

SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 27 NOVEMBER 2017
COMMENCING AT 5.03PM
IN COUNCIL CHAMBERS,
YORK TOWN HALL, YORK**

Table of Contents

1. OPENING	5
1.1 Declaration of Opening	5
1.2 Disclaimer	5
1.3 Standing Orders.....	5
1.4 Announcement of Visitors	5
1.5 Declarations of Interest that Might Cause a Conflict.....	5
1.6 Declarations of Financial Interest	5
1.7 Declarations of Interest that May Affect Impartiality.....	6
2. ATTENDANCE	6
2.1 Members.....	6
2.2 Staff	6
2.3 Apologies.....	6
2.4 Leave of Absence Previously Approved.....	6
2.5 Number of People in Gallery at Commencement of Meeting.....	6
3. QUESTIONS FROM PREVIOUS MEETING	6
3.1 Response to previous public questions taken on notice	6
3.2 Response to unasked questions from the previous meeting.....	6
4. PUBLIC QUESTION TIME.....	7
4.1 Written Questions – Current Agenda.....	8
4.2 Public Question Time	8
5. APPLICATIONS FOR LEAVE OF ABSENCE	8
6. PRESENTATIONS.....	9
6.1 Petitions.....	9
6.2 Presentations.....	9
6.3 Deputations.....	9
6.4 Delegates reports.....	10
7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	10
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	10
9. OFFICER'S REPORTS.....	10
SY134-11/17 - Development Application – Signage in a Heritage Precinct:	
Lot 7 (Hse 6) Avon Tce, York.....	11
SY135-11/17 - Development Application – Transported Dwelling and Retrospective	
Sea Container: Lot 590 (Hse 189) Avon Tce, York.....	21
SY136-11/17 – Avon Valley Motor Museum Multiyear Funding Agreement.....	31
SY137-11/17 – Review of Delegated Authority.....	35
SY138-11/17 – Proposed Relocation of Recreational Vehicles (RV's) from Avon Park	43
SY139-11/17 – Committees and Reference/Working/Working Groups.....	49
SY140-11/17 – Council Meeting Dates 2018.....	63
SY141-11/17 – Application to Trade in Public Places – TNT Pizza & Takeaway.....	67
SY142-10/17 – Avon Terrace Revitalisation Grant Program Guideline Amendments	71
SY143-11/17 – Australia Day Awards 2018	75
SY144-11/17 – Shire of York & the York Community Resource Centre	
Multiyear Funding Agreement – Palace of the Stars	77

SY145-11/17 – Outstanding Rates and Sundry Debtors	81
SY146-11/17 – Review of Policy: F1.1 Revenue Collection.....	87
SY147-11/17 – Financial Report for October 2017.....	93
SY148-11/17 – Investments – October 2017.....	97
10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	99
11. QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	99
12. BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING.....	99
13. MEETING CLOSED TO THE PUBLIC.....	99
13.1 Matters for which the meeting may be closed	99
SY149-11/17 – Overpayment of Rates.....	101
SY150-11/17 – Write-Off Rates Interest.....	103
SY151-11/17 – Legal Costs – Write Off.....	105
SY152-11/17 – Request for Boundary Realignment.....	107
SY153-11/17 – Recruitment of Executive Manager Infrastructure and Development Services	109
13.2 Public reading of resolutions to be made public	109
14. NEXT MEETING	109
15. CLOSURE	109



SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 27 NOVEMBER 2017, COMMENCING AT 5.03PM IN COUNCIL CHAMBERS, YORK TOWN 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 David Wallace, Shire President, declared the meeting open at 5.03pm.

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 Standing Orders

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Cr Heather Saint – SY134-11/17 – Development Application – Signage in a Heritage Precinct: Lot 7 (Hse 6) Avon Terrace, York – Proximity Interest as I live in a Property Opposite the Development

1.6 Declarations of Financial Interest

Cr Denis Warnick – SY152-11/17 – Confidential Item - Request for Boundary Realignment – The family involved are clients

- 1.7 Declarations of Interest that May Affect Impartiality
Cr Kevin Trent – SY149-11/17 – Confidential Item – Overpayment of Rates – Mr M Galvin was a member of the York Sub-Branch RSL. I am the Sub-Branch President

2. ATTENDANCE

- 2.1 Members
Cr David Wallace, Shire President; Cr Kevin Trent, Deputy Shire President; Cr Denese Smythe; Cr Heather Saint; Cr Pam Heaton; Cr Jane Ferro; Cr Denis Warnick
- 2.2 Staff
Paul Martin, Chief Executive Officer; Suzie Haslehurst, Executive Manager Corporate and Community Services; Carly Rundle, Senior Planner; Helen D'Arcy-Walker, Council and Executive Support Officer
- 2.3 Apologies
Nil
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 8 people in the Gallery at the commencement of the meeting

3. QUESTIONS FROM PREVIOUS MEETING

- 3.1 Response to previous public questions taken on notice
Nil
- 3.2 Response to unasked questions from the previous meeting

Ms Tricia Walters

Does Council have a duty of care to apply fiscal restraint and justify all expenditure within the Shire of York? If so,

Question 1:

Why has the Shire continued to support the Tavern which, according to the 2017/2018 Draft Budget, will cost the ratepayer in excess of \$570,563. This equates to an average of \$326.79 per property,

Question 2:

As the Shire works on a user pay system by way of fees and charges, why are the 12 Sporting Clubs, who have stated that they wish to retain the Tavern license, not being asked to pay \$47,547 each to retain the Tavern License?

Question 1 & 2 Response provided by the Executive Manager Corporate & Community Services:

Council does of course, have a role to oversee and ensure responsible management of the Shire's finances. In answer to both of the sub-questions put, the York Recreation and Convention Centre is just one part of the wider Forrest Oval Sporting Precinct. All local governments have a responsibility to provide community amenities such as swimming pools, libraries, museums, parks and gardens and recreation facilities and it is understood that these amenities, which may not be used by all ratepayers but which contribute to the local community, are usually subsidised by rates.

Council has considered the matter of the YRCC on a number of occasions during the past twelve months and as resolved by Council at the October OCM, a steering group will be formed to transition the management of the bar and kitchen facilities at the YRCC to an incorporated association representative of the users of the YRCC and the wider community. As part of this, a comprehensive review of fees, charges and usage arrangements will be undertaken.

4. 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.*

Public Question Time Commenced at: 5.05pm

4.1 Written Questions – Current Agenda
Nil

4.2 Public Question Time

Mrs Yvonne Dols

Question 1:

Is the Shire committed to local events?

Response provided by the Shire President:

Yes, Council is proactive in supporting local events and will continue to be so.

Ms Tricia Walters

Could Council please advise whether or not they could be held responsible and liable for any damage or accident that could occur to a person or persons who currently have to walk on the road at Henrietta Street, York due to the poor condition of what constitutes the road shoulder.

This is the main road into and out of York, has two lanes which are used by heavy duty vehicles, school buses, children on their way to school, vehicle, as well as pedestrian from the three B&B's. One shoulder is unstable due to gravel and the other due to sand. The road itself is breaking up and subject to pot holes.

Response provided by the Chief Executive Officer:

Would be happy to take on notice as the staff will need to check with our Insurers.

Question 2:

Why has the published response, to my question taken on notice at the October Council Meeting, not dealt with the question asked, which related solely to the cost of the Tavern to the Community? Whereas the cost of providing recreational facilities is an entirely separate item.

Response provided by the Chief Executive Officer:

Officers will provide a more detailed response to the questions asked in the December Ordinary Council Meeting Agenda.

Public Question Time Concluded at 5.09pm as there were no more questions from the Gallery.

5. **APPLICATIONS FOR LEAVE OF ABSENCE**
Nil

6. PRESENTATIONS

6.1 Petitions

A petition was received on Thursday, 23 November, 2017 regarding TNT Pizza application - Item SY141-11/17. The petition was circulated to Councillors on Thursday, 23 November 2017.

6.2 Presentations

Nil

6.3 Deputations

Bob Lengkeek and John Bollock made a deputation to Council to consider incorporating the existing RV parking within the proposed Avon Park Redevelopment.

Cr Saint asked were people surveyed aware that locals were not against the RV's just the location.

John Bollock replied that those surveyed liked the current location.

Cr Saint stated some submissions seemed to think that the Shire was taking away the RV's altogether not relocating the RV's.

John Bollock stated that those surveyed did know only of a relocation.

Cr Saint asked if every business was surveyed?

John Bollock said only two businesses did not respond and advised that the York Business Association is behind us.

Cr Warnick asked what is the primary reason against the relocation?

Bob Lengkeek replied – as caravaners we would not stay at the new relocation. When in the bush hardstand is not a problem. When in a town you expect to have more. The new area is in a flood plain and nothing can be built. Around Australia caravaners like the existing area.

The Shire President thanked Bob Lengkeek and John Bollock for their presentations.

Ms Tricia Walters made a deputation to Council on the WWI Honour Board, York Town Hall and the crowns that are missing from the Board. Ms Walters also donated \$250.00 towards replacement crowns in recognition of the men who gave their lives for their country.

Cr Heaton asked is Ms Walters was aware of how many names are missing from the Honour Board.

Ms Walters did not know how many are missing.

The Shire President asked the CEO if there has been any applications for funding for the Honour Boards.

The CEO replied that Council has a project in this years budget to update the Honour Boards. A funding application has recently been submitted to LotteryWest for this project. If funding is successful the Shire will be able to update the Honour Boards this financial year.

Cr Smythe asked how many names are missing from the Board.

Ms Walters replied the crowns are for the people who died at war.

Ms Walters presented Council with \$250.00 cash.

Cr Saint asked will the \$250.00 received from Ms Walters be put into an account for the grant money.

