \$1,000,000. It should be noted that prior to taking effect, the actions detailed within the table below will require Council's consideration within the 2020/21 budget and adoption by absolute majority.

Action	Value estimate
Halting of Interest Charges in the 2020/21 annual budget	100,000
Foregone rates increase for consideration in 2020/21 budget	176,000
No CPI increase to 2020/21 Schedule of Fees and Charges	13,000
Suspend rates non-payment interest for the remainder of 2019/20	22,600
Not charge instalment interest 2020/21	24,000
Not charge instalment administration fee 2020/21	19,500
Fee waivers proposed in line with Schedule of Fees and Charges for 2020/21	37,000
Stage One of Reserves Repurposing	113,137
Stage Two of Reserves Repurposing	230,467
Consideration to carry forward funds for community events & funding pools	100,000
Value of consideration of COVID-19 recovery measures to date	835,704

In addition to the above, at the Special Council Meeting held 21 April 2020, Council resolved to adopt a Hardship Policy to further support the community in relation to payment of rates and charges. At the same meeting, Council adopted the Shire's Business Continuity Plan which included a commitment to provide up to 20 days of Special COVID-19 Leave at a cost of \$252,000 if required.

Legal and Statutory

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Local Government Regulations Amendment Regulations 2020

Risk Related

There is a risk that the reserve funding amounts proposed to be used for COVID-19 recovery measures could be too much or not enough. This is due to the difficulty in understanding the final impacts of the pandemic.

The financial implications of the recommendations of this report and those of the Council Resolution 020420, will impact the Shire's financial position, however, will be considered in the preparation of the annual budget for 2020/21.

Workforce

This report will have no material impact on the workforce.

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION

140520

Moved: Cr Kevin Trent

Seconded: Cr Denis Warnick

That Council:

- 1. Notes the review of Shire reserve accounts as detailed in Appendix 1.**
- 2. Approves Stage 1 of the review to transfer balances to the Disaster Reserve and subsequent closure of the following reserve accounts totalling \$113,137;**

a) Town Planning Reserve	\$ 7,376
b) Public Open Space Reserve	\$ 447
c) Community Bus Reserve	\$ 86,377
d) Archives Reserve	\$ 6,980
e) Water Supply Reserve	\$ 6,778
f) Cemetery Reserve	\$ 5,179

- 3. Notes that Stage 2 of the COVID-19 recovery process could utilise funds from the following reserves, if and when required;**

a) Forrest Oval Lights Reserve	\$ 6,401
b) Bowls Synthetic Surface Reserve	\$ 19,924
c) Tennis Synthetic Surface Reserve	\$ 4,142
d) Plant Replacement Reserve	\$ 50,000
e) Roads Reserve	\$ 150,000

- 4. Authorises the Chief Executive Officer to draw on funds held in the Disaster Reserve prior to adoption of the 2020/21 Annual Budget if required for COVID-19 recovery.**

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY075-05/20 FINANCIAL REPORT FOR APRIL 2020

File Number:	FI.FRP
Author:	Tabitha Bateman, Finance Manager
Authoriser:	Suzie Haslehurst, Executive Manager, Corporate & Community Services
Previously before Council:	Not Applicable
Appendices:	<ol style="list-style-type: none">1. Monthly Financials - April 20202. Creditors Payments Listing - April 20203. Business Card Statement and Transaction Summary - March 2020

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 30 April 2020 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 30 April 2020
- List of Creditor Payments
- Business Card Statement and Transaction Summary

The following information provides balances for key financial areas for the Shire of York's financial position as at 30 April 2020;

Outstanding Rates and Services

The total outstanding rates balance at the end of April was \$1,285,131 compared to \$1,404,051 as at 31 March 2020.

Current Year	Properties	30/04/2020	%	Properties	30/04/2019	%
3 years and over	85	\$ 409,509.10	32%	67	\$ 377,204.29	28%
2 years and over	88	\$ 170,631.81	13%	9	\$ 202,350.82	15%
1 year and over	123	\$ 243,224.34	19%	138	\$ 251,949.89	19%
Total Prior Years outstanding		<u>\$ 823,365.25</u>	64%		<u>\$ 831,505.00</u>	63%
Current Rates	742	<u>\$ 461,766.00</u>	36%	695	<u>\$ 498,602.04</u>	37%
Total Rates Outstanding		<u>\$ 1,285,131.25</u>			<u>\$ 1,330,107.04</u>	

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

In addition to the option to enter into payment arrangements, Council's Hardship Policy was adopted at the Special Council meeting held 21 April 2020 in an effort to help alleviate financial difficulties brought about as a result of the COVID-19 pandemic.

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 30 April 2020 were \$275,784 compared to \$300,638 reported at 31 March 2020. During the month of April, the first milestone payment was claimed for the Skate Park Project totalling \$200,000.

The significant variance between years relates to a long outstanding debt written off by Council resolution in June 2019.

