



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 4 FEBRUARY 2014
COMMENCING AT 4.00pm
IN THE YORK TOWN HALL,
YORK**

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SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON TUESDAY, 4 FEBRUARY, 2014,
COMMENCING AT 4.00PM IN THE
YORK TOWN HALL, YORK

1. OPENING

1.1 Declaration of Opening

Cr Matthew Reid, Shire President, declared the meeting open at 4.00pm.

Cr Reid read the Welcome to Country -

I would like to acknowledge the Balladong 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 Announcement of Visitors

Nil

1.4 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 David Wallace, Cr Pat Hooper, Cr Tony Boyle*

- 2.2 Staff
Ray Hooper, Chief Executive Officer; Jacky Jurmann, Manager of Planning Services; Gail Maziuk, Finance, Special Projects Officer; Helen D'Arcy-Walker, Executive Support Officer
- 2.3 Apologies
Pamela McGinness
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 141 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.

PRESIDING OFFICER

21 October 2013

- 4.1 Public Question Time

Public Question Time commenced at 4.06pm

Mrs Robyn Davies

Question:

When SITA put their submission in to the EPA, the application was for a Class III landfill. Then in June 2013, after the submission to EPA, in the statement of reasons dated June 2013 the proponent told the EPA that only Class II will be accepted. According to the DER when a Class I or II is proposed, no leachate ponds or liners need to be constructed. These only need to be constructed when Class III and higher and more toxic rubbish is to be put in. SITA have the tender for all the major hospitals in Perth and just recently won the tender for the Fiona Stanley hospital. What class of landfill did SITA put in their submission to the Shire of York? Are the Shire going to take SITA's word that toxic and more dangerous waste will not be accepted?

Response:

The applicant has stated on the submitted planning application form that the proposed development is 'Waste Disposal Facility (Landfill) and associated facilities, infrastructure and activities.' Within the Planning Report it is stated that the landfill will be a Class II landfill, however this will be confirmed on application to the DER and release of the outcome of the EPA appeal.

Mrs Kay Davies**Question:**

If Council follow recommendations and vote 'may be the proposal is consistent with the objectives of the General Agriculture zone in accordance with Clause 3.2.4(b) of the York Town Planning Scheme No. 2" could you please explain the process that will follow and tell us when the York community will then be able to make comment and present valuable research and knowledge to Council?

Response:

If the recommendation is supported, then the application will be advertised to the community and referred to relevant Government agencies. Once the submission period closes, the submissions will be considered and a report will be drafted for DAP to consider. A DAP meeting will be scheduled to be held locally. A guide to the application process is available on Council's website.

Mrs Robyn Davies**Question:**

At this stage under the Town Planning Scheme (TPS2) Allawuna is zoned General Agriculture, but as a Use Not Listed. What is the Shire going to Class the use of the land as, and what provisions of the Scheme are they going to use, if the landfill does go ahead.

Response:

The proposal is classed as a 'Use Not Listed' in the York Town Planning Scheme No. 2 due to the Scheme not containing an applicable land use definition. The application will be assessed in accordance with the provisions of the Scheme, including any specific provisions relating to 'Use Not Listed' proposals.

Mr Denis Hill**Question:**

Is Council making a decision on an unknown class of landfill?

Response:

No – Council is considering an application for a Class II landfill.

Specific conditions such as the Landfill Class II can be imposed by the Development Assessment Panel.

(Mr N Stock – SITA confirmed that the application is for a Class II Waste Management Facility).

Mrs Kay Davies**Question:**

Do all Councillors believe that the community is concerned about the proposal?

Response:

Yes

Mrs Glenda Kirkman**Question:**

What are the benefits for York if the application is approved?

Response:

This meeting is about the process of the development application as a procedurally fair approach.

Issues of benefits, impacts and other matters will be dealt with in the planning process if it proceeds.

Ms Jane Ferro**Question:**

Why is Council considering this when the environmental assessment appeal decision has not been published?

Response

The environmental appeal and the planning are separate processes independent of each other as they are covered by separate legislation.

Council is dealing with what is known and not what may be.

Mr Phillip Carlisle**Question:**

No perceived benefits in the proposals and the proposed use is not beneficial to the district as detailed in Section 4.5 of the York Town Planning Scheme.

Response:

Accepted. These comments should be included in a submission on the planning application as this does not relate to the matter before Council today.