The Shire President returned the money to Ms Walters and requested that Ms Walters brings the cash into the Administration Office so it can be receipted as the Shire is unable to accept cash at Council meetings. Once the cash is received it will be placed in the appropriate account so the money can be used for the missing crowns on the Honour Board if the funding application is successful.

The Shire President thanked Ms Walters for her presentation.

- 6.4 Delegates reports
Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Minutes of the Special Council Meeting held 23 October 2017

Confirmation

**RESOLUTION
011117**

Moved: Cr Trent

Seconded: Cr Smythe

“That the minutes of the Special Council Meeting held on 23 October 2017 be confirmed as a correct record of proceedings.”

CARRIED: 7/0

7.2 Minutes of the Ordinary Council Meeting held 30 October 2017

Confirmation

**RESOLUTION
021117**

Moved: Cr Heaton

Seconded: Cr Trent

“That the minutes of the Ordinary Council Meeting held 30 October 2017 be confirmed as a correct record of proceedings.”

CARRIED: 7/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

A community harvest was held for Laurie, Jenny, Brenton & Belwyn Fairclough. Headers, trucks and caterers were out in force to help the family. The family are very appreciative for the community help.

9. OFFICER'S REPORTS

Disclosure of Interest – Cr Saint– Proximity Interest as I live in a Property opposite the Development

Cr Saint declared a Proximity Interest to this item and left the room at 5.35pm

SY134-11/17 - Development Application – Signage in a Heritage Precinct: Lot 7 (Hse 6) Avon Tce, York

FILE REFERENCE:	AV1.12671
APPLICANT OR PROPONENT(S):	AECOM on behalf of Viva Shell
AUTHORS NAME & POSITION:	Carly Rundle, Senior Planner
RESPONSIBLE OFFICER:	Bret Howson – Acting Executive Manager Infrastructure and Development Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Cr Heather Saint - Proximity
APPENDICES:	A – Site Plan B – Site Photos C – Development Plans

Nature of Council’s Role in the Matter:

- Quasi-judicial

Purpose of the Report:

The purpose of this report is to request Council to make a determination on a development application received for new illuminated signage in a heritage precinct at Lot 7 (Hse 6) Avon Terrace, York.

Subject to conditions being implemented, the proposal is considered consistent with the Shire of York Town Planning Scheme No. 2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and is therefore recommended to Council that the application be conditionally approved.

Background:

Lot 7 is 1004m² in area and contains an existing service station. Access to and from the property is via Avon Terrace. The property is located within the York Central Precinct and is partly located within the Avon River Floodplain area. A Site Plan of the property is provided in **Appendix A**. Photos of the existing site is provided in **Appendix B**.

The existing signage on the property was approved at Ordinary Council Meeting on 17 August 2009 where it was resolved:

*“That Council:
utilise its discretionary powers to allow a sign as per Advice Note No.2 as it is a replacement sign which had been in place for a significant period of years and while not being an exact replica it is acceptable within the streetscape as a corporate logo.”*

Advice Note No. 2 specified the following:

“A free-standing sign in accordance with the policy, i.e Shell corporate signage on top of the sign followed by petrol prices below.”

The approval involved a fixed illuminated pylon sign 6m in height, with dimensions of 1.8m by 1.8m, setback 0.5m from the front lot boundary and 1m from the side lot boundary; and the existing monolith sign (price board) which is 2.2m in height and 1.16m wide.

A development application has now been received from AECOM on behalf of Viva Shell, proposed to install new advertising signage on the property including:

- Replacing of the existing pylon sign (shell logo) with new fixed illuminated pylon sign, at a total height of 7m and the sign face having dimensions of 2.4m high by 2m wide;
- Replacing the existing monolithic sign (price board) with new non-illuminated monolithic sign (price board) of 2.64m in height and 1.41m in width;
- One illuminated canopy pecten sign of 1.2m by 1.2m fixed to the northern end of the canopy above fuel pumps;
- Two height markers suspended beneath the station canopy of 210mm high and width of canopy above fuel pumps;
- Two new 'hooped' leaderboard signs adjacent the fuel pumps with dimensions of 1.2m by 0.88m wide displaying fuels available at the pump. The applicant has also provided the main purpose of these is to act as a crash barrier to the pumps;

A copy of the development plans is provided in **Appendix C**. Council is requested to make a determination on the application proposed.

Comments and details:

Development applications are required to be assessed in accordance with the Shire of York's Local Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* – Deemed Provisions.

The property is zoned 'Town Centre' by the Shire of York Town Planning Scheme No.2 (TPS2), is located within the Central York Heritage Precinct and is located within an area identified as being affected by the Avon River Floodplain.

The application is for new signage. In accordance with clause 4.2(f) new signage on a place within a heritage precinct is not exempt from development approval. Clause 5.1.4.1 of TPS2 requires the local government in assessing any application for planning consent to have regard to any heritage policy of the local government.

Clause 5.3.3 of the Scheme also provides the following relating to assessment of signage applications:

5.3.3 Considerations of Advertisements

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, the local government shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

The Shire has two adopted local planning policies controlling signage within the Shire, which includes Local Planning Policy No. 3 Heritage Precincts and Places (LPP3) which includes provisions for signage and Local Planning Policy No. 4 Advertising Signage (LPP4), which provides guidance for signage applications. LPP3 prevails over LPP4 in the event of inconsistency.

Local Planning Policy No. 3 – Heritage Precincts and Places & Local Planning Policy No. 4 – Advertising Signs

The objectives of LPP3, in relation to Section 5 relating to signage are as follows:

- *To permit adequate identification and business advertising;*

- *To recognise that advertising signs can help to express the character of the Heritage Precincts creating an attractive daytime and evening atmosphere.*
- *To limit the number, scale and positioning of advertising signs;*
- *To ensure that advertising signs are in keeping with the scale and character of the building upon which they will be attached and do not detract from the architecture of the building.*
- *To ensure that signage is designed and located in a manner which enhances and conserves the heritage place with which it is associated.*

The objectives of LPP4 are to:

- Ensure that advertisements are appropriately sized and site for their location;*
- Require advertisements to maintain and enhance the amenity of the immediate area, including areas of historical or environmental significance;*
- Discourage the ineffective, visually intrusive and proliferation of excessive advertisements; and*
- Provide guidelines for consistent decision making for advertisements on zoned or reserved land within the Shire of York.*

In the event of inconsistency between the two policies, the provisions of LPP3 prevail.

The proposed signs are considered to fall within the sign types of pylon sign (shell logo on pier), monolith sign (price board) and awning sign (referred to as the canopy pecten sign in development plans). These are defined as:

'Monolith sign' means a sign that is not attached to a building or any other structure and with its largest dimension being vertical. Such signs may consist of a number of modules and is generally uniform in shape from ground level to the top of the sign.

'Pylon Sign' means a sign supported on one or more piers, not attached to a building or other structure, and includes a detached sign framework supported on one or more piers to which sign infill may be added.

'Awning sign' which 'means a sign displayed under an awning or the eaves of the building, and includes signs on blinds, sunshades and similar structures attached to an awning, verandah, balcony or eaves of a building'.

The policies specify a number of guidelines for the signage outlined below:

Local Planning Policy No. 3 – Heritage Precincts and Places (5.0 Signage)	
Complying Principles	Proposed Signage
a) Signs shall be discreet and shall complement the building and streetscape in which it is located.	The proposed signage is a replacement of existing signage, although proposes an increase in height, size, and new illuminated awning sign. Whilst the proposed signage is complementary to the building already containing similar signage, the increase in size is not considered to be discrete, or complementary to the existing streetscape which has relatively minimal and discrete signage erected.
b), c) & d) Signs shall be of a size, nature, colour and position so that the architectural characteristics of the building remain the dominant element of the building. Signage must respect and not cover important architectural detail on historic buildings Signage should respect the heritage values of the building and streetscape on which it is located, however should not attempt to recreate a historic	The building itself is not heritage listed containing important historic architectural detail, and the proposed signage is largely detached from the building, with a relatively minor new sign attached to the canopy over the fuel pumps on the northern side. The signs are not anticipated to be the dominant element of the building or cover architectural features, although due to the colours, size and illumination has potential to appear out of character with the existing streetscape from excessive signage.

