



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 29 MAY, 2014
COMMENCING AT 4.04pm
IN THE LESSER HALL, YORK**

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SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON THURSDAY, 29 MAY 2014, COMMENCING AT
4.04PM IN THE LESSER HALL, YORK

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

1. OPENING

1.1 Declaration of Opening

Cr Matthew Reid, Shire President, declared the meeting open at 4.04pm.

I would like to acknowledge the Ballardong People, the Traditional Owners of the land on which we are gathered and pay my respects to their Elders both past and present.

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 Suspension of Standing Orders (undergoing the repeal process) – Clause 3.2 – Order of Business

Moved: _____ Seconded: _____ Carried:

1.4 Announcement of Visitors

*Matt Giraud, Consulting Hydrologist; Don Cummings, Department of Water;
Derek Host, Water Corporation*

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interest

Nil

Disclosure of Interest that May Affect Impartiality

Nil

2. ATTENDANCE

2.1 Members

*Cr Matthew Reid, Shire President; Cr Mark Duperouzel, Deputy Shire President
Cr Denese Smythe, Cr Tony Boyle, Cr David Wallace*

2.2 Staff

Michael Keeble, Chief Executive Officer; Tyhscha Cochrane, Deputy Chief Executive Officer; Jacky Jurmann, Manager of Planning Services; Graham Lantzke, Manager Works & Projects; Gordon Tester, Manager – Environmental Health & Building Services; Helen D’Arcy-Walker, Executive Support Officer; Esmeralda Harmer, Secretariat

2.3 Apologies

Cr Pat Hooper

2.4 Leave of Absence Previously Approved

Nil

2.5 Number of People in Gallery at Commencement of Meeting

There were 9 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice

Nil

4. PUBLIC QUESTION TIME

Cr Reid read the following statement at the commencement of Public Question Time:

Statement by the Presiding Member at the Opening of Public Question Time at Ordinary and Special Council Meetings

“Public Question Time is provided for under the provisions of Section 5.24 of the Local Government Act and the Local Government (Administration) Regulations 1996.

To provide equal opportunity for people to ask questions a limit of two (2) questions per person per time will be applied. If there is time available in Public Question Time people may be given the opportunity to ask a further two (2) questions at a time.

Procedures

- Questions submitted in writing prior to the meeting will be dealt with initially.
- Questions from the floor will be taken in the order recorded in a register.
- Statements, opinions and attachments will not be recorded in the minutes.
- Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting.
- Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.
- The minutes may only record a summary of the question asked and the response given.

- Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.
- At Special Council Meetings questions must relate to the items on the Agenda.
- Shire of York guidelines for Public Question Time are included on the meeting agenda.”

PRESIDING OFFICER

21 October 2013

4.1 Public Question Time – Written Questions – Current Agenda

Public Question Time commenced at 4.08pm

Mr Michael York

Question:

Is Council aware that there is a mistake in Officer's Report 9.2.2 relating to the sub-lease of the premises to Mr & Mrs Grimshaw?

Response:

Referring to the officer's report under background there is no problem with the sublease. The signed agreement to sublet the premises needs to be lodged with LandGate by Mr & Mrs York.

4.2 Public Question Time

Mr Simon Saint

Question 1:

Is there a legal requirement to cover the veranda and lift access?

Response:

As previously discussed with Mr Saint the building code is quite clear however the disability discrimination act is subjective.

As an example, if I was to arrive with a friend in a wheelchair to the Town Hall, I could gain access through the front door and then via the internal stairs accessing the upper floor gallery and be totally sheltered throughout this process.

My friend in the wheelchair however, whilst waiting for the lift would be subject to being affected by exposure to external elements causing unfair justice and loss of dignity to gain access to the same areas as an able bodied person.

Question 2:

Is it Law, code or regulation?

Response:

You can build a building to comply with the Building Code and still be in breach of the Disability Discrimination Act as mentioned in the response to Mr Saint's first question.