Current Year	30/04/2020	%	30/04/2019	%
90 days and over	\$38,014.70	14%	\$269,293.21	89%
60 days and over	\$12,581.80	5%	\$4,506.93	1%
30 days and over	\$58.70	0%	\$7,927.42	3%
Current	<u>\$225,128.84</u>	82%	<u>\$21,652.52</u>	7%
Total Debtors Outstanding	<u>\$275,784.04</u>		<u>\$303,380.08</u>	

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Not applicable

Strategic

Theme 5: Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

5.3 A financially sustainable Shire

5.4 Open and accountable systems

Policy Related

Policy F1.2 Procurement

Policy F1.6 Credit Cards

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

DE 3.1 Authority to make Payments from Trust and Municipal Funds

Financial

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

Legal and Statutory

Local Government Act 1995

6.10. *Financial Management Regulations may provide for —*

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

Local Government (Financial Management) Regulations 1996

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

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

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

(1A) *In this regulation —*

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

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) *budget estimates to the end of the month to which the statement relates; and*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*

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

Risk Related

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

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

**RESOLUTION
150520**

Moved: Cr Denis Warnick

Seconded: Cr Kevin Trent

That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 30 April 2020 as summarised below:

MUNICIPAL FUND	
Cheque Payments	0.00
Payroll Debits	187,237.92
Electronic Funds Payments	668,608.61
BPay Payments - Utilities	33,404.43
Payroll Debits - Superannuation	42,869.18
Bank Fees	1,208.84
Corporate Cards	234.74
Fuji Xerox Equipment Rental	236.62
Sub total - Municipal	934,564.84
TRUST FUND	
Electronic Funds Payments	2,994.97
Direct Debits Licensing	3,977.30
Sub total - Trust	6,972.27
TOTAL DISBURSEMENTS	941,537.11

CARRIED: 6/0

SY076-05/20 INVESTMENTS - APRIL 2020

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Legislative
- Review

PURPOSE OF REPORT

To report to Council the balance and distribution of investments held by the Shire of York as at 30 April 2020.

BACKGROUND

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

COMMENTS AND DETAILS

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

- a) Council's Investments as at 30 April 2020
- b) Application of Investment Funds
- c) Investment Performance

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Standard and Poor's Australia - Global ratings

Financial institutions

Strategic

Not applicable

Policy Related

Policy F1.4 *Investment*

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

Financial

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

Legal and Statutory

Local Government Act 1995

6.14. Power to invest

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

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

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

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

- (1) *In this regulation —*

authorised institution means —

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

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

- (d) *invest in bonds with a term to maturity of more than 3 years;*
- (e) *invest in a foreign currency.*

Risk Related

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

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

**RESOLUTION
160520**

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

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

CARRIED: 6/0

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Cr Kevin Trent – with regards to the budget papers issued at the recent Budget Workshop – with the advice subsequently received from the Commonwealth Government that we are to receive a total \$1,213,587 additional funding, will the budget be revised to include this amount of money.

Response provided by the Chief Executive Officer:

The forward payment amount of \$779,903 on next year's Financial Assistance Grant allocation and the additional \$433,684 from the new Local Road and Community Infrastructure Program will be included in the next draft of the budget and presented at the subsequent Budget Workshop.

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

Nil

13 MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the Meeting may be closed

RESOLUTION**170520****Moved: Cr Pam Heaton****Seconded: Cr Denis Warnick**

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:

SY077-05/20 - Confidential - Application for Rates Exemption - A5845

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

SY078-05/20 - Confidential - Application for Rates Exemption - A60661

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

SY079-05/20 - Confidential - Rates Exemption - A31220 & A30002

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

SY080-05/20 - Confidential - Write Off - Sundry Debtor 1176

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

CARRIED: 6/0

The Gallery left the meeting at 5.30pm and the doors were closed.

SY079-05/20 - CONFIDENTIAL - RATES EXEMPTION - A31220 & A30002

**RESOLUTION
200520**

Moved: Cr Pam Heaton

Seconded: Cr Stephen Muhleisen

That Council:

- 1. Grants a rates exemption for A30002, under Section 6.26 (2)(a)(i) of the Local Government Act 1995, with the exemption being applicable from 1 July 2020.**
- 2. Grants a rates exemption for A31220, under Section 6.26 (2)(a)(i) of the Local Government Act 1995, with the exemption being applicable from 1 July 2020.**
- 3. Notes that charges other than rates will still apply to both properties.**

CARRIED: 6/0

SY080-05/20 - CONFIDENTIAL - WRITE OFF - SUNDRY DEBTOR 1176

**RESOLUTION
210520**

Moved: Cr Kevin Trent

Seconded: Cr Denis Warnick

That Council approves the write off of \$2,295.90 for Sundry Debtor 1176.

CARRIED: 6/0

RESOLUTION**220520****Moved: Cr Kevin Trent****Seconded: Cr Pam Heaton****That Council opens the meeting to the public 5.35pm.****CARRIED: 6/0**

13.2 Public Reading of resolutions to be made public

As no-one from the Gallery returned to the meeting the Resolutions where not read out.

The Shire President noted that it was Suzie Haslehurst's last Ordinary Council meeting with the Shire of York. "On behalf of everyone at the meeting a special thank you – you have been very supportive of Councillors and staff during your time in York and an asset to the community. We wish you all the very best." Cr Warnick also added "that you have been very professional and will leave a positive mark on the town of York."

Suzie thanked Council for their good wishes. "Everyone has been very supportive and it has been amazing here in York and getting to know the community. I wish everyone the very best for the future."

14 CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 5.37pm.

The minutes were confirmed by the Council as a true and accurate record at the Council Meeting held on 30 June 2020.

SHIRE PRESIDENT