character through the use of 'olde' lettering or other imitation styles.	'Olde' lettering is not proposed.
e) Signs shall be attached to a building in a manner which does not damage	Complies – Building is not heritage listed.
f) Views into and out of shop windows should not be significantly obscured by signage	Complies – signage does not obscure shop windows.
g) All signs should be of a high standard in terms of materials, construction and graphics. All signs shall be designed, constructed, finished, installed and maintained to a standard compatible with its surroundings, including buildings, landscaping and other signs.	Complies – new signage will be finished to a high standard.
h) Background colours used in signs shall generally be white or cream or colours from the colour palette available for viewing at the Shire of York.	<p>The proposed signage (inclusive of the pylon sign, monolith sign (price board) and awning sign consists of the shell logo and colours of red and yellow on white backgrounds which complies.</p> <p>The Leaderboard signs have a yellow background which is a variation to the policy and canopy fascia will be red, white and yellow, although is replacing the existing red and yellow canopy fascia.</p>
<p>Prohibited Signs The following signs are not permitted within the York Central or Blandstown Heritage Precincts (relevant provisions listed):</p> <p>a) Signs which consist of modern standardised corporate advertising, unless such signage is modified by placing the modern sign in a panel with a perimeter margin and the background colour of the sign is generally white or cream or colours from the colour palette available for viewing at the Shire Officers, or appropriate to the period and the building to which it is affixed;</p> <p>f) pylon, tower or monolith signs;</p> <p>g) Rotating, flashing and internally lit signs. Small neon signs hanging inside the windows of shops may be appropriate, provided they are of a size and dimension to not become a dominant townscape element.</p> <p>h) Roof signs or signs which break a parapet or roof line;</p>	<p>The proposed signage falls within numerous sign types listed as not permitted within the York Central Heritage Precinct including:</p> <ul style="list-style-type: none"> • Signs are proposed which consist of modern standardised corporate advertising. The policy provides further guidance on this, that the use of corporate colours and business logos shall not exceed 40% of the total surface area. The following signs do not comply with the 40% requirement: <ul style="list-style-type: none"> ○ Leaderboard sign has a yellow background exceeding 40%; ○ Awning sign has a white background although the corporate colours make up approximately 63% of the total surface area; • The awning sign will protrude approximately 0.35m above the canopy roof line; • The pylon sign and awning sign are proposed to have steady illumination
<p>Appropriate locations for signs The aggregate number of signs on a building, including the painting of the building and freestanding signs shall be minimised. The total aggregate of all signs on the frontage of the building to the street shall not exceed 10% of the total (silhouette) area of the building's principal frontage.</p>	The total of proposed signage on the property exceeds the 10% permitted total aggregate signage on the property requiring a variation to the policy.
<p>Permitted Signage Content The information to be included on a sign shall be limited to:</p> <p>a) The name, address, telephone number, email address or website associated with the premises;</p> <p>b) The name of the business(es) contained within the premises;</p> <p>c) The type of services, activities or products available within the premises.</p> <p>Unrelated or third-party advertising is not permitted. Lettering on signs is restricted to 300mm high.</p>	Complies, proposed signage consists of logos, and price board advertising products available where lettering is no more than 300mm high.
Local Planning Policy No. 4 Advertising Signage	
<p>6.1 Awning, Banner and Projecting Wall Sign</p> <ul style="list-style-type: none"> • One sign type per frontage of the subject building or tenancy. • The sign is placed towards the middle of the building elevation or tenancy frontage; 	One awning sign is proposed. The sign is proposed to the north-western end of the canopy, which is not centrally located, although the logo is not anticipated to appear out of character with the existing site.

<ul style="list-style-type: none"> • The minimum clearance between the underside of the sign and the footpath below shall be 2.4m within private property; • An awning sign shall be in keeping with the architectural style of the building and not detract from the amenity of the streetscape; • The awning sign shall be no longer than half of the width of the awning or eave and a maximum height of 600mm; and • The awning sign must not extend past the awning. 	<p>The awning sign will replace the existing 'Shell' logo painted on the fascia with a 1.2m high by 1.2m wide illuminated sign, depth of approximately 300mm which projects above the canopy fascia by approximately 0.35m.</p> <p>The height of the awning sign, breaking of the roof line and extending past the awning is a variation to both LPP3 and LPP4.</p>
<p>6.5 Pylon Signs</p> <ul style="list-style-type: none"> • Sign face shall not exceed 6m²; • Have no part less than 2.75m, or more than 6m, above natural ground level; • Have no part more than 6m above the natural ground level immediately below the monolith pylon sign; • Maximum width of 2.5m; • Allocate sign infill for businesses; • Achieve minimum side boundary setbacks of 6m and a front boundary setback of 1.8m; • Be placed in a location that can demonstrate that it does not detrimentally interfere with sightlines and the visibility of traffic and pedestrians entering and leaving the lot, adjacent property, car parking area or road; • Be in a position where it can be demonstrated to have no detrimental impact on a view or vista from a dwelling to an artificial or natural waterway or any other natural feature of cultural significance. • Be in a position not to undermine the existing amenity of the locality and would be suitable to the locality; 	<p>Pylon, monolith and tower signs are not permitted by LPP3, although LPP4 provides guidance on pylon sign types outside of heritage precincts.</p> <p>The proposed sign complies with the provisions with the exception of:</p> <ul style="list-style-type: none"> ○ The sign is proposed to be increased from the current 6m to 7m in total height; ○ It does not contain sign infill panels; ○ A front boundary setback of 0.5m and side boundary setback of 1m is proposed. <p>With regards to sightlines, the pylon and monolith sign are within what would normally be required as a truncation area to the driveway (noting that the application is to replace signs in this location already), however sightlines impacted by the sign would only affect vehicles exiting the site, and with vehicles keeping left, exiting is likely to occur a minimum of 1.5m from the monolith sign naturally providing sightlines. The proposed signage is not anticipated to interfere with sightlines, or visibility of traffic and pedestrians from vehicles entering and exiting the property.</p>
<p>7.2 Principles for Assessment</p> <p>This section provides a number of principles with regards to the siting, location and compatibility of signage within its context.</p>	<p>Refer comments below.</p>

The proposed signage requires a number of variations to LPP3 and LPP4, mainly consisting of the sign types (monolith and pylon signs) and illumination of the awning and pylon sign not being permitted. There are also variations with regards to the setbacks of the pylon and monolith sign, height of the pylon sign does not comply, colours of the leaderboard signs is a variation and the awning sign size and extending past the canopy fascia is not permitted.

The application mostly proposes replacement of existing signage on the property, including the repainting of the fascia, illuminated pylon sign, monolith sign (price board) which had been approved as variations to the policy. Although, this application does propose to increase the height and size of the sign face of both the pylon and monolith sign, a new illuminated awning sign, leaderboard signs and height markers, all which propose new variations to LPP3 and LPP4.

The objectives of the policy generally outline that signage is required to permit adequate identification of a business and allow advertising, although also outlines that a balance needs to be maintained to ensure that advertising signs are in keeping with the scale, amenity and character of the property and immediate area, including areas of historical significance, and will not result ineffective, visually intrusive or proliferation of excessive advertisements in the streetscape.

The established character and existing amenity of Avon Terrace consists of relatively discrete signage supporting businesses where buildings and architectural features have remained

dominant elements. There are two service stations located on Avon Terrace, both which contain pylon and monolith signs, and both have highly noticable signage in the context of the streetscape, which if increased could detract from the surrounding heritage values of the York Central precinct.

The current application proposes to increase the pylon and monolith sign, in both height and dimension of sign faces. The existing signage is above what the policy current allows, and it is considered that an increase in size is likely to further the dominance of the signage in the context of the streetscape and is not supported. The increase in signage is also likely to set a precedent for the other service station, who has a pylon and monolith sign of similar dimensions to that existing on this property. It is noted that the pylon sign at the Gull Service Station has a larger sign face of approximately 3m in height by 1.4m in width, although this property has a much larger frontage than the current site and is not considered justification for this application. The monolith sign (price board) at the Gull Service Station is 2.3m high by 1.2m wide, and is reasonable that this application be approved with the same dimensions. Therefore, it is proposed to approve the pylon sign subject to no increase in size occurring from that currently existing on the property and monolith sign subject to dimensions of the sign not exceeding 2.3m in height and 1.2m in width.

The new awning sign is replacing the 'Shell' logo on the fascia, is proposed to be illuminated, is above the 600mm height permitted (1.2m proposed) and extends 0.35m above the roof line which is a sign type not permitted. In the context of the streetscape, the sign is not anticipated to have a detrimental impact on amenity, attached to the canopy fascia, and the projection of 0.35m above the fascia will be minor. It is also noted that the other service station on Avon Terrace contains a roof sign and it would be unreasonable not to support a minor variation for this awning sign. However, the illumination when viewed from the north will be in conjunction with the pylon sign. It is considered that both signs are likely to result in excessive illuminated advertisements on the building which is likely to detract from the visual amenity of the heritage precinct and is not supported.

The leaderboard signs and height markers are considered minor development not likely to impact the visual amenity of the streetscape.

The property is also located within the Avon River Flood Fringe. Signage is permitted to occur within the flood fringe area, and being replacement signage does not warrant referral to Department of Water or environment or conservation agency prior to make a determination on the application. Section 5.4(d) provides that any application for development or land use shall require a notification pursuant to Section 70A of the Transfer of Land Act 193 (as amended) or a similar legal instrument, to be placed on title of the land to the effect that the land is subject to inundation during a flood event.

Although the application is only for replacement signage within the area identified to be affected by the flood fringe, it is furthering the life of the infrastructure in this area, which has potential to be affected in a flood event, and therefore the notification is warranted and will be conditioned on approval. If a notification already exists on the title, the applicant can submit documents demonstrating this to satisfy the condition.

Options:

Officers consider that subject to appropriate conditions being implemented, the proposal is consistent with the Shire of York Town Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and have recommended that Council approve the application subject to conditions.

Should Council disagree with the officer's recommendation, the following options are available:

1. Refuse the application and list reasons; or
2. Approve the application, with modified conditions.

Implications to Consider:

Consultative:

The application was publicly advertised in the Avon Valley Gazette for a period of 14 days ending on the 6 November 2017 and sent to landowners in proximity to the site for comment. No submissions were received.

The Shire's Heritage Advisor was referred the proposal and provided comment that the signage is an upgrade that replaces the existing elements that have the same corporate colours and form, with an increase in size, and introduction of the internally lit awning signage. The Heritage Advisor recommended that the proposed signage was non-compliant with the policy, due predominantly to the internal illumination of signage and did not recommend approval on that basis.

Policy Implication:

There are no policy implications associated with the proposal for the Shire.

Financial Implications:

There are no financial implications associated with this proposal for the Shire.

Strategic Implications:

Officers recommendation is consistent with the Shire of York's 2016-2026 Strategic Community Plan Theme 2: A Leader in Cultural Heritage and Environment, and in particular desired outcome 2.3:

2.3 New development is carried out at a scale and in style which retains, is compatible with and does not overshadow, the historic feel and heritage character of the town of York and other settlements.

Legal and Statutory

The proposal has been assessed in accordance with the statutory framework set by the Scheme and Regulations.

Risk related

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion.