Question 3:

Has there been any complaints regarding access to the Town hall?

Response:

None recorded or to Council's knowledge.

Mrs Roma Paton

Question 1:

Why did the Shire not apply for funding for this when the lift was installed?

Response:

I believe this matter has been of interest to Council for a number of years and we look to improve the processes moving forward.

Public Question Time was declared closed by the Shire President at 4.20pm.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Nil

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9. OFFICER'S REPORTS

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Town Hall Shelter Report

FILE NO: CCP.1/CCP.1.2 & B31320
COUNCIL DATE: 29 May 2014
REPORT DATE: 27 May 2014
LOCATION/ADDRESS: Lot 400, 81 Avon Terrace – Town Hall
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble - CEO
AUTHOR: Gordon Tester - MHB & CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Submission – York Society
Submission – Simon Saint
Submission – Robin Betjeman
DOCUMENTS TABLED: Transparent Roof Sheeting Specifications
REPORT APPROVED BY THE CEO: *Michael Keeble*

Summary:

The York Town Hall Shelter development is presented to Council for further consideration to approve the project, having received further information in the form of a submission from the York Society and technical details on the proposed transparent roof sheeting for the domed section of the upper floor verandah roof.

Background:

The project consists of the provision of metal framed and clad shelters to the upper storey landing extending the full length of the verandah, an awning over the lower entrance door to the lift and a shelter above the seat and drinking fountain at the side of the stairs.

This project was considered by Council in the 2013 – 2014 budget and approved for construction.

The project was forwarded to the State Heritage Office who subsequently approved the concept as indicated in correspondence dated 20 February 2014 attached to this report.

Outdoor World (suppliers of Bowling Shelters at Forrest Oval) were subsequently contracted to undertake the required works.

A memorandum was forwarded to all Councillors advising them of the estimated construction commencement in May 2014 on 21 March 2014 which also briefly outlined what the proposed installation consisted of as attached to this report.

At Council's Ordinary meeting held on 19 May 2014 Council considered item 9.5.1 under Late Reports – Town Hall Shelter Report and after due consideration of this matter resolved as follows ;

“That Council:

- 1. Consult relevant community groups regarding the Town Hall Shelter project, as approved by the State Heritage Office inviting submissions within (7) seven days from the date of the request; and***
- 2. Call a Special Council meeting at a date to be determined by the Shire President for Council to consider any submissions received prior to reconsidering this project.”***

Consultation:

A detailed submission has been received from the York Society as attached to this report.

The York Society have indicated in their submission that they strongly support the replacement of the solid metal roof over the dome structure with a suitable transparent roof cladding which would maximise the amount of natural light available to illuminate the existing stained glass windows.

A submission has been received from Simon Saint informing Council they are about to spend \$19,000.00 on the Town Hall Shelter project and enquiring as to whether or not any complaints had been received about the lack of shelter in this area.

Mr Saint suggests spending money on YRCC maintenance would be more productive.

A submission has been received from Robin Betjeman outlining various concerns regarding the natural light being restricted from illuminating the stain glass windows and requesting that a reasonable solution be implemented to overcome this problem.

Statutory Environment:

Heritage Act of Australia 1990
Planning and Development Act 2005
Building Act 2012

Policy Implications:

Heritage matters have been attended to by consulting with the State Heritage Office.

The York Society have also been consulted regarding Heritage matters.

Financial Implications:

Council's budget allocation for this project is \$25,000.00 with the project contracted at \$18,943.00.

Strategic Implications:

It is one of Council's strategies to improve the quality of its assets by upgrading and maintaining its infrastructure.

Voting Requirements:

Simple Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

Two additional costs will be incurred consisting of \$534.60 inc GST for the extra hire time on the scaffolding and upgrading the domed section of the verandah roof sheeting to lexan twinwall at a cost of \$886.60inc GST.

