



SHIRE OF YORK

NOTICE OF MEETING

Dear Councillors

I respectfully advise that the SPECIAL COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Wednesday, 17 April 2019, commencing at 5.00pm.

MEETING AGENDA ATTACHED

Paul Martin

PAUL MARTIN
CHIEF EXECUTIVE OFFICER
Date: 12 April 2019

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<p>MISSION STATEMENT <i>"Building on our history to create our future"</i></p>

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

1.3. Content and intent

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

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

2.7 The Role of Council

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

Meetings generally open to the public

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

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



Shire of York

G 2.6 PUBLIC QUESTION TIME

Policy Statement

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

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

2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire's operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.

3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.

4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.

5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.

6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.

7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.

8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.

9.0 There will be no debate on the answers to questions.

10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

Reviewed 24 October 2016

Question(s)

Name: _____

Organization Name: _____
(If presenting on behalf of)

Item No. Referred To:
(If Applicable) _____

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

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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Signature: _____ **Date:** _____

OFFICE USE ONLY

Presented Meeting Date: _____ Item No: _____

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

1 OPENING

1.1 Declaration of Opening

1.2 Disclaimer

The Shire President advises the following:

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

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

1.3 Standing Orders

1.4 Announcement of Visitors

1.5 Declarations of Interest that Might Cause a Conflict

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

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

1.6 Declaration of Financial Interests

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

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

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

1.7 Disclosure of Interests that may affect Impartiality

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

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

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

2 ATTENDANCE

2.1 Members

2.2 Staff

2.3 Apologies

2.4 Leave of Absence Previously Approved

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 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.

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

6 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7 OFFICER'S REPORTS

SY042-04/19 RFT T04-1819 18/19 CAPITAL ROADWORKS PROGRAM.

File Number: AS.TEN.67

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

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

Previously before Council: Not Applicable

Appendices: Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER

Executive

PURPOSE OF REPORT

To present to Council the outcomes of the tender process conducted for the 18/19 Roads Capital Works Program.

BACKGROUND

Four road construction projects from the 18/19 Capital Works program were tendered through the WALGA Equotes process.

The projects are

1. Tenth Road widening (Roads to Recovery (R2R) funding, Budget \$73,905).
2. Greenhills South Road construction to a sealed standard (R2R funding, Budget \$138,810).
3. Knotts Road widening and reseal (Regional Roads Group funding (RRG), Budget \$339,000).
4. Avon Terrace, York – Spencers Brook Road widening and reseal (Shire funded, \$62,000).

These projects were chosen because they were the more complex road projects on the roads capital works program.

Detailed design to Austroads Standards and based on the information in the capital works program was undertaken by Talis Consulting (the winning Quoter).

The tender process, through the WALGA Equotes system, for these projects closed on Thursday 21 March 2019.

COMMENTS AND DETAILS

Three offers were received from three contractors and are summarised in the table below.

CONTRACTOR	PRICE
WCP CIVIL	\$ 4,072,277.76
TRACC CIVIL	\$ 4,811,827.43
GMF	\$ 3,992,082.00
2018/19 BUDGET ALLOCATION	\$ 613,663.00

The price of all the offers significantly exceeds the available funds. It is therefore considered that none of the Tenders can be accepted as submitted. It is further considered that none of the Tenders are close enough to the budget figure to allow negotiation with a preferred Tenderer.

Because of the significant price difference it was not deemed necessary to further evaluate the offers and therefore they have not been fully assessed.

One of the main reasons for the significant price difference is that the projects were designed to Austroads Standards and as such included significant drainage works not allowed for in the original estimates.

The following provides the Officer Recommendation for each project:

Knotts Road

The Knotts Road Widening and Reseal (RRG) project can be rescoped to a reduce the project cost, by removing the reseal component and length of the project.

The new project scope would be;

- Knotts Road widening from the Great Southern Highway (Straight Line Kilometre (SLK) 00) to SLK 1.655. Including culvert upgrades, widening and sealing of the widening only. Estimated total project cost \$339,000.

This project could then be retendered and completed this financial year within the existing project budgets. From a technical view delaying the reseal to a warmer part of the year is desirable.

