



CONFIRMED MINUTES

Ordinary Council Meeting Tuesday, 31 March 2020

Date: Tuesday, 31 March 2020

Time: 5.00pm

Location: E-Meeting

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**MINUTES OF SHIRE OF YORK
ORDINARY COUNCIL MEETING
HELD VIA E-MEETING
ON TUESDAY, 31 MARCH 2020 AT 5.00PM**

The York Shire Council acknowledges the traditional owners of the land on which the participants are attending this meeting.

1 OPENING

1.1 Declaration of Opening

Cr Denese Smythe, Shire President, declared the meeting open at 5.04pm.

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 – E-Meeting via Zoom Platform

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Nil

1.6 Declaration of Financial Interests

Nil

1.7 Disclosure of Interests that May Affect Impartiality

Cr Kevin Trent – SY041-03/20 – York Men's Shed – Amendment to Lease

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; Cr David Wallace*

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

Nil

2.5 Number of People in the Gallery at Commencement of Meeting

There was no-one in the Gallery at the commencement of the meeting as the meeting was held as an E-Meeting via Zoom.

3 QUESTIONS FROM PREVIOUS MEETINGS

3.1 Response to Previous Public Questions Taken on Notice

Mr Simon Saint

Question 1(c)

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

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

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

Response provided by the Executive Manager Corporate & Community Services:

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

- continued provision of high quality sporting and clubroom facilities for York's sporting community
- a venue that provides a family-friendly food and beverage option for the broader York community
- a model that limits competition with local businesses
- continued social benefits including health and well-being, social inclusion and positive engagement.

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

3.2 Response to Unasked Questions from the Previous Meeting

Nil

4 PUBLIC QUESTION TIME

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

6.7 Other procedures for question time for the public

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

Public Question Time Commenced at: 5.07pm.

As per the new regulations regarding electronic meetings the Shire of York will comply with Administration Regulation 14 E (3) by ensuring the Unconfirmed Minutes be made publicly available in accordance with Administration Regulation 13.

Council has provided a means to submit a question prior to the meeting as per Administration Regulation 14 E (4) (a), this was done via email to the list of people who ever requested notifications of Shire Of York business and advertised on the Shire of York website.

4.1 Written Questions – Current Agenda

Mr Simon Saint

Question 1:

At the last OCM I asked a question in relation to the lack of clarity in council recommendations/motions, in particular, that all recommendations/motions should be clear as to when they are done by. I notice that the SOY is now using “as soon as is practicable” (SY028-03/20 Peace Park Reserve Status) as a timeframe for when recommendations/motions are to be done by.

Can Council define what is meant by “as soon as is practicable”?

Response provided by the Shire President:

This question will be taken on notice

Question 2:

Fifteen years ago, discussions about the future of Peace Park were afoot. In March 2016, Council resolved to vest the park as a reserve, allaying community concern about the parks future. Four years later and this has not been done—why?

Response provided by the Shire President:

This question will be taken on notice

4.2 Public Question Time

Nil

As there were no further questions – Public Question Time concluded at: 5.09pm.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Cr David Wallace requested Leave of Absence from 6 April 2020 until 20 June 2020 inclusive.

MOTION

**RESOLUTION
020320**

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

That Council approves Leave of Absence for Cr David Wallace from 6 April 2020 until 20 June 2020 inclusive.

CARRIED: 7/0

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
030320**

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

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

CARRIED: 7/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Shire President Meetings – February 2020

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

9 OFFICER'S REPORTS

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

File Number: FI.FRP.6

Author: Tabitha Bateman, Finance Manager

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

Previously before Council: Not applicable

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Legislative

PURPOSE OF REPORT

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

BACKGROUND

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

COMMENTS AND DETAILS

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

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

Mid Year Budget Review 2019/20

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

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

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

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

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

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

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

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

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

- Road Maintenance – increase expenditure \$50,000

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

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

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

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

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

Risk Management Update as at 31 December 2019

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

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

Compliance Audit Return

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

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

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

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport & Cultural Industries

Moore Stephens

Office of the Auditor General

Strategic

Theme 5: Strong Leadership and Governance

5.3 A financially sustainable Shire

5.4 Open and accountable systems

Policy Related

CP1.5 *Compliance*

F1.3 *Significant Accounting Policies*

G4.6 *Risk Assessment and Management*

G4.7 *Internal Control*

Financial

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

Legal and Statutory

Local Government Act 1995, Part 7

Local Government (Audit) Regulations 1996

Risk Related

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

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION**040320****Moved: Cr David Wallace****Seconded: Cr Kevin Trent**

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

That Council:

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

CARRIED BY ABSOLUTE MAJORITY: 7/0

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

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Quasi – judicial.

