



## NOTICE OF MEETING

Dear Councillors

I respectfully advise that the SPECIAL COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Monday, 5 September 2022, commencing at 5.00pm.

MEETING AGENDA ATTACHED

*Chris Linnell*

CHRIS LINNELL  
CHIEF EXECUTIVE OFFICER  
Date: 2 September 2022

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

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

## 1.3. Content and intent

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

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

## 2.7 The Role of Council

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

**Meetings generally open to the public**

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

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



## G 10 PUBLIC QUESTION TIME

### Policy Statement

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

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

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

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

Reviewed 24 October 2016





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**1 OPENING**

## 1.1 Declaration of Opening

## 1.2 Acknowledgement / Disclaimer

The Shire President advises the following:

*“The York Shire Council acknowledges the Ballardong people of the Noongar Nation who are the Traditional Owners of this country and recognise their continuing connection to land, water, sky and culture. We pay our respects to all these people and their Elders past, present and emerging.*

*This meeting is being recorded on a digital audio device to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of York Local Government (Council Meetings) Local Law 2016 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.*

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

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

## 1.3 Standing Orders

## 1.4 Announcement of Visitors

## 1.5 Declarations of Interest that Might Cause a Conflict

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

<b>Name</b>	<b>Item No &amp; Title</b>	<b>Nature of Interest (and extent, where appropriate)</b>

## 1.6 Declaration of Financial Interests

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

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

<b>Name</b>	<b>Item No &amp; Title</b>	<b>Nature of Interest (and extent, where appropriate)</b>


### 1.7 Disclosure of Interests that may affect Impartiality

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making process.

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

## 2 ATTENDANCE

2.1 Members

2.2 Staff

2.3 Apologies

2.4 Leave of Absence Previously Approved

*Cr Stephen Muhleisen - 22 August 2022 to 21 December 2022 inclusive (080822)*

2.5 Number of People in the Gallery at Commencement of Meeting

## 3 PUBLIC QUESTION TIME

Public Question Time is conducted in accordance with the *Local Government Act 1995* and Regulations. In addition to this the Shire's *Local Government (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.

3.1 Written Questions – Current Agenda

3.2 Public Question Time

#### **4 APPLICATIONS FOR LEAVE OF ABSENCE**

#### **5 PRESENTATIONS**

5.1 Petitions

5.2 Presentations

5.3 Deputations

5.4 Delegates' Reports

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

## 7 OFFICER'S REPORTS

### SY093-09/22 APPOINTMENT OF A SENIOR EMPLOYEE - ACTING EXECUTIVE MANAGER CORPORATE & COMMUNITY SERVICES

<b>File Number:</b>	<b>4.1367</b>
<b>Author:</b>	<b>Vanessa Green, Council &amp; Executive Support Officer</b>
<b>Authoriser:</b>	<b>Chris Linnell, Chief Executive Officer</b>
<b>Previously before Council:</b>	<b>Not Applicable</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Appendices:</b>	<b>Nil</b>

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

Executive

#### PURPOSE OF REPORT

This report presents a proposal for the appointment of an Acting Executive Manager Corporate & Community Services (A/EMCCS) to Council.

#### BACKGROUND

The Executive Manager Corporate & Community Services (EMCCS) will be on leave from circa 19 September 2022 returning on 2 November 2022. Due to the length of time the EMCCS will be away and to ensure the continued delivery of the Corporate & Community Services' functions it is recommended an A/EMCCS be appointed.

The EMCCS role is classified as a designated Senior Employee in accordance with Section 5.37 of the *Local Government Act 1995*, hence the Chief Executive Officer is to inform Council of each proposal to employ a Senior Employee.

#### COMMENTS AND DETAILS

The A/EMCCS will perform the functions and duties of the EMCCS for the period they are appointed. This includes the use of delegated authority and full oversight of the Corporate & Community Services teams and responsibilities.

It should be noted there may be a possible extension to the A/EMCCS appointment dates, depending on the return to work of the EMCCS.

The provision of accommodation and a vehicle will be included in the employment contract.

The Shire approached a number of people known to provide temporary employment services which identified that Mr Mark Dacombe was both available for the dates required, and suitably qualified to hold the position of A/EMCCS. Mr Dacombe is already familiar with the Shire of York enabling a seamless transition into the team.

#### OPTIONS

Council has the following options:

**Option 1:** Council could accept the appointment of Mr Mark Dacombe as A/EMCCS for the period circa Wednesday 14 September 2022 to Friday 4 November 2022 inclusive.

**Option 2:** Council could reject the appointment of Mr Mark Dacombe as A/EMCCS for the period circa Wednesday 14 September 2022 to Friday 4 November 2022 inclusive and provide its reason(s) for doing so.

Option 1 is the recommended option.

## IMPLICATIONS TO CONSIDER

### Consultative

Human Resources Consultants

Executive Leadership Team

WALGA Governance and Employee Relations Teams

### Strategic

#### Strategic Community Plan 2020-2030

Goal 5: Strong Leadership and Governance

To have effective and responsive leadership and governance, where a sense of collective purpose and shared direction combine to work together.

### Policy Related

F2 Procurement

G2 Organisational Structure and Designation of Senior Employees

### Financial

The salary payable to the A/EMCCS is within budget allocations.

### Legal and Statutory

Section 5.37 of the *Local Government Act 1995* is applicable and states:

#### **“5.37. Senior employees**

- (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*
- (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*
- (3) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*
- (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*
- (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.”*

### Risk Related

The risks relate to the ability to recruit appropriately skilled, experienced and qualified staff. Mr Dacombe is considered suitably qualified for the position and has many years' local government experience, including at the Shire of York (amongst others) as an Acting Chief Executive Officer in 2019.

**Workforce**

This temporary position is a Senior Officer.

**VOTING REQUIREMENTS**

**Absolute Majority: No**

**RECOMMENDATION**

**That, with regards to the Appointment of a Senior Employee - Acting Executive Manager Corporate & Community Services, in accordance with Section 5.37(2) of the *Local Government Act 1995*, Council:**

- 1. Accepts the recommendation from the Chief Executive Officer to appoint Mr Mark Dacombe as a Designated Senior Officer to the position of Acting Executive Manager Corporate & Community Services for the period circa Wednesday 14 September 2022 to Friday 4 November 2022 inclusive, noting an extension may be required.**

**8 CLOSURE**