Workforce Implications

There are no known workforce implications for the Shire as a result of the officer's recommendation.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
031117**

Moved: Cr Trent

Seconded: Cr Heaton

“That Council:

Approves the planning application for Signage in a Heritage Precinct at Lot 7 (Hse 6) Avon Terrace, York, subject to the following conditions:

- 1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.***
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) including any notes placed in red by the Shire and except as may be modified by the following conditions.***
- 3. The ‘awning sign’ referred to within the Development plans as the ‘illuminated Pecten sign’ shall not be illuminated.***
- 4. The illuminated pylon sign hereby permitted shall not contain any flashing or moving light at any time.***
- 5. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the Shire’s planning department and have been approved in writing:***

a) Amended plans condition:

- (i) The Pylon sign shall not exceed a height of 6m from natural ground level, and the sign face shall not be greater than currently existing on the site to the satisfaction of the Shire (Advice Note 4);***
- (ii) The Monolith sign shall not exceed a height of 2.3m from natural ground level and 1.2m in width;***

b) Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended), or similar legal instrument, is to be placed on the Certificates of Title of the lot advising that:

“Part of this land may be subject to inundation during a flood event”.

All costs related to the notification shall be at the cost of the applicant/landowner (Advice Note 5).

ADVICE NOTES:

- Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2:** Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.
- Note 3:** If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.

Note 4:	The current dimensions of the pylon sign face are 1.8m by 1.8m.
Note 5:	<p>A copy of the Section 70A application form can be found on the following link: https://www0.landgate.wa.gov.au/docvault.nsf/web-new/FREEHOLD_LRFORMS/\$FILE/FOR_DLI_N1.pdf</p> <p>To satisfy condition 5(b) you are required to complete the Section 70A application form and lodge the original copy with the Shire for signing. Once signed by the Shire, the Section 70a will be returned to yourself to be lodged with Landgate. A copy of the lodgement receipt will need to be provided to the City to satisfy this condition. If a notification already exists on the title, please notify the Shire accordingly.</p>
Note 6:	In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a building permit must be submitted to, and approval granted by the Shire, prior to the commencement of the development of the development hereby permitted.
Note 7:	Any additional advertising signage or illumination not approved under this application is subject to a separate planning application and approval by Council.
CARRIED: 6/0	

Cr Saint returned to the meeting at 5.36pm.

The Shire President advised Cr Saint of the Council decision.

SY135-11/17 - Development Application – Transported Dwelling and Retrospective Sea Container: Lot 590 (Hse 189) Avon Tce, York

FILE REFERENCE: AV1.31125
APPLICANT OR PROPONENT(S): Timothy Cent
AUTHORS NAME & POSITION: Carly Rundle, Senior Planner
RESPONSIBLE OFFICER: Bret Howson – Acting Executive Manager
Infrastructure and Development Services
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Site Plan
B – Site Photos
C – Development Plans

Nature of Council's Role in the Matter:

- Quasi-judicial

Purpose of the Report:

The purpose of this report is to request Council to make a determination on a development application received for a proposed Transported Dwelling and Retrospective Sea Container at Lot 590 (Hse 189) Avon Terrace, York.

Subject to conditions being implemented, the proposal is considered consistent with the Shire of York Town Planning Scheme No. 2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and is therefore recommended to Council that the application be conditionally approved.

Background:

Lot 590 is 1528m² in area, zoned Residential with a density code of 'R5' and is located in between the Police Station (which also contains a dwelling) to the south, York Volunteer Fire and Rescue Service building to the north, Railway Reserve to the west and similarly zoned Residential land to the east via Avon Terrace which has been developed predominantly with single houses.

The property is vacant of development, with the exception of a 40-foot sea container recently located on the property. The sea container was issued with a temporary approval to be located on the property for no longer than 3 months under delegated authority, with a condition of approval requiring the sea container to be removed by no later than the 21 September 2017.

A Site Plan and Site Photos are provided in **Appendices A and B** respectively.

On 19 September 2017 a development application was received (a preliminary assessment identified additional information was required before the application could be processed, which was received 12 October 2017) proposing to:

- Permanently locate the 40 ft sea container on the property. A 40ft container is a variation to the Shire's Local Planning Policy No.2 which permits one 20ft container subject to meeting other relevant conditions. The development plans submitted indicate that a pitched roof covering with gabled end will be erected over the sea container which will be attached to the dwelling;

- Relocate a transported dwelling to the site. The proposed dwelling is 6.2m by 6.2m and will contain a kitchen, dining, bedroom and bathroom. The dwelling was constructed offsite and it understood that it was previously used as a site office/display home by the building company. The applicant intends to relocate this building to the property to be used as a residence (Single House).

As the sea container was existing and would no longer be compliant with the temporary approval requiring it to be removed, the application to retain the sea container on the property is 'retrospective', and required retrospective application fees to be paid.

A copy of the development plans is provided in **Appendix B**. Council is requested to make a determination on the application proposed.

Comments and details:

Development applications are required to be assessed in accordance with the Shire of York's Local Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* – Deemed Provisions.

Shire of York Town Planning Scheme No.2 (TPS2)

The property is zoned 'Residential' with a density code of R5 by TPS2. A 'Single House' is a permitted land use in the Residential zone and in accordance with CI 4.2 and 4.3 of TPS2, the erection of the first dwelling on the property would usually be exempt from requiring planning approval provided it complies with deemed to comply development standards of the State Planning Policy 3.1 – Residential Design Codes. However, CI 5.8 of TPS2 does not exempt 'Transported Dwellings' from requiring approval and specifies the following provisions:

5.8 TRANSPORTED DWELLINGS

5.8.1 No person shall transport a building and place it on land in the York townsite and use it as a dwelling unless planning consent has been granted by the local government. The local government shall not grant planning consent if the land is within a Heritage Precinct designated in accordance with clause 5.1.3.

5.8.2 The local government shall only grant planning consent pursuant to clause 5.8.1 if the transported building:

- a) complies with the provisions of the Scheme, the Residential Design Codes, and any Local Laws applicable both to the transported building and the land on which it is to be situated; and*
- (b) is, in the opinion of the local government, in a satisfactory condition and will not detrimentally affect the amenity of the locality.*

5.8.3 The planning consent which may be granted by the local government pursuant to clause 5.8.2 may include a condition requiring the applicant to enter into an agreement with, and provide a bond to, the local government. Such an agreement and bond is to provide a surety for completion of the building to a standard acceptable to the local government within such time as may be specified by the local government.

The proposed dwelling is small (6.2m by 6.2m) in comparison to other dwellings in the locality (noting that a rear patio with roof covering of 6.2m by 12.2m is also proposed to be constructed), although is in a good condition (refer Appendix C), has an appearance consistent with surrounding dwellings and is anticipated to be consistent with the amenity of the locality, with minimal works required as shown on the development plans (i.e. cladding of underside of dwelling, construction of front steps). It is also noted, that there is no minimum size specified for a dwelling, and the same size dwelling if newly constructed onsite would be exempt from requiring planning approval.

TPS2 provides the local government with the ability to require a bond against completion of works to an acceptable standard and within such time as specified by the local government. Local Planning Policy No. 7 – Relocated Dwellings provides guidance on the taking of bonds in this circumstance, which is discussed further below.

Clause 67 – Matters for Consideration (Regulations)

Local government is to give due regard to Clause 67 in the consideration of any development application. The following are those most relevant to the application:

- (b) *The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015*

Omnibus Scheme Amendment No. 50 (which is in the final stages of approval) will delete clause 5.8 – Transported Dwellings from TPS. This will be replaced with two new land uses of ‘second-hand dwelling’ and ‘re-purposed dwelling’ to be inserted into the zoning table as ‘AA’ land uses in the Residential zone.

This requires development consistent with these land uses to require development approval, as well as being considered against Clause 67 requiring due regard to impact on amenity, as well as any Local Planning Policies that have been adopted.

The amendment has little implication in assessment of this application.

- (c) *Any approved State Planning Policy*

State Planning Policy 3.1 Residential Design Codes applies. The dwelling complies with the deemed to comply provisions, with the exception of 5.2.3. Street Surveillance. The deemed provisions specify that the street elevation of the dwelling is to address the street with clearly definable entry points visible and accessed from the street. The entry of the proposed dwelling faces to the north of the property, and not Avon Terrace. The portion of the building facing Avon Terrace is elevation four, which contains one window of approximately 0.9m by 1.4m (1.26m²) from the kitchen window.

The design principles for variations specifies that the intent of this is for ‘buildings designed to provide surveillance between individual dwellings and the street and between common areas and the street, which minimise the opportunities for concealment and entrapment.

There is one window from the kitchen which is only just over the size to meet a major opening. The appearance does not give a perception of public surveillance, and even though the building is setback over 32m from Avon Terrace, is considered necessary to meet the design principles and provide a perception of frontage to the street.

A condition of approval will be included requiring amended plans to be submitted where the elevation facing Avon Terrace will address the street and have clearly definable entry points visible and accessed from the street elevation. Discussions with the applicant have indicated that this would be achieved by rotating the elevation, so the front door elevation faces Avon Terrace instead of to the north.

- g) *any local planning policy for the Scheme area*

Local Planning Policy No.2 – Sea Containers

The 40ft sea container was issued with a temporary approval to be located on the property for 3 months under delegated authority, with a condition of approval requiring the sea container to be removed by no later than 21 September 2017. An application to permanently locate on the property for the purposes of storage has since been received.

The policy permits a maximum of one 20ft sea container on a residential zoned property, provided it is ancillary to a dwelling, that it is in good condition or painted prior to location upon the property and located to the rear of the property and suitable screened and/or fenced from the road frontage, unless otherwise determined by Council. It is also specifies that Council may require additional works or measures other than those already mentioned to properly address any amenity issues arising from the location of the sea container.