Mr Simon Saint**Question:**

Are there two FOI applications in place relating to the proposal and hundreds of documents identified.

Response:

Yes – FOI applications under external review and determination of the scope involved.

Ms Philippa Courtin

Question:

Have traffic volume increases been considered?

Response:

Yes. Traffic management plans are a key part of planning applications. The traffic plan will be made available if the application is advertised.

Ms Louise Draper-Sevenson

Question:

What do residents have to do to convince Council that the proposal is not wanted?

Response:

Council is aware of the level of community opposition.

Procedural fairness must be extended to the application as a precedent for other economic development applications.

Each application is to be assessed on its merits through a democratic Council process.

Mrs Robyn Davies

Question:

A works approval application has been lodged and it will be advertised on Monday, 10th February, 2014.

Response:

Noted

Public Question Time was declared closed by the Shire President at 4.35

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

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Preliminary Report On Proposed Landfill At Allawuna Farm – Zoning Report

APPLICATION TO BE DETERMINED BY THE WHEATBELT JOINT DEVELOPMENT ASSESSMENT PANEL

When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.

FILE NO:	P899, GR2.290
COUNCIL DATE:	4 February 2013
REPORT DATE:	28 January 2013
LOCATION/ADDRESS:	Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, St Ronans
APPLICANT:	SITA Australia Pty Ltd
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	1 – Overall Site Plan 2 – Landfill Layout plan
DOCUMENTS TABLED:	Plans

Summary:

A planning application was submitted to the Shire of York on 17 December 2013 by SITA Australia Pty Ltd for the construction and use of Allawuna Farm located at Lots 4869, 5931, 9926 and 26932 Great Southern Highway, St Ronans for the purposes of a landfill.

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011* (the Regulations), the application is a mandatory DAP application and will be determined by the Wheatbelt Joint Development Assessment Panel (DAP).

A preliminary assessment and decision by the local government is required to determine if the proposal is consistent, may be consistent or is not consistent with the objectives of the General Agriculture zone as a result of proposal being categorised as a ‘use not listed’ under the provisions of the York Town Planning Scheme No. 2 (the Scheme).

The purpose of this report is to consider the provisions of Clause 3.2.4 of the Scheme, which will decide how the application will be determined.

It is recommended that Council resolve that the proposal may be consistent with the zone objectives in accordance with Clause 3.2.4(b) and that the application is advertised in accordance with Clause 8.3 of the Scheme.

Background:

Allawuna Farm is located approximately 18 kilometres from the York town centre and has been historically used for cropping and grazing. The site has an area of 1,516 hectares and it is proposed to construct a landfill for the burying of wastes on an area described by the applicant as “an area centrally located under crop comprising approximately 52 hectares or 3.5% of the total site area”.

The applicant provides an overview of the proposed facility in section 8.1 of the Report prepared by Larry Smith Planning dated November 2013 submitted with the planning application (pg 41-42) as:

"The proposed Allawuna Landfill will incorporate a composite liner system to contain the leachate generated by the waste mass for appropriate treatment on site (Figure 5: Landfill Site Plan – Appendix 2).

Detailed plans of the proposed landfill accompany this Report and Application (refer Plans WA 02 to WA11 – Tabled).

It is estimated that the facility will have a nominal life of 37 years based on between 150,000 and 250,000 tonnes of waste per annum and achieved filling and compaction rates. The landfill will have a footprint of 52 ha and a total volume of approximately 12.8 million cubic metres, including capping. The landfill will accommodate approximately 11.1 million cubic metres of waste, equating to some 10.1 million tonnes. The average depth of waste placed is 25m with a finished capped height of 327m AHD.

The landfill will be constructed as a series of cells, with each cell having an approximate 2 to 3 year filling life.

The base of the landfill has been designed to maintain minimum separation of 3 m from the depth of the confined groundwater.

The facility will operate from 6 am to 5 pm Monday to Friday and from 6 am to 4 pm on Saturdays. This Saturday schedule will be followed for public holidays but the site will remain closed for New Year's Day, Good Friday and Christmas Day.