PURPOSE OF REPORT

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

BACKGROUND

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

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

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

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

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

Development Plans are provided at Appendix 3.

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

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

COMMENTS AND DETAILS

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

Land Use

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

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

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

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

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

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

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

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

Development Standards

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

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

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

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

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

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

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

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

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

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

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

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

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

OPTIONS

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

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

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

Theme 2: A Leader in Cultural Heritage and Environment

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

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

Policy Related

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

Financial

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

Legal and Statutory

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

Risk Related

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

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

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

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

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

Advice Notes:

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

ALTERNATIVE MOTION**RESOLUTION****050320****Moved: Cr Denese Smythe****Seconded: Cr Stephen Muhleisen**

That Council approves the development application for Carport for Storage of Business Vehicles & Apiary Accessories at Lot 341 (33) Suburban Rd, York, subject to the following conditions:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the Shire.

Advice Notes

1. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
2. Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
3. If the applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

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

CARRIED: 7/0

Reason - The reason for the alternative motion was due to the business operating from the premises since the 1920s and there have been no complaints or objections to its operations. Council believes the carport will assist the applicant with maintaining his truck and apiary equipment and tidying the premises to improve the amenity of the land.

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

File Number: QU2.1613

Author: Carly Rundle, Senior Planner

Authoriser: William Nunn, Co-Ordinator Development Services

Previously before Council: Not Applicable.

Appendices:

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Quasi-judicial.

PURPOSE OF REPORT

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

BACKGROUND

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

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

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

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

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

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

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

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

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

COMMENTS AND DETAILS

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

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

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

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

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

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

OPTIONS

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

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

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

Theme 2: A Leader in Cultural Heritage and Environment

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

Policy Related

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

Financial

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

Legal and Statutory

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

Risk Related

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

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**060320****Moved: Cr Pam Heaton****Seconded: Cr Ashley Garratt**

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

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

(iv) Ensuring that visitors remain inside the property boundaries during their visit;

(v) Pedestrian access from car parking areas to canola locations.

(c) Details of a potable water supply being provided to the satisfaction of the Shire.

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

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

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

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

ADVICE NOTES:

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

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

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

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

In Favour: Crs Denese Smythe, Ashley Garratt and Pam Heaton

LOST 3/4

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

This item was withdrawn and will be managed under Delegation.

SY028-03/20 RESERVE STATUS OF PEACE PARK

This item was withdrawn and will be brought back to Council at a later date.

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

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| File Number: | AS.TEN.74 |
| Author: | Darren Wallace, Executive Manager, Infrastructure & Development Services |
| Authoriser: | Darren Wallace, Executive Manager, Infrastructure & Development Services |
| Previously before Council: | Not Applicable |
| Appendices: | 1. Tender Evaluation - Confidential |

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive.

PURPOSE OF REPORT

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

BACKGROUND

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

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

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

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

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

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

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

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

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

COMMENTS AND DETAILS

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

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

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

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

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

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

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

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

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

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

OPTIONS

Council can;

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

BUILDING RESILIENCE

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

Policy Related

Policy F 1.2 Procurement has been adhered to.

Financial

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

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

Legal and Statutory

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

Risk Related

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

SY030-03/20 CONTAINER DEPOSIT SCHEME REFUND POINT

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

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

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

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

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

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

COMMENTS AND DETAILS

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

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

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

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

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

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

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

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

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

Therefore, the Shire Depot is the preferred site.

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

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

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

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

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

Income (excluding the 10c refunded to customers).

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

Expenditure (excluding the 10c refunded to customers).

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

Bottom line

- Gives a profit of \$301.83.