The 40ft container is a variation to the policy. The location of the container is to the rear of the dwelling is setback over 32m from Avon Terrace, although the orientation of the container means it will be visible to the Avon Terrace, as the dwelling being 6.2m wide will only screen half of the sea container. The location of the driveway and use of this area for patio space also means it will be difficult for screening and/or fencing to be erected, and the oversized container will also be visible to adjoining properties. The applicant has proposed to erect a pitched roof covering, with enclosed gabled end over the top of the container, which will attach to the dwelling creating an undercover patio area, with the intent of giving an improved appearance consistent with that typical of an outbuilding and integrate with other buildings on site. It is considered that this is a reasonable measure to improve the appearance of the container, and justify the increased size of the container to be retained on site. It is considered that treatments to the external walls and roof covering (i.e. painting or cladding) of the sea container should also be undertaken within a reasonable timeframe to be compatible with the proposed dwelling and will be conditioned on approval.

Local Planning Policy No.6 – Retrospective Applications

As the sea container was existing on site and would no longer be compliant with the temporary approval requiring it to be removed, the application to retain the sea container on the property is 'retrospective', and required retrospective application fees to be paid. The policy requires applications to be assessed as though they are new applications, the retrospective application fee to be paid which has occurred, and advertising of the proposal, which has also occurred with the application being referred to immediately adjoining landowners for comment.

Local Planning Policy No. 7 – Relocated Second-Hand Dwellings

A relocated second-hand dwelling is defined as any building, either designed to be transportable or not, that has been previously installed at any other location either within or outside of the Shire of York and is either designed or will be equipped for habitation. It does not apply to newly constructed purpose built transportable dwellings, although given that the proposed unit has been installed for use offsite it is considered that it falls within the definition of a relocated second-hand dwelling and is subject to the provisions of the policy.

The objectives of the policy are: to:

- Provide clear standards as to what constitutes an acceptable type of relocated second-hand building to be used as a dwelling or for other habitable purposes;
- Ensure compliance with the relevant provisions of Council's Town Planning Scheme No. 2 in a manner that is realistic and that ensures that the relocation of second-hand dwellings is undertaken to an approved standard that pays regard to local amenity and aesthetics; and
- Ensure the style, construction and design of relocated dwellings is in keeping with the character of the surrounding dwellings in particular and the locality in general.

The policy then sets guidelines for application requirements and relocation requirements and development guidelines:

Provisions	Proposed Development
<p>4.2 Engineering Assessment</p> <p>Certification from a practicing structural engineer that the design and condition of the building is suitable for transportation and re-erection is required to be lodged with the application for Planning Consent. The building is also to be certified in accordance with Australian Standard 1170.4 – Structural Design Actions – Earthquake Actions in Australia by a suitably qualified Structural Engineer.</p>	<p>Structural engineer's certification certifying that the dwelling will or measures required to comply with the Building Codes has been provided with building permit.</p>
<p>4.4 Approval to Transport</p> <p>Prior approval of Council's Engineering Services to transport relocated second-hand dwellings along local roads is required. Such approval shall be granted subject to any conditions Council's Manager of Works and Projects considers appropriate. This approval is in addition to any required Main Roads permits</p>	<p>Will be provided as advice note on approval.</p>
<p>5.1 Minimum Dwelling Standard</p> <p>The following minimum dwelling standard applies:</p> <ul style="list-style-type: none"> At least one (1) bedroom separate from the other rooms in the dwelling; A lounge, meals and kitchen area (may be open plan); and A separate bathroom and laundry. 	<p>The building contains a bedroom, separate bathroom and combined lounge, meals and kitchen areas. No laundry facilities are shown on the development plans. It is a requirement of the Building Codes that a separate laundry sink be provided, and the Health Act 2011, requires a laundry sink and washing machine to be provided. The applicant has provided that he will provide this within the sea container. Building and Health Officer have advised no issues with this location. The location of the laundry will be confirmed via a condition of approval.</p>
<p>5.3 Amenity</p> <p>When giving consideration to an application for Planning Consent, Council shall give consideration to:</p> <ul style="list-style-type: none"> The dwelling in its relocated position being rendered visually acceptable by the use of verandahs, screening and / or landscaping; and The design, scale and bulk of the proposed dwelling being compatible with the type of dwellings that exist in the locality in which it is to be located. <p>Council will not grant Planning Consent for relocating any dwellings if it is considered to be in conflict with the age and design of dwellings in the immediate vicinity of the proposed new location.</p>	<p>The dwelling is in good condition, and design is consistent with other modern dwellings in the locality (except for the size) which is smaller than other dwellings in the locality, although there are no provisions which control the minimum size of a dwelling.</p> <p>A 12m patio will also be constructed behind to match, and it is setback 32m from Avon Terrace.</p> <p>The dwelling and proposed works on the development is considered sufficient for the dwelling to be visually acceptable in its context</p>
<p>5.4 Appearance of the Dwelling</p> <p>Council will place any conditions on the Planning Consent it deems appropriate to ensure the relocated second-hand dwelling meets the objectives of this policy in relation to the external appearance of the dwelling.</p> <p>Council may require external repainting and/or re-cladding of the dwelling.</p> <p>Where the dwelling does not currently have verandahs, Council will require an appropriate verandah to be constructed as a condition of Planning Consent.</p> <p>Where the roof pitch of the dwelling is not consistent with surrounding dwellings, Council will require alterations to ensure the dwelling does not detract from the amenity of the locality.</p>	<p>The appearance of the dwelling is in good condition, and design is consistent with other modern dwellings in the locality. No repainting or re-cladding of the dwelling is considered necessary.</p> <p>The dwelling is considered compatible with the amenity of surrounding dwellings without a verandah being constructed, and both adjoining structures do not have verandas constructed fronting Avon terrace.</p> <p>The roof pitch of the dwelling is anticipated to lower than the adjoining structure at the police station and volunteer bushfire brigade building, although is not anticipated to detract from the amenity of the locality and is supported.</p>
<p>5.5 Landscaping</p> <p>To ensure the relocated second-hand dwelling is established as quickly as possible in its new location,</p>	<p>It is considered that the dwelling and sea container (subject to conditions being implemented) will have</p>

landscaping of the area between the street and building will be required as a condition of Planning Consent. This landscaping is to be planted and maintained to the satisfaction of Council.	<p>an appearance that will be consistent with the amenity of the locality.</p> <p>In this regard it is considered reasonable that landscaping can be undertaken by the landowner at their own pace, as would occur in any newly constructed dwelling.</p>
<p>6. BOND</p> <p>6.1 Payment</p> <p>In accordance with Clause 5.8.3 of the Scheme, as a condition of Planning Consent for a relocated second-hand dwelling, a \$30,000 bond per individual building is to be lodged with the Shire of York prior to issue of a Building Permit and relocation of the building taking place.</p> <p>Additionally, a signed statutory declaration outlining a bond agreement is to be entered into by the owner(s) prior to issue of a building permit. The agreement is to outline a staged repayment of the performance bond when certain works are completed as outlined in the policy.</p> <p>6.2 Time Limit of Works</p> <p>The time for completion of all work is twelve (12) months from the relocation of the dwelling or prior to occupation, whichever comes first. Should Council not be satisfied with works undertaken to date at the time of expiry of the time limit, Council will take measures to ensure the works are completed as soon as is practicable. These measures may include the use of the bond to complete outstanding works.</p> <p>6.3 Forfeiture of Bond</p> <p>Notwithstanding clause 6.2, failure to comply with all conditions placed by Council on the planning consent will result in forfeiture of the bond and removal of the building unless otherwise determined by Council.</p>	<p>The applicant has requested that the required bond be waived, on the basis that the payment of any bond will be financially unaffordable after meeting the costs of purchase and construction of the dwelling, and that payment of the bond will impact on their ability to undertake the works to complete the dwelling in the required timeframes.</p> <p>The purpose of the bond is to ensure that the works required to bring the dwelling to an adequate standard are completed in a 12-month timeframe.</p> <p>In this instance, the proposed dwelling to be relocated is relatively new compared to second hand dwellings which would normally be captured by this policy. Once the dwelling is relocated to the property, there are a minimal works required externally to complete the dwelling to a standard that is compatible with the amenity of the surrounding locality. Other works are standard to be completed as part of the building permit, or effluent application. The dwelling is also much smaller than a dwelling that would normally be relocated requiring the \$30,000 bond to be paid.</p> <p>It is considered that a reduction in the bond amount is justified, although given that there are works that are necessary to be completed (including works to the sea container), it is considered reasonable that a bond is paid. It is recommended that a bond of \$3,000 be held against these works being completed, which should allow for removal of the sea container if works are not completed, and completion of the external works to the dwelling. There are other means to pursue non-compliance of other matters if not substantially completed.</p>

Subject to the appropriate conditions being implemented, the transportable dwelling is considered consistent with LPP7.

Options:

Officers consider that subject to appropriate conditions being implemented, the proposal is consistent with the Shire of York Town Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and have recommended that Council approves the application subject to conditions.

Should Council disagree with the officer's recommendation, the following options are available:

3. Refuse the application and list reasons; or
4. Approve the application, with modified conditions.

Implications to Consider:**Consultative:**

The proposal was referred to immediately adjoining landowners inviting comment on the proposal for a period of 14 days ending on 30 October 2017. No submissions were received.

Policy Implication:

There are no policy implications associated with the proposal for the Shire.

Financial Implications:

There are no financial implications associated with this proposal for the Shire.

Strategic Implications:

The proposal and officers recommendation is considered to be consistent with the Shire of York's 2016-2026 Strategic Community Plan and the following desired outcomes:

- Theme 1: The Place to Live
1.6 There is affordable and appropriate housing choice which allows people to stay in the Shire throughout their lives

Legal and Statutory

The proposal has been assessed in accordance with the statutory framework set by the Scheme and Regulations.

Risk related

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion.

Workforce Implications

There are no known workforce implications for the Shire as a result of the officer's recommendation.