In designing the facility and developing the facility, the following factors have been considered:

- *Community and stakeholder concerns and expectations;*
- *Separation distances to sensitive land uses;*
- *Potential impacts during both construction and operational phases;*
- *Flora and fauna in the works area;*
- *The geotechnical stability of the final landform;*
- *Flow of surface water and groundwater from the site;*
- *Performance of the composite liner system;*
- *The volume, quality and management of landfill leachate;*
- *Potential odour impacts on sensitive receptors;*
- *Potential noise impacts on sensitive receptors; and*
- *Post closure site rehabilitation and management."*

Section 8.2 of the Report (pg 42) describes the types of wastes to be accepted at the landfill as:

"Under DER requirements, Class II and III landfills which receive more than 20,000 tonnes of waste per annum are required to have a liner system.

Notwithstanding that the facility has been designed to Class II / III standards, Allawuna will accept only Class II waste.

All waste accepted at the site will comply with the DER Class II landfill criteria, being principally Municipal (Household) Solid Waste, waste from Commercial, Retail and Industrial premises, and Construction Waste.

Approximately 65% of Municipal waste to landfill comprises food, paper and cardboard and tree/garden prunings. The balance comprises, mostly inert material including textiles, metals, plastic and glass. Commercial, Retail and Industrial Class II waste is similarly composed with less foodstuffs in Retail and even less in general Commercial and Industrial wastes.

No hazardous, liquid, noxious or radioactive waste or toxic chemicals will be accepted at the facility and exclusion of the general public will ensure that waste types accepted will be strictly controlled.

The facility will be licensed in accordance with the Environmental Protection Act 1986. Landfill operations must comply with the EP Act 1986, its regulations and relevant environmental protection policies.”

The Capacity, Crash and Safety Assessment prepared for the applicant by Shawmac dated 10 September 2013 describes the Transport Metrics as:

“Wastes from the SITA transfer stations in Welshpool and Landsdale will be transported to the Allawuna Landfill site by fully enclosed 27.5 m pocket road trains (Austroads Class 10).

The total site-generated traffic and truck movements per hour, inclusive of staff and visitor light vehicles, required to meet the production and haulage rates, is summarised in Table 1 below:

Vehicle Class	Number of Vehicles	Daily Movements	Hourly Movements (peak)
Pocket Road Train	24	48	3
Light Vehicle	13	26	12
TOTAL	37	74	15

The consultants state in their report (pg 10) that *“the outcomes of the four studies have concluded that the Allawuna Landfill will have minimal impacts on quality of service, capacity, crashes and safety of the Great Southern Highway.”*

Consultation:

Initial discussions have been held with the DAP Secretariat and the Department of Planning regarding the application and assessment process.

As this is a preliminary report considering purely Clause 3.2.4 of the Scheme, there are no consultation requirements at this stage of the assessment of this proposal.

Statutory Environment:

Planning and Development (Development Assessment Panels) Regulations 2011

There are four (4) types of applications that can be determined by a DAP. These are:

- Mandatory DAP applications – where the cost of development exceeds \$7 million across the State or \$15 million for the City of Perth;
- Optional DAP applications – where the cost of development is between \$3-7 million across the State or \$10-15 million for the City of Perth;
- Delegated applications – where the local government can delegate the application to the DAP; and
- Applications for amending or cancelling DAP development approval.

The cost of works nominated by the application on the subject application is \$46 million for the entire development, including construction and use and \$7.1 million for the 1st stage. A detailed breakdown of the development costs was submitted by the applicant for the 1st stage of the works.

As a result of the cost of works exceeding \$7 million, the application is a mandatory DAP application, with the DAP acting as the responsible authority under the relevant planning instrument, being the York Town Planning Scheme No. 2. Under the DAP Regulations, any application which qualifies as one that can be determined by a DAP cannot be determined by local government or the Western Australian Planning Commission (WAPC).

Under the DAP Regulations the local government must forward a copy of the application within 7 days of receipt; then remit the DAP fee within 30 days; and prepare the Responsible Authority Report within 60 days for applications that do not require advertising and 80 days for applications that do require advertising. A DAP meeting will be held within 90 days, unless an extension is agreed and granted, to determine the application. Three (3) specialist members and two (2) local government members will sit on the DAP, which is a public meeting held locally.

The DAP Secretariat acknowledged receipt of the application (Ref: DP/14/00039) and fee payment on 16 January 2014. In accordance with Regulation 12 of the *Planning and Development (Development Assessment Panels) Regulations 2011* the Shire of York has until Midday on Thursday 6 March 2014 to provide the responsible authority report to the DAP Secretariat.