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

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

OPTIONS

Council can;

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

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

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

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

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

Policy Related

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

Financial

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

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

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

Legal and Statutory

Nil

Risk Related

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

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION

080320

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

That Council:

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

CARRIED: 7/0

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

This item was withdrawn and will be brought back to Council at a later date.

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

This item was withdrawn and will be brought back to Council at a later date.

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

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

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

Authoriser: Chris Linnell, Chief Executive Officer

Previously before Council: OCM 29 April 2019

Appendices: Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

To provide Council with an update on the following properties:

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

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

BACKGROUND

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

"Resolution 090419

That Council:

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

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

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

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

COMMENTS AND DETAILS

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

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

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

OPTIONS

Council has a few options in relation to these properties.

Option 1

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

Option 2

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

Option 3

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

IMPLICATIONS TO CONSIDER

Consultative

Ray White Commercial

Strategic

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

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

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

Policy Related

F1.2 Procurement

Financial

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

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

The following costs have been incurred to date:

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

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

Legal and Statutory

Local Government Act 1995

3.58. Disposing of property

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

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

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

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

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

Risk Related

The Compliance Risk is Insignificant (1)

The Likelihood of Recurrence is Rare (1)

The overall Risk Rating is Low (1)

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION**090320****Moved: Cr Denis Warnick****Seconded: Cr Kevin Trent****That Council:**

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

In Favour: Crs Denis Warnick, Ashley Garratt, Pam Heaton, Stephen Muhleisen, Kevin Trent and David Wallace

CARRIED 6/1

SY034-03/20 NOONGAR STANDARD HERITAGE AGREEMENT - SOUTH WEST ABORIGINAL LAND & SEA COUNCIL AND SHIRE OF YORK

This item was withdrawn and will be brought back to Council at a later date

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

This item was withdrawn and will be brought back to Council at a later date.

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

This item was withdrawn and will be brought back to Council at a later date.

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

This item was withdrawn and will be brought back to Council at a later date.

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

This item was withdrawn and will be brought back to Council at a later date.

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

| | |
|-----------------------------------|--|
| File Number: | OR.CLR.2; OR.CMA.4 |
| Author: | Suzie Haslehurst, Executive Manager, Corporate & Community Services |
| Authoriser: | Suzie Haslehurst, Executive Manager, Corporate & Community Services |
| Previously before Council: | 28 January 2016 24 October 2016 25 February 2019 |
| Appendices: | 1. Marked Up Draft G1.2 Councillor Training and Continuing Professional Development |

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

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

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

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

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

COMMENTS AND DETAILS

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

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

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

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

- Minor wording changes to better reflect legislative requirements;

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

OPTIONS

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

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport and Cultural Industries

WA Local Government Association

Strategic

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

Policy Related

G1.2 *Councillors: Professional Development*

G4.8 *Legislative Compliance*

Financial

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

Legal and Statutory

Local Government Act 1995

5.126. Training for council members

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

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

5.127. Report on training

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

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

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

5.128. Policy for continuing professional development

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

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

Local Government (Administration) Regulations 1996

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

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

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

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

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

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

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

Risk Related

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

Workforce

There are no workforce implications resulting from the officer recommendation.

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION 100320

Moved: Cr Denis Warnick

Seconded: Cr Kevin Trent

That Council:

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

CARRIED BY ABSOLUTE MAJORITY: 7/0

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

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

BACKGROUND

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

Panels of Pre-Qualified Suppliers

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

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

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

COMMENTS AND DETAILS

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

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

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

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

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

OPTIONS

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

IMPLICATIONS TO CONSIDER

Consultative

Department of Local Government, Sport and Cultural Industries

WA Local Government Association

Strategic

Strong and Effective Leadership

5.1 Effective and informed governance and decision-making

Policy Related

F1.2 *Procurement*

G4.8 *Legislative Compliance*

Financial

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

Legal and Statutory

Local Government (Functions and General) Regulations 1996

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

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

Disclosure of Interest – Cr Kevin Trent – Impartial – I am a member of the Men’s Shed

Cr Trent read the Impartiality Declaration - ... With regard to York Men’s Shed Inc – Amendment to Lease the matter in Item SY041-03/20 I disclose that I have an association with the applicant (or person seeking a decision). The association is I am a member of the Men’s Shed. 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.