Social Implications:

It is an objective of Council to ensure access to services as needs change within the community with a priority to facilitate community safety and wellbeing. For example this project will provide sheltered access to residents wishing to access Council’s facilities.

Environmental Implications:

Local Authorities are encouraged to provide shade where possible to their outdoor facilities to help prevent the risk of skin cancers.

Comment:

There are several reasons this project has been undertaken.

The seat at the base of the stairs along with the adjacent water fountain becomes unusable in the summer months due to the metal seat being placed in direct sunlight, hence the need for a shelter.

The awning over the lower entrance door to the lift is to be installed for two reasons one to protect users of the lift accessing the lift in inclement weather and to protect the electrical circuits from rain that may enter the external lift control mechanism.

The upper level awning serves several purposes, to protect 100 year old woodwork and brickwork from the elements and to prevent driven rain from entering the gallery through the recently restored exit doors opposite the lift.

It is also a building requirement that access routes for the disabled incorporated as part of the building should be sheltered where possible.

The curved design of the upper level verandah roof is to accommodate the unimpeded viewing of the existing stained glass window above the door.

As indicated in the submission from the York Society and Robin Betjeman, it is important that natural light illuminating the stained glass windows when viewed from inside the hall at the base of the stairs, be minimally impaired.

It is for this reason that it is recommended that the domed portion of the upper level verandah roof be clad with clear roof cladding.

**RESOLUTION
350514**

Moved: Cr Boyle

Seconded: Cr Duperouzel

“That Council:

Advise the builder to recommence the Town Hall Shelter project and,

Delete the metal roof cladding planned to be installed on the domed section of the verandah roof and substitute clear roof cladding on the domed section of the upper level verandah roof.

Agree to the cost variations for the extended hire time on the scaffolding and the substitution of clear roof sheeting on the domed section of the upper floor verandah roof totalling \$1421.20 inc GST.”

CARRIED: 4/1

Cr Smythe was recorded as voting against this motion.

Item 9.2.1 - Appendices

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Yoriky's Coffee Carriage - Lease

FILE NO: CCP.19
COUNCIL DATE: 29 May 2014
REPORT DATE: 27 May 2014
LOCATION/ADDRESS: Reserve Lot 588 Deposited Plan 190244
APPLICANT: Grimshaw/York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE CEO: *Michael Keeble*

Summary:

That Council shows its support to Mr Grimshaw that Yorkies Coffee Carriage changes hands, subject to advice from the Department of Lands regarding the need to terminate / cancel / transfer and reissue a lease with the Council in accordance with the Lands Administration Act, whereby Section 18 of the Act needs to be complied with ie. Minister to be indemnified against all cost and claims and the Minister's endorsement for the lease to be transferred.

Background:

A lease exists between the current Lessee and the Council, which has all been appropriately lodged. It would appear from Council's records that there is no signed agreement to sub-let the premises to Mr and Mrs Grimshaw.

The carriage was subject to a fire some months ago and the business has been closed ever since.

Mr Grimshaw is keen to get the premises up and running and has requested Council to support his request to take over the lease.

Consultation:

Mr W Grimshaw
Mr M York
Mr A Granich – Granich Partners

Statutory Environment:

Land Administration Act:

18. Crown land transactions that need Minister's approval

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.
- (2) A person must not without authorisation under subsection (7) —
 - (a) grant a lease or licence under this Act, or a licence under the *Local Government Act 1995*, in respect of Crown land in a managed reserve; or
 - (b) being the holder of such a lease or licence, grant a sublease or sublicense in respect of the whole or any part of that Crown land.
- (3) A person must not without authorisation under subsection (7) mortgage a lease of Crown land.

- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.
- (5) The Minister may, before giving approval under this section, in writing require —
 - (a) an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and
 - (b) information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.
- (6) An act done in contravention of subsection (1), (2), (3) or (4) is void.
- (7) A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —
 - (a) with the prior approval in writing of the Minister; or
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.
- (8) This section does not apply to a transaction relating to an interest in Crown land if —
 - (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act; or
 - (b) that interest may be created, granted, transferred or otherwise dealt with under an Act other than —
 - (i) this Act; or
 - (ii) a prescribed Act;
 or
 - (c) an agreement, ratified or approved by another Act, has the effect that consent to the transaction was not required under section 143 of the repealed Act; or
 - (d) the transaction is a lease, sublease or licence and the approval of the Minister is not required under section 46(3b).

Local Government Act:

3.58. Disposing of property

- (1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (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.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

Policy Implications:

Not applicable.

Financial Implications:

Council will not be responsible for any costs associated with this transaction.

Strategic Implications:

Voting Requirements:

Simple Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes – Environmental Health Officer

Triple bottom Line Assessment:

Economic Implications:

Tourism is a significant component of the local economy, with Yorky's Coffee Carriage providing a popular tourist facility that compliments the infrastructure developed at Avon Park by the Council.

Social Implications:

York's Coffee Carriage has proven to be a popular eating establishment, for both residents and visitors to York alike, and contributes to the social diversity of the town.

Environmental Implications:

Not applicable to this report.

Officers Comment:

The Officer's recommendation is to support the sale of the business, however it would be subject to the termination/cancellation of the current lease and at the applicant's cost.

RESOLUTION

360514

Moved: Cr Boyle

Seconded: Cr Wallace

"That Council:

- 1. supports the current lease agreement being terminated/cancelled and re-issued for Lot 588 Deposited Plan 190244 to enable the potential new Lessees to operate Yorky's Coffee Carriage subject to compliance with advice from the Department of Lands and Minister's endorsement for the proposal and in accordance with Section 18 of the Land Administration Act; and***
- 2. requests legal advice on the proposed new lease and that these costs be recoverable from the Lessee in accordance with Section 15.4 of the existing lease agreement."***

CARRIED: 5/0

9.3 Works Reports

9. OFFICERS REPORTS
9.3 WORKS REPORTS
9.3.1 Town Secondary Water Supply Dam Health and Safety Issue

FILE NO: TBA
COUNCIL DATE: 19 May 2014
REPORT DATE: 8 May 2014
LOCATION/ADDRESS: Corner Ulster and Trews Road, York
APPLICANT: not applicable
SENIOR OFFICER: Works Manager, Graham Lantzke
AUTHOR: Works Manager, Graham Lantzke
DISCLOSURE OF INTEREST: No
APPENDICES: Nil
DOCUMENTS TABLED: Consultant's Report
Agreement with Water Corporation

REPORT APPROVED BY THE CEO: *Michael Keeble*

This report has been re-submitted to Council as a presentation will be undertaken by Matt Giraud, Consulting Hydrologist for additional information to Councillors.

Summary:

The Town irrigation water supply dam may overflow this winter due to a combination of stored irrigation water and storm floods. Because the dam contains tertiary treated wastewater effluent this would constitute a breach of Council's water reuse license, Health Department Regulations and environmental pollution regulations. Steps to urgently reduce the risk of overflow are recommended

Background:

Approximately fifteen (15) years ago the Shire of York and the Water Corporation entered into an agreement to reuse treated wastewater as irrigation water on Forrest Oval and associated grounds. Infrastructure to implement this agreement was constructed by the Shire and Water Corporation and the scheme operated for around 14 years.

The operation involved tertiary treated wastewater being pumped from the Water Corporation treatment plant on the Northam Cranbrook Road to an irrigation dam ("Town Dam") owned by the Shire near the intersection of Ulster Road and Trews Road. From there the water was discharged as required to irrigation pump station on Forrest Oval and used to water the Oval and Old Hockey Field.

This remains fairly standard practice around the Wheatbelt, with water conservation and financial benefits to both the Shire and Water Corporation.