York Town Planning Scheme No. 2

The Development Assessment Panel Regulations require the application to be assessed and determined in accordance with the provisions of the relevant planning instrument, the York Town Planning Scheme No. 2, including advertising.

The following clauses of the York TPS2 are applicable to this application:

- Clause 3.1.2 of the Scheme, the subject land is identified on the Scheme Map being zoned General Agriculture.
- Clause 3.2.4 states that *"if the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type or class of activity of any other use the local government may:*
 - (a) *determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
 - (b) *determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 (now clause 8.3) in considering an application for planning consent; or*
 - (c) *determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."*
- Clause 4.1 requires that approval is required prior to commencement of development on zoned land.
- Clause 4.15.1 outlines the objectives for the General Agriculture zone as follows:
 - (a) *"To ensure the continuation of broad-hectare agriculture as the principal land use in the district encouraging where appropriate the retention and expansion of agricultural activities.*
 - (b) *To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.*
 - (c) *To allow for facilities for tourists and travellers, and for recreation uses.*
 - (d) *To have regard to residential use of adjoining land at the interface of the General Agriculture zone with other zones to avoid adverse effects on local amenities."*
- Clause 4.15.2 requires development to have regard to the scenic values of the district and the views from roads and permits the local government to refuse an application for planning consent if, in the opinion of the local government, the development if approved will have a detrimental effect on the rural character and amenities.

- Clause 8.1 outlines the material to accompany a planning application and provides the local government with the ability to request additional information and specialist reports to enable the application to be determined. Specialist reports, including odour and noise assessments and a copy of the submission to the Environmental Protection Authority, identified in the Planning Report were requested and have now been received from the applicant. These reports, and any other relevant information, will be considered in the full assessment of the proposal and may be provided to any authorities consulted.

- Clause 8.3 relates to advertising of applications and specifically stating in clause 8.3.1 states:

"Where an application is made for planning consent to commence a use or commence or carry out development which involves a use which is:

- (a) *an 'SA' use as referred to in clause 3.2.2; or*
- (b) *a use not listed in the Zoning Table,*

the local government is not to grant approval to that application unless notice is given in accordance with clause 8.3.3."

- Clause 8.3 outlines the requirements for advertising of applications and specifically states that for applications that involve SA uses or uses not listed the local government is not to grant approval to that application unless notice is given in accordance with clause 8.3.3. Notice may be given in one or more of the following ways:

- (a) *Notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning consent, stating that submissions may be made to the local government by a specified date being not less than 14 days from the date the notice is served;*
- (b) *Notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is served;*
- (c) *A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.*

The Notice must be in the form prescribed in Schedule 11 with such modifications as are considered appropriate by the local government. In this case, it must contain information that the application is a Development Assessment Panel application.

Any person may inspect the application referred in the Notice and the material accompanying that application at the offices of the local government.

- Clause 8.4 enables the local government to consult with any other statutory, public or planning authority it considers appropriate.
- Clause 8.5 sets out the matters for consideration when determining a planning application, including such issues as the aims and objectives of the Scheme, preservation of the amenity, relationship of the proposal to development on adjoining land, traffic generation, land degradation, relevant submissions, potential impacts, comments on submissions received from authorities consulted, and any other planning consideration.
- Clause 8.6 enables a local government to approve an application with or without conditions or refuse an application.

- Clause 8.10 enables a planning consent to be granted for the use or development for which the approval is sought; for that use or development, except for a specified part or aspect of that use or development; or for a specified part or aspect of that use or development.
- Clause 8.11 enables a planning consent to be granted subject to the approval of further details.
- Clause 8.12 outlines deemed refusal and for applications that require advertising the deemed refusal period is 90 days.

York TPS 2 Scheme Amendment No. 50

Scheme Amendment No. 50, an Omnibus amendment, was finally adopted for approval by the Shire of York at its Ordinary Meeting held on 15 April 2013 and was considered by the Western Australian Planning Commission at its Statutory Planning Committee Meeting on 23 July 2013. The final decision from the Minister for Planning is pending at the time of writing this report.

Relative to this proposal, the amendment proposed a major review of the zoning table and land use definitions. The amendment was originally initiated with the inclusion of waste management facilities and waste transfer stations and this was then deleted from the amendment due to concerns regarding potential conflict of interest issues for the voting Councillors, particularly those Councillors nominated as DAP members.