Tenth Road

A review of the Shire inhouse crew's work schedule indicates that the Shire could deliver the Tenth Road Project, with subcontractors, this financial year with a slightly increased budget under the R2R program. New estimated budget \$115,000.

Greenhills South Road

There are insufficient funds in this year's budget to construct Greenhills South Road to a sealed standard. The revised project estimate is \$470,000. It is possible that the project could be undertaken by the Shire inhouse and staged over two financial years. This year being drainage and sheeting to the lower pavement level and next year sheeting of the top pavement course and sealing, at the current budget of \$138,810. As previously mentioned, from a technical view delaying the sealing to a warmer part of the year is desirable. The completion of the project in 2019/20 would require almost all of next financial year's R2R funds to be expended on this project.

The desirability of sealing Greenhills South Road compared to spending funds on upgrading other roads in the Shire should be considered. If the Greenhills South Road sealing was not to proceed this year the allocated funds could be used to increase the scope of the Avon/York Spencers Brook Road project, allowing for the widening and sealing of the widening.

Greenhills South Road is a well-used link from Beverley to Greenhills, it is a conditional RAV 4 rated road, but it is not a school bus route road. The 2.5Km stretch which is programmed to be constructed to a sealed standard is the only remaining gravel section and is between two existing sealed sections. This gravel section is one of our most requested maintenance grades and the sealing would significantly reduce maintenance costs.

The design included a number of culverts to be widened/replaced if the road is upgraded. A risk assessment indicates that a number of these culverts should be widened or at least have increased signage. There is also one sharp bend which requires additional signage. Sealing and widening the bend would significantly improve the safety of the bend. There is one bridge in this section of Greenhills South Road that requires a full assessment. The bridge does not form part of this project.

From a technical point of view there are other roads that would be a higher priority for construction/reconstruction. However, this project has been promised to the community for a number of years.

Considering the above it is recommended that the Shire not proceed with the upgrade of Greenhills South Road to a sealed standard and reallocate the R2R funds to the Avon/York – Spencers Brook Road project.

Avon Terrace, York – Spencers Brook Road

The Avon Terrace, York – Spencers Brook Road widening and reseal (Shire) can also be rescope to a reduce the project cost to the current budget, by removing the widening and reseal components leaving just the drainage.

- Avon Terrace/York - Spencers Brook Road widening from Knight Road to SLK 20.58. Cutting table drains and culvert upgrades only. Estimated total project cost \$62,000.

Or with the addition of the unused Greenhills South Road R2R budget the project could be scoped to reduce the amount of sealed shoulder and removing the reseal component.

- Avon Terrace/York - Spencers Brook Road widening from Knight Road to SLK 20.58. Cutting table drains, culvert upgrades, widening and sealing of the widening only. Estimated total project cost \$187,662.

This project could then be retendered and completed this financial year within the existing project budgets. From a technical perspective delaying the reseal to a warmer part of the year is desirable.

OPTIONS

Council can choose to proceed with any or all of the projects either by in-house staff or contractors. There are funding and time constraints that must be considered.

RRG Funds can only be spent on Knotts Road and should be spent before June 30.

Projects can be added to or taken out of the R2R program, but funds should be expended by June 30.

The Shire funds can be spent on any project this financial year or carried over to 2019/20.

IMPLICATIONS TO CONSIDER**Consultative**

No consultation has been undertaken.

Strategic

Roads and Bridges are part of the Corporate Themes of; The Place to Live & Driving the Economy Forward. More specially these projects fall under, Building Resilience;

4.4 Rural roads are safe and easy to use.

4.6 Town network of safe easily used roads, footpaths, trails and cycle ways.

Policy Related

F 1.2 Procurement.

Financial

The Tenth Road and Greenhills South Road projects are currently fully R2R funded from federal government funds. However, the Shire has a finite amount of R2R funds and any significant expenditure over the current budget will require adjustment/s to other R2R projects or the addition of Council funds.

The Knotts Road project is RRG funded, 2/3 State government and 1/3 Council funded and addition expenditure above the budget would have to be funded fully by Council.

The Avon Terrace/York Spencers Brook Road project is fully Council funded. This road is eligible for RRG funding and it would be possible to apply for RRG funding for any deferred works from 2020/21 onwards.