The Town dam also has a flood mitigation role being located on a significant water course which ultimately runs from the hills west of York past the dam, through private properties near South Street, under the rail line, through Joanna Whitely Park and the historical pharmacy under Avon Terrace and discharges to the Avon River.

Currently the dam provides an estimated attenuation of peak storms in the order of the 5-10 year Average Recurrence Interval Event. Best estimate and anecdotal evidence suggest the dam has stored flood surges and tempered storm flows approximately 9 times in the last 15 years. If the dam is closed or water level modified it will not perform this role of flood mitigation, with unknown negative downstream consequences.

Sometime in the years leading to 2012 the Town dam became saline without being noticed and this contributed to the deterioration of turf on Forrest Oval and to a lesser extent deterioration of the old Hockey Field. That issue is discussed in a separate report.

Initially it was presumed that the salinity was caused by Water Corporation discharge but this has subsequently been investigated and is not the case. The most likely cause of the salinity is salt encroachment in the upstream catchment. However direct contamination of the dam or saline groundwater infiltration has not been ruled out.

From May 2013 when this was identified the Shire shifted to using mains water to irrigate the oval and hockey fields with a cost of around \$30,000 per annum in water usage. During this time the Shire continued to receive treated effluent into the dam.

Around that time the Shire also began investigation into alternative water supply options including obtaining grant funding for construction of a new small supply and runoff capture dam between the railway, oval and hockey field.

In parallel with this Shire officers commenced investigation of options to rehabilitate and improve the Town dam with the intention this become a budgeted project on the 2014/15 financial year. This work was unfunded and not initially seen as a priority.

Also around July 2013 the Shire was approached by the Water Corporation requesting to renew the, by then expired, legal agreement to receive treated secondary water. The Water Corporation were planning a major upgrade of their system and were dealing with increasing volume of wastewater and needed to increase their discharge.

Discussions with Water Corporation commenced in earnest in February 2014 with the initial intention of securing an irrigation water supply for the Shire. However through discussions in late March 2014 it became apparent that the existing secondary water supply arrangement was flawed because the receiving dam was also a stormwater management dam, which routinely overflowed to the environment. This was not consistent with current health and environmental practice.

The Shire immediately appointed a consultant to investigate the severity of the issue and the draft consultant's report was circulated to agencies for review in mid April 2014. The Water Corporation and Shire held a joint meeting on 15 April 2014 at which the matter was discussed.

In summary the Water Corporation and Shire are facing the prospect that if no action was taken

- a) The town dam will likely overflow around August 2014
- b) That overflow would be a breach of the Water Corporation operating license and the Shire agreement with the Water Corporation;
- c) That overflow would represent a public health risk
- d) That overflow would represent a pollution of the Avon River
- e) That overflow would create public concern
- f) That the Shire can not increase the capacity of the dam without reducing the flood mitigation role of the dam placing downstream properties at risk.

- g) That if the Water Corporation cease pumping they face a medium term risk and expectation their wastewater treatment plant would overflow with the same consequences, albeit in a less sensitive location and with a significantly reduced public health concern.
- h) That even if the Water Corporation cease pumping there remains a risk in a very wet winter or severe storm the town dam could overflow.

Historically the dam has overflowed before but no parties were aware of the significance.

The Shire immediately issued a notice to the Water Corporation to cease delivery of treated wastewater. The Water Corporation has ceased delivering wastewater. The Shire and Water Corporation agreed to continue to explore options together.

The Shire continues to investigate treatment options which are discussed below.

Consultation:

This issue has been extensively and confidentially discussed with the Water Corporation.

The Water Corporation has notified the Health Department and Department of Environmental Regulation about the risk and the Shire needs to follow up with a more detailed notice including the specific details of the risk and our intended actions to deal with it.

The Water Corporation are separately working on a solution to the problem at their end but would appreciate any assistance from the Shire, including the possibility of resuming pumping.