However, Council has been informed by Department of Planning staff that the land uses and definitions have been re-included in some form in their recommendations relating to the amendment, however at the time of writing this report, it is unknown what the recommendations were due to the amendment being considered as a confidential item (as per WAPC standard process).

Policy Implications:

The provisions of the York Local Planning Strategy and York Town Planning Scheme No. 2 have been considered in the assessment of the land use and potential consistency or inconsistency with the zone objectives.

The general objectives of the Strategy are grouped into five (5) categories – economic, environmental, sustainable settlements, servicing and infrastructure and heritage and cultural. These objectives, and strategies, aim to achieve the vision that the Shire of York will be a sustainable community that continues to value, preserve and enhance its heritage, rural character, country lifestyle and its beautiful natural environment.

The Scheme permits a variety of uses on rural land where the uses are not detrimental to the environment, natural resources and the amenity and locality, and where the use can be of a demonstrated benefit to the community.

As contemplated in this report, the proposal may or may not be consistent with the objectives of the Strategy, Scheme and more specifically, the General Agriculture zone, and therefore may or may not have policy implications, which will be further considered during the full assessment of the application.

Financial Implications:

The applicant has paid the applicable local government and DAP fees. The DAP fees have been remitted to the DAP Secretariat as required by the Regulations.

Strategic Implications:
York Local Planning Strategy

The property is identified in the Local Planning Strategy (LPS) in the Darling Plateau (1a) and Western Slopes (2b Conservation) Precincts, predominantly in the latter.

The objectives of the Darling Plateau (1a) Precinct are to protect sustainable agricultural production and to preserve and enhance the environment and natural resources. The objectives of the Western Slopes (2b Conservation) Precinct are to preserve and enhance the environment and natural resources; support continued sustainable agricultural production; promote farm diversification; and to recognise the likelihood that existing lots may be redeveloped.

Supporting strategies in both Precincts include the general presumption against subdivision; encouraging actions to support environmental enhancement; not supporting development requiring large scale clearing; requiring development to be setback from waterways; and to actively promote and encourage eco-tourism and agricultural tourism.

It could be argued that the proposed landfill is not consistent with the objectives of the Local Planning Strategy, which will require further deliberation during the full assessment of the application.

York Community Strategic Plan

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- *Manage population growth, through planned provision of services and infrastructure.*
- *Strengthen community interactions and a sense of a united, cohesive and safe community.*
- *Build and strengthen community, culture, vibrancy and energy.*

Environmental

- *Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.*
- *Support sustainable energy and renewable resource choices.*

Economic

- *Build population base through economic prosperity.*
- *Value, protect and preserve our heritage and past.*
- *Grow the economic base and actively support local businesses and service provision.*

In relation to this proposal, the goals relating to Economic Development aim to attract business that 'value add' to primary industry. The goals relating to the Environment relate to preservation, maintaining rural identity and efficiently using natural resources, including development of a Regional Waste Management Strategy Plan. The latter relates to developing a Plan to deal with regional wastes, with regional referring to the Avon Valley and Wheatbelt.

It could be argued that the proposed landfill is not consistent with the goals of the Community Strategic Plan, which will require further consideration during the full assessment of the application.

Voting Requirements:
Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes (undertaken with the applicant and landowner).

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

The applicant indicates in their Report (pg 83) that the landfill “*will provide local employment opportunities during the operational and construction stages, both directly on-site and in-directly through the flow-on effects of sourcing labour, plant and materials locally.*”

However, there is no guarantee or evidence that some or any of the labour, transport or materials will be sourced from York, particularly considering the location of the site and accessibility to Midland and Perth.

Social Implications:

Landfills can cause a range of social and environmental impacts if not properly sited, managed and rehabilitated. Such impacts can lead to the localised loss of amenity due to litter, dust, odour, noise and vermin problems.

A full assessment of the potential social implications has not been undertaken at this stage. However, it should be noted that specialist reports on odour and noise were undertaken and identified in the Report. They have now been supplied to the local government following a request to the applicant.

Environmental Implications:

Landfills do have environmental impacts and it is the operator’s responsibility to minimise the impacts to acceptable levels and therefore the concepts of the precautionary principle and intergenerational equity will need to be considered in the full assessment of the proposal.