The significant price difference can be attributed to a number of issues. The main issues being, designs being to Austroads standards which was not reflected in the original budgeting. The projects would normally have had budget estimates reconfirmed before going out to tender, to confirm that

the Shire has sufficient funds for the works. However, in this case, this step was not taken due to the tight works schedule. The confirming of budget estimates before going out to tender will be incorporated in all future capital works Tenders.

By rescoping the Knotts Road project to remove the reseal (to be done in 2020/21) and reducing the length of the projects, the most important sections of widening can be completed this year within the existing budget. Therefore no budget variation is required.

The Tenth Road project will require additional funds to complete this financial year. The new estimate to complete the widening including drainage and kerbing is \$115,000, the current budget is \$73,905. The additional funds for this project can be found from savings in other projects in this year's R2R program. Therefore, no additional funds are required from Council funds to complete this project.

The Greenhills South Road construction is significantly under budgeted. The revised estimate is \$470,000, this includes approximately \$100,000 of drainage works not allowed for in the original budget of \$138,810. It is recommended, if Council wants to proceed with this project, that it be staged over two years. Stage 1 2018/19, drainage and initial shaping of the new road, utilising the existing \$138,810 R2R budget funds. Stage 2 additional pavement and sealing in 2019/20, \$331,190.

Alternatively if Council does not want to proceed with this project, the current R2R budget for this project be reallocated to the Avon/York – Spencers Brook Road.

By rescoping the Avon/York – Spencers Brook Road project to only include the drainage works, these works could be completed this year within the existing budget. Therefore no budget variation is required. However, if Council was not to proceed with the Greenhills South Road and reallocated funds to the Avon/York – Spencers Brook Road project, then by rescoping to remove the reseal, the project could be delivered this year within a revised budget of \$187,662. \$13,148 has already been expended on the Greenhills South Road design.

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.

Part 11(2) of the *Local Government (Functions and General) Regulations 1996* provides that, Tenders do not have to be publicly invited according to the requirements of this division if;

- the good and service is to be obtained through the WALGA Preferred Supplier Program.

Risk Related

There is a high reputational risk if the Shire does not proceed with projects that the community expects it to deliver.

There is also a high reputational risk if the Shire does not spend its funding wisely.

There is a moderate reputational and financial risk as the road construction window is closing and any delays, including excessive wet weather, may impede the delivery of these projects within the current financial year.

Workforce

The Shire's road works crew has undergone significant changes in personnel over the last 12 months. There were initial concerns that they may no longer have the expertise and experience to undertake roadworks to the required standard and in a cost effective manner. However, the crew have over the last three months shown that they do have the required skill and expertise to deliver projects, both to the required standard and in a cost effective manner.

Therefore Officers are confident that they can deliver the;

1. Tenth Road widening.
2. Greenhills South Road construction to a sealed standard

projects to the revised budgets detailed above and that they have the time in their current works program to deliver the Tenth Road and Stage 1 of Greenhills South Road this financial year. Noting subcontractors will be required for specialist works.

VOTING REQUIREMENTS

Absolute Majority: Yes

RECOMMENDATION

That Council;

1. Not accept any Tenders for RFT 04-1819, 18/19 Roads Capital Works Program, because the prices offered were significantly higher than the project budgets.
2. Approves the undertaking of the Tenth Road project in house with an increase of the project budget from \$73,905 to \$115,000 within the existing Roads to Recovery funding.
3. Approves the deletion of Greenhills South Road from the works program and reallocates the Roads to Recovery funds for this project to the Avon Terrace, York – Spencers Brook Road widening project as outlined in this report.
4. Requests the Chief Executive Officer to call Tenders for;
 - (a) A rescoped, Knotts Road widening with no change to the project budget.
 - (b) A rescoped Avon Terrace, York – Spencers Brook Road widening with an increased project budget from \$62,000 to \$187,662.
5. Requests the Chief Executive Officer to amend the 2018/19 Budget accordingly, noting no additional cost to the Shire.

8 LATE REPORTS

9 LATE CONFIDENTIAL REPORTS

10 CLOSURE