The matter has also been confidentially raised with the Wheatbelt NRM who is funding the development of the new dam project which is impacted by these discussions.

Statutory Environment:

This matter is affected by various provisions of the Public Health Act; The Environmental Protection Act; and the Water Supply Act.

Briefly the Water Corporation manages wastewater from the Shire of York under a license. The Shire is not privy to the full details of that license but stakeholders to it include the EPA, Department of Environmental Regulation, Health Department, Office of Economic Regulation and former Department of Water. That license sets out a whole range of matters including conditions of operation.

The Shire of York has a, now expired, legal agreement with the Water Corporation which allows the Water Corporation and Shire to use tertiary treated secondary water on the Forrest Oval Complex.

In the event of an unlicensed discharge not in accordance with the Water Corporation license there might be a public health risk. The Public Health Act would apply and the precise applicable clauses have not been researched at this time.

In the event of an unlicensed discharge to the Avon River this might be deemed to be environmental pollution under the Environmental Protection Act.

Policy Implications:

Nil

Financial Implications:

See discussion on options below.

There is no current budget but urgent works are required to be done to address the risk.

Strategic Implications:

A secondary water supply for York is not a formally identified Shire objective in the Shire Strategic Plan at this time.

However at a workshop in Cervantes Councillors identified it as a leading objective for the Shire Council.

Strategically the Shire needs to secure treated secondary water as a source for irrigation for financial and water conservation reasons. Access to mains water for irrigation purposes is likely to become more and more difficult and expensive in future years as Perth continues to grow but its water supplies do not change. Use of mains water on irrigation could possibly be banned, and some policy work by the Water Corporation right now on requiring water budgets and controlling irrigation use are likely related.

Voting Requirements:

Simple Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:**Economic Implications:**

Nil

Social Implications:

The real health risk to the public is assessed as minimal. Any discharge from the dam will involve tertiary treated wastewater which has been chlorinated leaving a relatively high water quality which is then further heavily diluted by stormwater runoff.

The principle issue would be any "health bugs" in the water but the water is treated with chlorine before entry to the dam and tests carried out by Water Corporation have not indicated any abnormal risks.

Public perception may not follow an impartial assessment and could be driven by emotion and perception.

Environmental Implications:

The real environmental harm risk is also likely to be quite low for similar reasons.

The principle risk to the environment is a high phosphorous load which could potentially cause algal blooms or other environmental harm. Given any discharge would be severely diluted the risk is low. However the environmental regulator might view matters differently.

Comment:

Proposed solutions

A number of options have been identified to deal with the potential overflow, three of which are unachievable in the required time frame.

Option	Comments	Order of cost ex GST
1. Discharge to Avon River. Treat the dam water to remove phosphorous and nutrients, discharge to the Avon River.	Any treatment for nutrients is experimental with unknown outcomes. Approvals will be required from multiple agencies and will	Not assessed Impracticable.
2. Discharge to ovals and grounds. Treat the water for salinity and discharge it as irrigation water on the oval and hockey fields.	This option is expensive and the sports fields can only take a limited amount of water.	Not assessed Impracticable.
3. Empty dam by tanker. Pump the dam dry and tanker the water to an approved disposal site.	Current advice is the water would need to be tinkered to an approved disposal site in Perth. The volume of water is estimated at 24,000,000 litres meaning around 400 semi trailer loads.	\$320,000 tankering costs plus approx \$50,000 tipping fees
4. Construct an emergency buffer dam. Earthwork the adjoining land owned by the Shire to construct an emergency overflow containment area with bund.	There are no impediments to this option, apart from cost.	\$40,000
5. Construct a new permanent dam. Identify a new site for an irrigation dam and construct a new facility.	A suitable site can not be immediately identified even if it is this option can't be constructed in time or with available funds	Unfeasible \$variable depending on size and location but in order of \$300,000+ Plus land costs
6. Do nothing.	High risk option. Likely overflow and risks of prosecution	Nil

Salt and Phosphorous

The water in the town dam can't be used for the irrigation on the oval because of the salt content and likely killing of the grass. There is some potential to use it on the hockey fields which have a better draining sand subgrade. The phosphorous in the water would be helpful to grass growth.

