



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 Tuesday, 2 March 2021, commencing at 5.00pm.

MEETING AGENDA ATTACHED

Chris Linnell

CHRIS LINNELL
CHIEF EXECUTIVE OFFICER
Date: 26 February 2021

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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.



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

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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

5.4 Delegates' Reports

6 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7 OFFICER'S REPORTS**SY018-03/21 RFT T03-2021 RESIDENCY MUSEUM CONSERVATION WORK**

| | |
|-----------------------------------|---|
| File Number: | AS.TEN.78 |
| Author: | Sujan Bhatteari, Engineering Technical Officer |
| Authoriser: | Darren Wallace, Executive Manager, Infrastructure & Development Services |
| Previously before Council: | Not Applicable |
| Appendices: | 1. Tender Scorecard - Confidential |

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 conservation works to the state heritage registered Residency Museum and recommend a preferred Tenderer.

BACKGROUND

The Shire of York has received grant funding for the conservation work to the Residency Museum from the Department of Planning, Lands and Heritage (DPLH).

The work is being done as part of the Earthquake Building Mitigation Project. The Shire of York is a project partner with Geoscience Australia, the University of Adelaide and the Department of Fire and Emergency Services. The Shire has received a grant of \$110,000 from the DPLH, which is matched by the Shire to undertake earthquake mitigation works at the Residency Museum and while we have the museum empty and qualified heritage builders on site we are undertaking other necessary refurbishment works.

The design and specification for the conservation work was developed by Peter Baxendale, Heritage Consulting Engineer.

The Tender was advertised in the West Australian News Paper, on the Shires website and through Tenderlink and closed 1:00pm on Friday, 5th February 2021.

COMMENTS AND DETAILS

Three offers were received from three builders and are summarized in the table below (pricing including \$20,000.00 Contingencies).

| CONTRACTOR | PRICE (Exc GST) |
|------------|-----------------|
| Tenderer A | \$ 218,332.40 |
| Tenderer B | \$ 288,195.00 |
| Tenderer C | \$ 212,930.00 |

All Tenders meet the Compliance criteria as set out in the RFT.

The Tenders have been evaluated by a four-person (three Shire Officers and a Heritage specialist consultant) panel using the following criteria as detailed in the Tender documents.

- Relevant Experience. 20%
- Key Resources. 25%
- OSHE Management. 5%
- Price. 50%

A full copy of the Panels evaluation is attached as confidential appendix A.

All Tenderers were assessed as substantially meeting the Tender Requirements. All tenders were also assessed as having the Relevant Experience, Key Resources and OSHE Management required to successfully complete the works.

Based on the average weighting score, obtained from the evaluation panel, Tenderer A is considered the preferred Tenderer.

The Current Project Budget is \$220,000 however \$28,322.50 has already been spent or committed for the project design, tender advertising, archaeological investigation and heritage professional project supervision. Leaving \$191,677.50 for the Tendered contractor works. A shortfall of \$26,654.90.

Two items of the project have been identified of being of less Heritage importance and/or not as critical are:

1. The demolition and reconstruction of the exhibition deck area. The deck is in poor condition and would either need to be demolished and not replaced at this stage or barricaded off from the public.
2. The replacement of the veranda. The project allowed for 25% of the veranda flooring to be replaced.

The \$20,000 contingency could be reduced slightly, however heritage projects are well known for unexpected issues where the contingency is needed.

It is therefore recommended that the reduction/removal of the two items listed above from the project scope, be negotiated with the preferred Tenderer to ensure the contract price aligns with the available budget of \$191,677.50.

Scope change consideration

When Residency Museum displays were removed from the building in preparation for the works it exposed damaged floorboards which now need replacing. It would be timely to replace these floorboards while the building is empty. It would also be timely to paint the building while it is empty.

Officers from DPLH recently visited the Residency Museum and indicated that it would be possible to seek extra funds for the project and include the floor repairs/replacement (\$15,500), associated archaeological investigation (\$13,210) and repainting of the building (\$15,000). It was considered prudent to also seek additional funding to complete the project as per the original scope.

Shire Officers have contacted DPLH and requested that they consider additional funding for the project, as outlined above totalling \$70,364.90.

Alternatively, the Shire could seek to find additional funds, or part thereof from its own resources.

It is recommended that the Shire proceed to negotiation with the preferred Tenderer to allow the works to commence as soon as possible and reduce the risk of damage and delays due to wet weather.

If additional funds are forthcoming a report will be prepared for Council to consider a contract variation.

OPTIONS

Council has the following options.

Option 1: Nominates Tenderer A as a preferred Tenderer. And authorises the CEO to negotiate a reduced scope of works to match the available budget in line with the comments above.

Option 2: Nominates one of the other Tenderers as a preferred Tenderer. And authorises the CEO to negotiate a reduced scope of works to match the available budget in line with the comments above.

Option 1 is the preferred option.

IMPLICATIONS TO CONSIDER

Consultative

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

Strategic

The maintenance of built heritage is an important theme in the Council's Strategic Community Plan

Policy Related

Policy F 1.2 PROCUREMENT has been adhered to. Although the *Local Government (Functions and General) Regulations 1996* requires Tenders for services/works over \$250,000 as a risk reduction measure, Councils Procurement Policy requires Tenders for services/works over \$150,000.

Financial

The conservation work at the Residency Museum is currently funded by the Department of Planning Lands and Heritage of \$110,000 and matched by the Shire.

Of the \$220,000 project budget, \$26,654.90 has been expended or committed to cover the detailed design, project supervision, archaeological investigation and tender advertising. This leaves \$191,677.50 available for the Tendered works. The preferred tenderer tendered price is \$218,332.40, which is \$26,654.90 above the available budget.

Two elements of the project scope and the contingency funds have been identified as the items that could be part of a reduced scope to meet the available budget.

The Shire is seeking additional funds from DPLH to complete the project as per the original scope as well as extra painting of the building, undertake floor repairs and the associated archaeological works. At the time of preparing this report a timeline for a response from the DPLH is unknown.

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 \$250,000. Councils Procurement Policy requires *Tenders for services/works over \$150,000*.

Risk Related

If a contract is not awarded in a timely manner the completion of the project in line with the DPLH grant funding will be difficult to achieve.

The Residency is one of the very few intact Convict Depot buildings left in WA, so there is a high reputational risk if the Shire does not proceed with the projects that the community expect it to deliver.

There is a project delivery risk if the project is subject to excessive wet weather

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

Workforce

Shire staff have been involved in the relocation of Museum items to storage in preparation for the works. Peter Baxendale, Heritage Professional will be engaged to help manage the project (a requirement of the DPLH Grant).

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That, with regard to RFT 03-20/21 Residency Museum Conservation Work, Council;

1. Resolves to nominates Colgan Industries Pty Ltd, Tenderer A, as the preferred Tenderer for RFT 03-20/21 Residency Museum Conservation Work.
2. Authorises the CEO to negotiate with Colgan Industries Pty Ltd, Tenderer A, to adjust the scope of works, as per the areas identified in the body of this report, as a minimum, to match as closely as practicable the project budget, \$191,677.50.
3. Authorises the Chief Executive Officer to formulate and execute the contract documents, subjects to any variations.
4. Direct the CEO to report back to Council with the outcome of the request for additional funding from the Department of Planning, Lands and Heritage.

8 CLOSURE