Voting Requirements:

Absolute Majority Required: **No**

**RESOLUTION
041117**

Moved: Cr Smythe

Seconded: Cr Warnick

“That Council:

Approves the planning application for a Transported Dwelling and Sea Container at Lot 590 (Hse 189) Avon Terrace, York, subject to the following conditions:

- 1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.***
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) including any notes placed in red by the Shire and except as may be modified by the following conditions.***
- 3. All stormwater is to be managed on site by the landowner to the satisfaction of the local government.***
- 4. Approval of the sea container on the property is subject to:***
 - (i) the dwelling being substantially commenced within a period of six (6) months from the date of this approval; and***
 - (ii) Details of treatments to the external walls of the container to match the dwelling, being submitted and undertaken within six (6) months from the date of this approval to the satisfaction of the local government.***
- 5. The sea container is not to be used for commercial and/or industrial purposes.***
- 6. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the Shire's Planning department and have been approved in writing:***
 - a) Amended plans being submitted which satisfactorily address the following design changes:***
 - (i) The elevation of the dwelling facing Avon Terrace, is to be amended so as to address the street with clearly definable entry points visible and accessed from the street elevation (Advice Note 4).***
 - (ii) Details of the laundry facility to be provided to the satisfaction of the Shire.***
 - b) Payment of a \$3,000 performance bond is required prior to approval of the building permit, which will be returned on completion of the works outlined in Local Planning Policy No.7 Relocated Second-Hand Dwellings and Condition 4 (Advice Note 5).***
- 7. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition(s) 2 and 7 (a) and (b) have been implemented; and, the following conditions have been complied with:***

- i) *All damaged sections of external render or windows as a result of transporting the dwelling shall be repaired to the satisfaction of the Shire.*

8. *The works undertaken to satisfy Condition(s) 2, 4, 6 and 7 shall be subsequently maintained for the life of the development.*

ADVICE NOTES:

- Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2:** Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.
- Note 3:** If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.
- Note 4:** To meet this condition, it is suggested that the dwelling be rotated so Elevation 1 faces Avon Terrace.
- Note 5:** The \$3,000.00 bond will be refunded progressively upon completion of the dwelling in accordance with Local Planning Policy No. 7 Relocated Second Hand Dwellings.
- Note 6:** In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a building permit must be submitted to, and approval granted by the Shire, prior to the commencement of the development hereby permitted.
- Note 7:** Prior approval from the Shire's Executive Manager Infrastructure & Development Services may be required to transport the second hand dwelling along local roads. Please contact the Shire for further information. This approval would be in addition to any required Main Roads permits (if any).

CARRIED: 7/0

Chief Executive Officer advised the meeting that the Business Plan was received from the Motor Museum last week and was emailed to Councillors when received.

SY136-11/17 – Avon Valley Motor Museum Multiyear Funding Agreement

FILE REFERENCE:	AV1.6672
APPLICANT OR PROPONENT(S):	Avon Valley Motor Museum Association
AUTHORS NAME & POSITION:	Paul Martin, Chief Executive Officer
RESPONSIBLE OFFICER:	Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	SY063-06/17, 26 June 2017 SY099-08/17, 28 August 2017
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Confidential - A. Draft Multi Year Funding Agreement B. Correspondence

Appendices are confidential under Section 5.23 (e) (ii) of the Local Government Act 1995 in that it deals with “a matter that if disclosed, would reveal information that has a commercial value to a person”.

Copies have been provided to Councillors, the Chief Executive Officer and Executive Managers only.

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

This report presents Council with the draft Multiyear Funding Agreement between the Shire of York and Avon Valley Motor Museum Association (AVMMA) for consideration.

Background:

Council considered a request from AVMMA in June 2016 to provide funding to the association to support the first three years of its operation of the York Motor Museum. Council considered this request at the June Ordinary Council Meeting and resolved the following:

That Council:

- 1. Agrees in principle to provide \$18,000 per annum to the Avon Valley Motor Museum Association for three years commencing in the 2017/18 financial year subject to the following conditions: a. A detailed Business Plan being prepared which includes marketing strategies, management model, financial budgets and initiatives all of which lead to improved visitor numbers and experiences. b. Details on annual reporting obligations which are expected to include annual financial acquittals and visitor numbers. c. The development of a Collection Policy and an Interpretation Plan.*
- 2. Requests the Chief Executive Officer to negotiate a funding agreement between Avon Valley Motor Museum Association and the Shire to this effect for Council’s consideration*
- 3. Requests the Chief Executive Officer to investigate options for funding this contribution and present this for Council consideration when considering the Funding Agreement.”*

Following this, AVMMA wrote to the Shire requesting the Shire to be guarantor for the loan they were proposing to secure. Council considered this request at the Ordinary Council meeting in August 2017 and resolved the following:

That Council:

- 1. Advises AVMMA that in relation to its request the Shire wants to undertake some investigation and provide the opportunity for the community to have input prior to Council making a final decision which is unlikely to be concluded until December 2017.*
- 2. Requests the CEO to prepare a Business Plan regarding this matter in accordance with the Local Government Act 1995 for Council's consideration prior to advertising.*
- 3. Notes the CEO will use funds allocated to GL 42169 to undertake any investigation, assessments or valuations required to a maximum value of \$4,000.*

Since this time, AVMMA has been able to secure loan funding without the requirement for the Shire to be guarantor so the above recommendation will not be progressed any further. Details of the loan funding obtained will be announced by AVMMA in the near future however Officers understand that the settlement for the purchase of the building will occur in December 2017.

Officers consider this to be a good outcome for the Shire as the organisation's risk is significantly reduced.

AVMMA has therefore requested that the Shire continues to honour the three-year funding agreement resolved in June 2017. As such, and in accordance with the Council resolution, a draft funding agreement has been negotiated and is presented for Council's consideration.

Although the agreement is confidential, the following summarises the main points of the agreement:

- The template used is consistent with the multiyear funding agreements provided by the Shire for events.
- The agreement commits the Shire to provide \$18,000 per year for three years commencing in January 2018.
- The AVMMA will provide to the Shire each year with an annual report which will include audited financial statements, report on implementation of the Business Plan and visitation numbers.
- Notwithstanding the commitment for the collection the AVMMA has secured from the current owner Peter Briggs and the WA Museum (attached at Appendix B), the AVMMA will prepare a Collection Policy and Interpretation Plan by January 2019 to ensure the Museum Collection remains aligned to visitor and local interests.
- The Shire can terminate the agreement if the AVMMA ceases to operate in accordance with the *Associations Incorporation Act 2015* or the York Motor Museum closes.
- The AVMMA will provide a three year business plan to the Shire by 31 December, 2017 prior to any funds being released.

Comments and details:

Officers consider that the draft agreement accurately represents the obligations for both parties over the coming three years.

The York Motor Museum is a major tourism attraction for York and this support will provide as much assistance as possible for the association taking over the operations of the Museum.

The support will allow the AVMMA to operate the York Motor Museum over the coming years and hopefully operate sustainably into the future.

Options:

Council could request further commitments regarding sustainability however this may come with either increased financial commitments required or further involvement from the Shire.

Council could wait to receive the final three year business plan prior to agreeing to the funding agreement. However Officers are proposing this be reviewed at Officer level. If there are concerns which cannot be resolved the matter will be referred to Council prior to funds being released.

Implications to consider:

- **Consultative**
AVMMA
- **Strategic**
The strategic implications of this support were outlined when the matter was previously considered by Council.
- **Policy related**
Nil.
- **Financial**
Council has not budgeted for these funds as part of the 2017/18 financial year.

Council could allocate the \$18,000 for this year's contribution at the midyear budget review when it considers the allocation of the surplus from the 2016/17 FY.

Officers however, are proposing that the funds allocated in *GL account 138150 Economic Development Projects* be used to fund this year's allocation. This GL account has a budget of \$20,000. Initially, Officers were proposing to use these funds to undertake a feasibility and support for regular Artisan/Growers markets in York. Officers have attempted to identify potential market stalls for such a market locally with limited success. This could be something which is investigated in future years if Council wished.

Support for the operation of the York Motor Museum aligns with Economic Development priorities and therefore the budget allocation for this GL account.

The remaining allocation of \$18,000 for both the 2018/19 and 2019/20 financial years will need to be budgeted as part of the annual budget process.

- **Legal and Statutory**
The agreement template used is the version used for providing multiyear funding agreement for events.
- **Risk related**
The support provided of this nature represents a relatively low risk to the Shire. The main risk is that the association folds or the York Motor Museum closes after the three years of financial support.

In an attempt to mitigate this, Officers have encouraged AVMMA to prepare a collection policy and interpretation plan to ensure the collection remains consistent with contemporary practices and aligns to visitor expectations.

The Shire will also be provided with an annual report and audited financial statements. Analysis of these will enable the Shire to identify any issues regarding governance and financial sustainability and raise any issues with AVMMA.

Officers consider the requirement for audited financial statements is commensurate with the importance of the Motor Museum to York from a tourism perspective and the implications its closure would have on businesses and the main street.

However, Council needs to be aware that it could allocate these funds and the association could close regardless after support finishes or the AVMMA could come back to Council seeking further operating subsidy.