As this is a preliminary report on land use permissibility, the environmental impacts have not been fully assessed or considered.

At the time of writing the Office of the Appeals Convenor had not made a decision on the EPA’s decision to ‘not assess’ the proposal.

Comment:

When an application is lodged, part of the planning assessment involves examining the land use definitions in the Scheme, and determining the ‘best fit’ land use classification.

If the land use is listed in the Scheme’s Zoning table, it dictates the permissibility of the use in the relevant zone.

There is no specific land use definition for a ‘landfill’ or ‘waste management facilities’ under the Shire of York Town Planning Scheme No. 2.

The applicant has submitted the application as a ‘use not listed’ and it is agreed that this is appropriate due to the land not being specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type or class of activity of any other use defined or listed in the Scheme. Advice received from the Department of Planning has confirmed this interpretation.

The applicant has made comment in their Report of ‘Industry – Noxious’, this land use definition is not relevant to this application as the landfill is not considered an industry as defined by the Scheme. Similarly, the applicant has also made mention of ‘Industry – Extractive’, again this land use definition is not relevant as the landfill is not considered an industry as defined by the Scheme.

Council has three (3) options when dealing with a ‘use not listed’ in accordance with Clause 3.2.4 of the York TPS 2 as follows:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 (now clause 8.3) in considering an application for planning consent; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.”

Under the Scheme the objectives for the General Agriculture zone are:

- (a) “To ensure the continuation of broad-hectare agriculture as the principal land use in the district encouraging where appropriate the retention and expansion of agricultural activities.
- (b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.
- (c) To allow for facilities for tourists and travellers, and for recreation uses.
- (d) To have regard to residential use of adjoining land at the interface of the General Agriculture zone with other zones to avoid adverse effects on local amenities.”

Objective (c) is not applicable to this proposal and therefore Council must consider whether the proposal is consistent, may be consistent or is not consistent with the zone objectives to determine the next step in the assessment of the application.

The applicant (pg 28) has considered the zone objectives and presents the following case:

“In respect of the Zone objectives, the first two are the most relevant to the proposed landfill. As demonstrated in subsequent sections of this Report, the proposed landfill is considered to be wholly consistent with the Zone Objectives in that:

- *The proposed landfill and associated infrastructure occupy only a small portion of the Allawuna Farm property and therefore will have a very minimal impact on the continuation of existing grazing / cropping operations on Allawuna Farm;*
- *As a consequence of the significant on-site buffers achieved, the design of the landfill and proposed operational practices; the proposed landfill will not impact the continuation of broad-hectare agriculture on adjoining farms or other farms in the locality;*
- *For the same reasons, the proposed landfill will not impact organic / sensitive agricultural activities in the locality;*
- *On completion, the landfill will be rehabilitated and suitable, at the least, for grazing of stock;*
- *As a non-rural use, the proposed landfill will generate significant local employment opportunities both directly, through the employment of on-site staff and waste truck drivers, and indirectly through the engagement of local trades and services required for the on-going operation of the landfill;*
- *Similarly, the on-going operational needs of the landfill including fuel, hardware, plant hire, office supplies and other consumables will provide a significant boost to local businesses;*
- *Additional local employment and business opportunities will also arise as a consequence of the “staged” construction of the landfill. While specialist goods and services will need to be sourced from outside the York region, significant local employment and materials purchases will benefit regional suppliers;*

- *The location and design of the proposed landfill confirms that the significant on-site buffer together with the design and operational features of the landfill will result in minimal, if any, impact on the amenity of adjoining farms or local residents as a consequence of dust, noise, odour or other emissions; and*
- *As a consequence, the proposed landfill will not impact public or community health in the local region of the landfill.*

It is significant to note also the proposed landfill will not impact tourism to the locality or the broader York region as it is fully screened from Great Southern Highway and major tourist vantage points in the locality, including Mt Observation. Additionally, proposed operational practices and procedures will effectively ensure that tourists to the locality will be unaware of the existence of the landfill. A comprehensive traffic impact assessment has demonstrated that the additional heavy vehicles will have little impact on the level of service on Great Southern Highway and will not impose any significant increased risk to other road users.

It is evident both from the Objectives of the Scheme and the General Agriculture zone that the Scheme both contemplates and acknowledges the need for non-agricultural land uses to also locate within the zone.”