The level of salt in the water is not likely to be a concern for any discharge of water to the river. However the quantity of phosphorous would make getting a license to discharge problematic.

Health Risk

The water is treated to a tertiary standard and chlorinated. It is licensed by the Health Department for use on playing fields only. Tests have not identified any health issues.

Public Perception Risk

There is a high risk that members of the public will become concerned. Given the current levels of distrust in the Shire by some members of the public some form of public statement is required and full disclosure of all information is essential.

Flood Risk

The proposed action will not alter the flood risk to town properties and roads.

Liability Implications

Penalties under the Health Act and Environmental Protection Act are severe. If the Shire act in accordance with the recommendation and takes all due steps it is a low probability of the dam overflowing and if it does it would be unlikely the Shire would be prosecuted, based on historical precedent. If the Shire takes no action and allows the situation to develop unmanaged a prosecution could well be likely.

If the Shire takes actions which knowingly increase the risk of flooding or hazards it may be considered malfeasance.

Legal Implications

Under the lapsed agreement with the Water Corporation the penalty to the Shire for not complying with the agreement is that the supply of treated water would be cancelled.

Legal advice has not been sought at this time on the further potential liability of the Shire but in order to sue for breach of contract the Water Corporation would need to demonstrate the expired contract still has currency, that the termination of supply by the Shire was a breach of contract and that the termination caused the Corporation material damage. The Corporation has shown no indication of intent to pursue legal action and continues to work with the Shire cooperatively.

New Water Supply dam project

The water supply dam project still needs to be completed and is consistent with long term strategy. The new water supply dam is too small to provide a solution to the immediate problem.

Other actions required

The various issues have highlighted that the Shire of York

- a) needs a secondary water supply system;
- b) that water supply system is a significant piece of infrastructure;
- c) that infrastructure needs to be professionally managed;
- d) continuing water quality testing of our irrigation supplies is very important; and
- e) develop a town irrigation water budget and strategy.

This also ties up with water conservation initiatives.

The overall recommendation is the Shire needs to recognise our secondary water supply assets as valuable and distinct and dedicate resources and funds to managing them.

RESOLUTION

370514

Moved: Cr Smythe

Seconded: Cr Wallace

“That Council:

- a) Authorise the construction as a priority of an emergency overflow coffer dam adjacent the existing Town dam with an estimated cost of \$40,000***
- b) Reallocate funds of \$40,000 in the 2013/14 financial year from Account 122411 Townsite Drainage Construction to complete the project;***
- c) List for inclusion in the 2014/15 budget additional funds of \$40,000 to Account 122411 to make good the shortfall***
- d) List for consideration in the next review of the Shire strategic plan the need to develop and manage the secondary water supply system for York.”***

AMENDMENT

Moved: Cr Boyle

Seconded: Cr Duperouzel

That Council Amend the Officer Recommendation to read:

“That Council:

- a) Reallocate funds of \$40,000 in the 2013/14 financial year from Account 122411 Townsite Drainage Construction to investigate and if required at Council resolution to complete the project;***
- b) List for inclusion in the 2014/15 budget additional funds of \$40,000 to Account 122411 to make good the shortfall***
- c) List for consideration in the next review of the Shire strategic plan the need to develop and manage the secondary water supply system for York.”***

CARRIED: 5/0

The Officer Recommendation was amended to reflect current requirements.

Matt Giraud, Consulting Hydrologist made a powerpoint presentation.

10. CLOSURE

Cr Reid thanked everyone for their attendance and declared the meeting closed at 5.42pm.