- **Workforce Implications**

Nil

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

051117

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council:

- 1. Notes the Avon Valley Motor Museum Association no longer requires the Shire to consider being guarantor for the securing of loan funds to purchase the York Motor Museum.***
- 2. Agrees to the Multiyear Funding Agreement between the Shire of York and Avon Valley Motor Museum Association attached at Appendix A providing \$18,000 per annum for three years commencing in the 2017/18 financial year.***
- 3. Authorises the Shire President and Chief Executive Officer to engross the agreement on behalf of the Shire of York.***
- 4. Approves the payment for the \$18,000 for the 2017/18 Financial year for the agreement from GL Account 138150 Economic Development Projects.***
- 5. Requests the Chief Executive Officer to include allocations of \$18,000 in both the 2018/19 FY and 2019/20 FY draft budgets for Council’s consideration.”***

CARRIED: 7/0

SY137-11/17 – Review of Delegated Authority

FILE REFERENCE:	OR.CMA.1
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Suzie Haslehurst – Executive Manager, Corporate and Community Services
RESPONSIBLE OFFICER:	Suzie Haslehurst – Executive Manager, Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL:	18 April 2016 24 October 2016
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Delegations Register

Nature of Council's Role in the Matter:

- Review
- Legislative

Purpose of the Report:

This report seeks Council's review and adoption of the Shire of York Delegations Register.

Background:

Under Section 5.42 of the *Local Government Act 1995* (the Act), a local government may delegate to the Chief Executive Officer any of its powers or the discharge of any of its duties under the *Local Government Act 1995*, other than those prescribed under Section 5.43 and any of its duties under the *Planning and Development Act 2005* Section 214(2), (3) or (5).

The purpose of delegating authority to the Chief Executive Officer is to provide for the efficient and orderly administration of the day to day functions of the Shire. The Chief Executive Officer exercises the delegated authority in accordance with the Instrument of Delegation Register and Council policies.

All delegations made by Council must be carried by an Absolute Majority and be in accordance with section 5.42 of the Act.

Sections 5.18 and 5.46(2) of the *Local Government Act 1995* require that a Local Government keeps a register of delegations of authority made under the Act and that these are reviewed at least once every financial year. The Shire of York's Delegations Register was last reviewed in October 2016.

Section 5.18 relates to Register of Delegations to Committees and it is noted that Council does not currently delegate any powers or duties to Committees.

The Delegations Register is a comprehensive document that also includes delegations made under legislation other than the *Local Government Act 1995*.

Comments and details:

In April 2016, Council adopted a core set of delegations and then a further review was undertaken in October 2016 to reflect changes in the organisational structure and to ensure that the CEO has comprehensive authority to manage the operations and regulatory functions of the Shire while remaining full accountable to the Council.

In light of the comprehensive review undertaken in 2016, proposed changes are mostly minor in nature (ie typographical, clarification). Appendix A provides a 'tracked changes' version of the Shire's Delegations Register for Council's review and consideration.

In a few cases, changes are proposed to the intent of the delegation in order to ensure probity and accountability. Appendix A also includes any new delegations proposed. The following provides a summary of proposed amendments and new delegations.

Many of the recommended changes apply to reporting requirements where it is proposed that the exercise of the delegation is reported via the Delegations Register included in the monthly Information Bulletin distributed to Councillors and Executive.

Other proposed changes are outlined below.

Part 1 Functions of Local Governments

DE1-9 Power to Remove and Impound Goods

Change the wording to clarify the CEO's sub-delegation of this authority to the Shire Ranger.

DE1-11 Disposing of Confiscated Goods

To allow sub-delegation to the Executive Manager of Infrastructure and Development Services.

DE1-12 Disposing of Uncollected Vehicle

To remove sub-delegation of this authority and to ensure a public tender process is undertaken in accordance with DE1-15.

DE1-13 Disposing of Uncollected Impounded Goods

To remove reference to sub-delegation of this authority.

DE1-15 Disposing of Property (Public Auction or Public Tender)

Change wording to reflect that there is no sub-delegation and change reporting requirements to be reported at the next Council Concept Forum.

DE1-16 Disposing of Property (Private Treaty)

Change reporting requirements to be reported at next Council Concept Forum.

Part 2 Administration

DE2-1 Appointment of Acting Chief Executive Officer (for periods of 10 days or less) Change wording to clarify that the delegation applies to periods of ten *working* days or less.

DE2-4 Training Travel and Accommodation – Elected Members

Change reporting requirements to be in accordance with Policy G1.2 with payments reported in the monthly financials.

DE2-5 Use of the Crest and Corporate Logo

Change wording to allow sub-delegation to the Executive Managers to approve use of the crest and logo.

DE2-9 Insurance – Public Liability Claims Previously DE29 (2012)

Change reporting requirements to be reported at next Council Concept Forum.

Part 3 Financial Management

DE3-1 Authority to Make Payments from Trust and Municipal Funds

Changes to reflect change in position titles and to remove sub-delegation to the Executive Manager Infrastructure and Development Services for signing of cheques.

DE3-4 Write-Off Monies Owing (Not Rates or Service Charges)

Condition changes to increase level authorised from \$500 to \$1,000 to be consistent with DE2-2 Delegation of Powers and Duties of the *Local Government Act 1995* to the Chief Executive Officer.

DE3-7 Concession for Minor Charges Condition changes to increase level authorised from \$500 to \$1,000 to be consistent with DE2-2 Delegation of Powers and Duties of the *Local Government Act 1995* to the Chief Executive Officer.

DE3-8 Rates or Service Charges Recoverable in Court To determine that court action will be taken if a rate or service charge remains unpaid after it becomes due and payable. Reviewed October 2016

DE3-9 Require Lessee to Pay Rent in Satisfaction of Rates or Service Charge
Inclusion of Policy F1.1 *Revenue Collection*.

DE3-10 Recover Amount of Rates or Service Charge from Lessee
Change wording to refer to DE3-9 above.

NEW DE 3-11 Donations

It is proposed that a new delegation be included in the Register of Delegated Authority to allow the Chief Executive Officer to donate cash or services up to a maximum value of \$500. It is proposed that the Chief Executive Officer is required to consult with Councillors prior to exercising this delegation.

Part 4 Miscellaneous Provisions

DE 4-2 Crossovers

To allow sub-delegation to the Executive Manager of Infrastructure and Development Services.

Part 5 Local Government (Functions and General) Regulations 1996

DE 5-1 Determining That Tenders do not have to be Invited for the Supply of Goods and Services
It is proposed that this delegation is revoked based on advice received from Moore Stephens during the Audit Regulation 17 Review which states;

The likelihood of a purchase exceeding \$150,000 being only available from one supplier is considered to be extremely low and should require significant substantiation. We suggest this delegation be removed to help ensure appropriate substantiation exists prior to the decision not to invite tenders. Where a sub delegation to an employee exists we suggest the delegations register clearly state the title of the employee who has been delegated the authority.

DE 5.5 Tenders to be invited for certain contracts
Added reference to Policy F1.2 Procurement.

Part 6 Other legislation

Building Act 2011

DE6-1 Building Act 2011 – All Matters

Amend to allow sub-delegation to the Building & Compliance Officer. Add a condition that excludes sections 96, 97, 98 and 127 of the Building Act 2011 and regulation 70 of the Building Regulations as delegation of these powers is not permitted.

Food Act 2008

DE6-8 Food Act 2008 – Issue of Prohibition Orders

DE6-9 Food Act 2008 – Certificates of Clearance

DE6-10 Food Act Registrations

It is proposed that these delegations are revoked as the relevant functions are incorporated in DE6-7 Food Act 2008 – Powers of an Enforcement Agency.

Dog Act 1976

DE6-12 Approval to Keep More Than Two Dogs

The grant of an exemption to particular premises for the keeping of more dogs than is allowed under the Shire's local laws pursuant to section 26(3) of the Dog Act 1976.

Cat Act 2011

DE6-12 Appointing Authorised Persons

Add the power to delegate; Section 44 of the *Cat Act 2011*

DE 6-16 Approval of Camping Other than at A Caravan Park or Camping Ground

Add reference to *Temporary Accommodation* policy.

DE 6-18 Health Local Law – Keeping of Animals

Add wording to articulate the power or duty delegated by the power or duty delegated by the Chief Executive Officer.

DE7-1 Statutory Planning

Change wording to allow sub-delegation to the Executive Manager, Infrastructure and Development Services only. Add wording to articulate the power or duty delegated by the power or duty delegated by the Chief Executive Officer.

Options:

Council could choose to limit the delegations to the Chief Executive Officer and sub-delegations made to officers. However, the proposed delegations are recommended to ensure the effective and efficient of the Shire's operations whilst still remaining accountable to Council.

Implications to consider:

- **Consultative**
Internal consultation has taken place.
- **Strategic**
 - 5.1 Effective and informed governance and decision-making
 - 5.4 Open and accountable systems
- **Policy related**
Nil
- **Financial**
Nil
- **Legal and Statutory**

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*
- (a) *this Act other than those referred to in section 5.43; or*

(b) the Planning and Development Act 2005 section 214(2), (3) or (5).

** Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

[Section 5.42 amended by No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

5.43. Limits on delegations to CEO ²⁹

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,**are subject to any conditions imposed by the local government on its delegation to the CEO.*
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*

- (5) *In subsections (3) and (4) —*
conditions includes qualifications, limitations or exceptions.
[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

- (1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
(a) *a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*
(b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*
- (2) *Nothing in this Division is to be read as preventing —*
(a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
(b) *a CEO from performing any of his or her functions by acting through another person.*

Other Applicable Legislation

Other legislation that is administered by local governments and facilitate delegation of specific functions and powers include;

- *Planning and Development Act 2005*
- *Building Act 2011*
- *Health Act 1911*
- *Food Act 2008*
- *Cat Act 2011*
- *Dog Act 1975*
- *Caravan Parks and Camping Grounds Regulations 1997*
- *Gaming and Wagering Commission Act 1987*
- *Bush Fires Act 1954*
- *Strata Titles Act 1985*

- **Risk related**

The *Local Government Act 1995* requires that a local government reviews its register of delegations at least once every financial year. Council is therefore required to adopt the reviewed delegations prior to 30 June 2018 to ensure compliance. The risk is moderate if this date is not met as it results in non-compliance. However, the likelihood of this is rare given the review is being presented to Council well before the due date. Therefore, the overall risk is low.