The information provided by the applicant is considered deficient in order to determine that the proposal is consistent with the zone objectives. There is insufficient evidence that the proposal will not impact broad-hectare agricultural activities, will not impact natural resources or the environment and that the proposal is of benefit to the community of York, particularly considering that the applicant uses words such as ‘there are opportunities’ and ‘broader York region’.

It is recommended that Council resolve that the proposal may be consistent with the zone objectives in accordance with Clause 3.2.4(b) of the Scheme and that the application be advertised in accordance with Clause 8.3.

A decision that the application may be consistent with the zone objectives will enable the input of the community and any relevant authorities and for any additional information to be obtained to facilitate a comprehensive, detailed and thorough assessment of the application.

However, if Council resolves that the proposal is not consistent with the zone objectives under Clause 3.2.4(c), the application will be presented directly to the DAP for determination. There will be no opportunity for community input as a result.

At the time of writing this report, the Office of the Appeals Convenor had not made a decision on the appeals lodged against the EPA’s decision to ‘not assess’ the proposal. The Minister for Planning had also not made a decision on Scheme Amendment No. 50, which may or may not have implications for this proposal.

**RESOLUTION
010214**

Moved: Cr Hooper

Seconded: Cr Boyle

“That Council:

Determine that the proposed landfill at Allawuna Farm located at Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, St Ronans may be consistent with the objectives of the General Agriculture zone in accordance with Clause 3.2.4(b) of the York Town Planning Scheme No. 2 and thereafter follow the advertising procedures of Clause 8.3 in considering the application for planning approval.”

CARRIED: 5/1

Item 9.1.1 – Appendices

PUBLIC QUESTION TIME

A second Public Question Time period was opened at 4.52pm.

Mrs Roma Paton

Question:

When will FOI results be released?

Response:

When the external review is completed.

Ms Helen Bell

Question:

Can future public meetings be held at night to allow more people to attend?

Response:

Yes this will be considered.

Mr John Oliver

Question:

When will the Town Planning Scheme be reviewed and will this be a public process.

Response:

Local Planning Strategy to be reviewed prior to a Scheme Review and this process has commenced. All review processes involve public consultation and submissions.

Mr Denis Hill

Question 1:

As there is a high level of opposition to the proposal will Council hold a referendum on the matter to gauge public opinion?

Response:

No a referendum will not be initiated by Council due to the costs and the level of opposition is already known.

Council can make a submission to DAP based on public opinion.

Question 2:

DAP Guidelines state that a Local Government staff member is not to prepare the report to the DAP.

Response:

This will be researched.

Ms Kay Kneuss

Question:

How do other Local Governments classify landfill in their Schemes and have comparisons been made?

Response:

This application is specific to York and other Schemes are immaterial. The York Town Planning Scheme pre-dates the model scheme text.

Retrospective changes cannot be made and Council must work with the planning definitions and processes in place now.

Ms Jane Ferro**Question:**

Is Council aware of the economic benefit claims in the proposal and the potential negative effect on existing businesses and tourism?

Response:

Yes – Council is aware of the claims by all parties.

Mr Keith Moore**Question 1:**

Why doesn't Council take notice of the number of residents against the planning application?

Response:

Council is aware of the community concerns and the level of opposition.

Council has not and is not taking sides on the issue and it will assist information provided by all parties.

Question 2:

Has Main Roads WA been advised of the project as there are no funds to upgrade the Chidlow-York Road?

Response:

Yes – Main Roads WA are fully aware of the proposal and will set conditions.

This meeting is not about details it is solely about planning processes.

Mrs Kay Davies**Question:**

Thanked Council for listening to the community and requested when a public meeting could be held.

Response:

Council is trying to get an extension to the DAP timeline to reduce the pressure on timeframes and this may control when a public meeting is held.

The meeting will be early in the advertising process to explain timeframes and submission processes and requirements.

Mr Denis Hill

Question:

Request for the meeting to be held after the start of the advertising period to allow people to read the documents.

Response:

This will be considered.

Mr John Oliver

Question:

Would Council invite the Premier of WA to attend the public meeting.

Mr Denis Hill advised that the Premier has advised he will meet with the Avon Valley Residents Association after the environmental assessment appeal is released.

The second session of Public Question Time closed at 5.24pm.

10. CLOSURE

Cr Reid thanked everyone for their attendance and declared the meeting closed at 5.28pm.