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

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

NATURE OF COUNCIL’S ROLE IN THE MATTER

Executive
Review

PURPOSE OF REPORT

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

BACKGROUND

Council at the Ordinary Council Meeting 29 July 2019 resolved:

Resolution 230719

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

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

This report addresses Point 1 of the Council Resolution.

COMMENTS AND DETAILS

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

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

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

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

Officers met with representatives from the York Men's Shed Inc on 16 September 2019 and identified matters that needed to be addressed. Following the meeting, additional correspondence was received from the York Men's Shed Inc, agreeing to the matters raised and providing further clarification.

A summary of the outcomes is provided below:

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

Map

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

Surrender Date

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

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

2. Deed of Variation

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

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

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

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

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

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

OPTIONS

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

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

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

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

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

Theme 5: Strong Leadership and Governance

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

Policy Related

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

Financial

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

Extra expenditure to consider in the current and future budgets:

- Cost of materials for dividing fence (Men's Shed will provide labour to erect the fence)
There are no funds allocated for the fence in the 2019/20 Budget.

- The Shire will need to provide for a new water meter or move the existing water meter when the need arises in the future. This cost may be reimbursed as part of the lease negotiations with any future community groups.
- Once the surrender date has expired, the Shire will be responsible for maintaining the land until such a time as a community group takes over a lease. Costs to be incorporated into future budgets would need to include firebreaks / slashing.

Legal and Statutory

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

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

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

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

Risk Related

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

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

Workforce

Nil.

VOTING REQUIREMENTS

Absolute Majority: Yes

RESOLUTION**120320****Moved: Cr Pam Heaton****Seconded: Cr David Wallace****That Council:**

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

CARRIED BY ABSOLUTE MAJORITY: 7/0

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

File Number: FI.DRS.3.1

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

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

Previously before Council: 25 February 2020

Appendices: 1. Summary of Payment Agreement Applications - Confidential

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

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

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

BACKGROUND

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

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

COMMENTS AND DETAILS

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

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

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

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

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

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

OPTIONS

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

IMPLICATIONS TO CONSIDER**Consultative**

Not Applicable

Strategic

Theme 5: Strong Leadership and Governance

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

Policy Related

F1.1 Revenue Collection

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

Financial

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

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

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

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

Risk Related

The Financial Risk is Minor (2).

The Likelihood of Recurrence is Possible (3).

The overall risk rating is Moderate (6).

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

The financial risk reduces as debts are paid.

Workforce

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

VOTING REQUIREMENTS

Absolute Majority: No

RESOLUTION

130320

Moved: Cr Kevin Trent

Seconded: Cr Ashley Garratt

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

CARRIED: 7/0

SY043-03/20 FINANCIAL REPORT FOR FEBRUARY 2020

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Legislative
- Review

PURPOSE OF REPORT

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

BACKGROUND

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

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

COMMENTS AND DETAILS

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

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

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

Outstanding Rates and Services

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

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

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

Outstanding Sundry Debtors

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

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

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Not applicable

Strategic

Theme 5: Strong and Effective Leadership

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

Policy Related

- Policy F1.2 Procurement
- Policy F1.6 Credit Cards

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

DE 3.1 Authority to make Payments from Trust and Municipal Funds

Financial

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

Legal and Statutory

Local Government Act 1995

6.10. *Financial Management Regulations may provide for —*

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

Local Government (Financial Management) Regulations 1996

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

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

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

(1A) *In this regulation —*

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

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

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

Risk Related

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

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

Items SY043-03/20 and SY044-03/20 were moved 'en bloc'

**RESOLUTION
140320**

Moved: Cr Denese Smythe

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 29 February 2020 as summarised below:

Feb-20

| MUNICIPAL FUND | AMOUNT |
|---------------------------------|---|
| Cheque Payments | 100,223.06 |
| Payroll Debits | 205,169.88 |
| Electronic Funds Payments | 591,391.71 |
| Payroll Debits - Superannuation | 42,888.45 |
| Bank Fees | 954.35 |
| Corporate Cards | - |
| Fuji Xerox Equipment Rental | 236.62 |
| Fire Messaging Service | 452.54 |
| Sub total - Municipal | 941,316.61 |
| | |
| TRUST FUND | |
| Electronic Funds Payments | 1,786.86 |
| Cheque Payments | - |
| Direct Debits Licensing | 129,266.00 |
| Sub total - Trust | 131,052.86 |
| | |
| TOTAL DISBURSEMENTS | 1,072,369.47 <i>CARRIED: 7/0</i> |

SY044-03/20 INVESTMENTS - FEBRUARY 2020

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

- Legislative
- Review

PURPOSE OF REPORT

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

BACKGROUND

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

COMMENTS AND DETAILS

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

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

OPTIONS

Not applicable

IMPLICATIONS TO CONSIDER**Consultative**

Standard and Poor's Australia - Global ratings
Financial institutions

Strategic

Not applicable

Policy Related

Policy F1.4 *Investment*
DE 3-2 Invest Money Held in Municipal and Trust Funds

Financial

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

Legal and Statutory

Local Government Act 1995

6.14. Power to invest

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

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

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

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

- (1) *In this regulation —*

authorised institution means —

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

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

(e) *invest in a foreign currency.*

Risk Related

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

Workforce

Not applicable

VOTING REQUIREMENTS

Absolute Majority: No

Items SY043-03/20 and SY044-03/20 were moved ‘en bloc’

**RESOLUTION
150320**

Moved: Cr Denese Smythe Seconded: Cr Kevin Trent

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

CARRIED: 7/0

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

13 MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the Meeting may be closed

RESOLUTION**160320****Moved: Cr Kevin Trent****Seconded: Cr Ashley Garratt**

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

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

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

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

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

CARRIED: 7/0

As the meeting was held as an E-Meeting there was no Gallery present. The doors were closed at 5.36pm.

SY045-03/20 - CONFIDENTIAL - REQUEST FOR WRITE OFF - RATES AND CHARGES

RECOMMENDATION

That Council, subject to evidence of property settlement or transfer;

1. Approves the write off of interest and legal costs on A60513, approximately \$33,396.67 plus any further accrued interest.
2. Requests the sum of \$37,047.02 be paid at settlement.

ALTERNATE MOTION

RESOLUTION

170320

Moved: Cr Ashley Garratt

Seconded: Cr Stephen Muhleisen

That Council, subject to evidence of property settlement or transfer;

1. **Approves the write off of rates and sundries on A60513, approximately \$53,310 plus any further accrued interest.**
2. **Requests the sum of \$20,000 to be paid at settlement.**

In Favour: Crs Denese Smythe, Ashley Garratt, Pam Heaton and Stephen Muhleisen

CARRIED 4/3

Reason: The applicant has made proactive efforts to reduce historical and present shire costs while suffering large private financial losses. The applicant is a key driver for tourism and community engagement and their strong ties and commitment to the town make them prime contenders for the write off process.

The Executive Manager Corporate and Community Services and the Executive Manager Infrastructure and Development Services left the meeting at 5.44pm and did not return to the meeting.

SY046-03/20 - CONFIDENTIAL - CHIEF EXECUTIVE OFFICER KEY PERFORMANCE INDICATORS FOR 2020/21

RESOLUTION

180320

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

That Council:

- 1. Endorses the KPI's as per Attachment 2 for the Chief Executive Officer's interim review and the full 2020/21 annual review.**
- 2. Schedules the interim review to be commenced by 1 June 2020 and completed by the June 2020 Ordinary Meeting of Council.**
- 3. Schedules the annual review to be commenced by February 2021 and completed by the March 2021 Ordinary Meeting of Council.**

CARRIED: 7/0

**RESOLUTION
190320**

Moved: Cr Kevin Trent

Seconded: Cr Pam Heaton

That Council re-opened the meeting 5.42pm.

CARRIED: 7/0

13.2 Public Reading of resolutions to be made public

Cr Ashley Garratt read the Resolution for the Alternate Motion for item SY045-03/20 - Confidential - Request for Write Off - Rates and Charges

Cr Denis Warnick read the Resolution for item SY046-03/20 -Confidential - Chief Executive Officer Key Performance Indicators for 2020/21

14 CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 5.52pm.

The minutes were confirmed by the Council as a true and accurate record at the Council Meeting held on 28 April 2020.

SHIRE PRESIDENT