- **Workforce Implications**

Where an officer is delegated or sub-delegated authority, he/she is required to complete a primary and annual return in accordance with Sections 5.75 and 5.76 of the *Local Government Act 1995*.

Voting Requirements:

Absolute Majority Required: **Yes**

OFFICER RECOMMENDATION

"That Council:

1. *Notes that the last annual review of its Delegations of Authority in accordance with Section 5.46 (2) of the Local Government Act 1995, was conducted in October 2016.*
2. *Revokes the following delegations contained in the previous Register of Delegations;*
 - *DE 5-1 Determining That Tenders do not have to be Invited for the Supply of Goods and Services*
 - *DE 6-8 Food Act 2008 - Issue of Prohibition Orders*
 - *DE 6-9 Food Act 2008 – Certificates of Clearance*
 - *DE 6-10 Food Act 2008 – Food Act Registrations*
3. *Notes that a new delegation has been included in the Register of Delegations regarding donation of cash or services to a maximum of \$500.*
4. *Adopts the amended Register of Delegations in accordance with Appendix A as attached to this report."*

REVISED OFFICER RECOMMENDATION

"That Council:

1. *Notes that the last annual review of its Delegations of Authority in accordance with Section 5.46 (2) of the Local Government Act 1995, was conducted in October 2016.*
2. *Revokes the following delegations contained in the previous Register of Delegations;*
 - *DE 5-1 Determining That Tenders do not have to be Invited for the Supply of Goods and Services*
 - *DE 6-8 Food Act 2008 - Issue of Prohibition Orders*
 - *DE 6-9 Food Act 2008 – Certificates of Clearance*
 - *DE 6-10 Food Act 2008 – Food Act Registrations*
3. *Notes that a new delegation has been included in the Register of Delegations regarding donation of cash or services to a maximum of \$500.*
4. *Delegates authority to the Shire's Senior Planner for Sections 1.1.4, 1.1.5 and 1.1.6 only of Delegation DE7-1 Town Planning.*
5. *Adopts the amended Register of Delegations in accordance with Appendix A as attached to this report with the addition of Point 4 above."*

**RESOLUTION
061117**

Moved: Cr Smythe

Seconded: Cr Saint

“That Council:

- 1. Notes that the last annual review of its Delegations of Authority in accordance with Section 5.46 (2) of the Local Government Act 1995, was conducted in October 2016.***
- 2. Revokes the following delegations contained in the previous Register of Delegations;***
 - DE 5-1 Determining That Tenders do not have to be Invited for the Supply of Goods and Services***
 - DE 6-8 Food Act 2008 - Issue of Prohibition Orders***
 - DE 6-9 Food Act 2008 – Certificates of Clearance***
 - DE 6-10 Food Act 2008 – Food Act Registrations***
- 3. Notes that a new delegation has been included in the Register of Delegations regarding donation of cash or services to a maximum of \$500.***
- 4. Delegates authority to the Shire’s Senior Planner for Sections 1.1.4, 1.1.5 and 1.1.6 only of Delegation DE7-1 Town Planning.***
- 5. Adopts the amended Register of Delegations in accordance with Appendix A as attached to this report with the addition of Point 4 above.”***

SY138-11/17 – Proposed Relocation of Recreational Vehicles (RV's) from Avon Park

FILE REFERENCE:	CS.CCS.22
APPLICANT OR PROPONENT(S):	N/A
AUTHORS NAME & POSITION:	Paul Martin, Chief Executive Officer
RESPONSIBLE OFFICER:	Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	18 September 2017
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Initial site plan for relocation of RV's B. Correspondence received from Residents regarding relocation of RV's to Monger Street Reserve C. Revised Site plan for RV relocation to Monger Reserve D. Site plan for RV relocation to land adjacent to Croquet Club E. Correspondence from the Croquet Club F. Correspondence from the York Business Association

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report addresses the proposed relocation of RV's from Avon Park. The report presents Council with information received from the community and two alternative location site plans for consideration. Officers are recommending that the two potential locations are advertised for a period of 4 weeks to allow the community to provide feedback prior to a decision being made.

Background:

Council at its Ordinary Council Meeting in September 2017 considered the concept plan for the redevelopment of Avon Park and resolved the following:

"That Council:

1. Endorses the revised Avon Riverfront concept plan with the following minor amendments:

a. Labels the: i. BBQ's ii. Seating iii. Shelters on boardwalk iv. Fitness equipment locations v. Proposed Jetty location b. Indicates the existing Shire parking on Lowe Street c. Includes the words "recommended location" with respect to the Pump track, Dog Park, and RV Parking location.

2. Formally thanks the members of the Avon Park working group for their participation and commitment to the project."

3. Request the CEO to prepare a site plan detailing the relocation of the RV's to the area of Avon River Foreshore south of Glebe Street using the Stephen Street access with gravel construction of hard stand areas and appropriate low level fencing and drainage to be identified on the plan within the budget allocation.

4. Workshop the site plan with Councillors at the October Concept Forum prior to construction in the first half of October.

As a result of this resolution a potential site plan was prepared and workshopped with Councillors at the concept forum on 2 October 2017. A copy of this plan is attached at Appendix A for reference.

Comments and details:

Correspondence was sent to nearby residents to inform them of the works proposed. The feedback received from Residents is attached at Appendix B. Some residents have concerns regarding the location whilst others have concerns about access and safety.

Given this feedback Officers held off implementing the site plan until these matters are resolved.

Officers met with a number of residents about this matter and have revised the concept plan to attempt to incorporate their concerns and address issues raised. A copy of the revised concept plan is attached at Appendix C which details a change to the proposed location on Monger Reserve.

To accommodate feedback from residents Officers are also proposing that Stephen Street becomes one way from Avon Terrace to Monger Street with some street parallel parking installed. This would address concerns raised regarding the width of Stephen Street and safety issues raised accessing Avon Terrace from Monger Reserve.

Officers have also met with Water Corporation regarding the relocation of the Dump Point in Avon Park. This was initially proposed to be relocated to the corner of Glebe Street and Monger Streets. However, Water Corporation has advised this is a pressurised sewer line. Therefore, it is now proposed to relocate the dump point to the Monger Reserve as well, together with a water tap, both of which are identified on the revised concept plan.

This would provide the dump point and water access at this site. It should be noted that there will be no toilet facilities or lighting at this location.

The revised concept plan is planned to accommodate 25 RV's and has been estimated to cost \$30,000. The current budget for the relocation is \$20,000. Therefore if Council wishes to proceed with this location additional funds will need to be allocated. Options for this are provided for Council further in the report.

The Department of Lands has given approval for this reserve to be used for this purpose as ancillary use to the reserve.

It is noted that the site is within the flood plain. To manage this risk the following is proposed:

- Signage to be installed providing warning about flooding risks in rain events.
- A gate to be installed which can be closed during flood occasions.
- The type and location of infrastructure has been designed to minimise impact and loss. Although it is expected that if minor flooding occurs the damage to the site will be minimal, if a major flood occurs the infrastructure may be affected and rectification works will be required.

Therefore, if Council allocates the additional funds required construction works can commence.

During the past few weeks, Officers have also been approached by a group of local residents and caravanning enthusiasts who are concerned about the proposed relocation site. They are suggesting that the site across the river from Avon Park adjacent to the Croquet Club is a more appropriate location for the relocation of RV's.

Officers have received correspondence from the Croquet Club in support of this location. A copy of the correspondence is attached at Appendix E. The Croquet Club has proposed the addition of a toilet block as part of the relocation. This has not been budgeted at this stage but could be something Council considers into the future.

This site is higher than the Monger Reserve. This location has access to sewer and water like the Monger Reserve site. The site also has access to power.

A site plan has been prepared for the Shire controlled part of this land (a large part of the land is the responsibility of Water Corporation) and a copy is attached at Appendix D for Councillor's reference. This site is smaller and is only estimated to accommodate 10-15 RV's. The cost estimate prepared for this site is \$15,000 which is within budget.

Options:

Council has the following options in regards to this matter:

1. Adopt the site plan for the Monger Reserve as attached (or with modifications), allocate the additional funds required and request the works to commence.
2. Determine that based upon feedback received the site adjacent to the Croquet Club is more appropriate, proceed with this location in accordance with the site plan and request that works commence on this site.
3. Amend the concept plan to retain some RV parking as part of Avon Park.
4. Advertise the two proposed locations for relocation of RV's for a period of 4 weeks to allow the community to have input prior to Council making a final decision.

The community has only had an opportunity to have input into the RV location at a concept plan level when considering the redevelopment of Avon Park. On this basis, Officers are recommending that the proposal to relocate the RV's and the two locations proposed are advertised for a period of 4 weeks public comment prior to a final decision being made.

This would be in accordance with Council's policy G 2.9 Community Engagement and Consultation.

Implications to consider:

- **Consultative**

Officers have received feedback from a number of members of the community expressing concern that there has been limited opportunity to have input into the location and design of the RV relocation.

Although there was the opportunity to have input during the consultation process regarding Avon Park upgrade, this feedback seemed to mainly focus on the park itself rather than the location and particulars of where the RV's might be relocated.

The York Business Association has also submitted correspondence to the Shire about this matter, a copy of which is attached at Appendix F.

On this basis Officers are recommending a 4-week period of community engagement be undertaken inviting submissions from members of the community prior to Council making a final decision on this matter.

- **Strategic**

The relocation of the RV's from Avon Park is an action item in the Councils Corporate Business Plan to implement this financial year.

- **Policy related**
G 2.9 Community Engagement and Consultation
- **Financial**
\$20,000 is allocated in the 2017/18 Financial Year budget. The cost estimate to progress with the site at Monger Reserve is estimated to be \$30,000. If Council wants to progress with this location a budget amendment will need to be made to allocate additional funds.

Council has two options in regard to identifying this additional funding as outlined below:

- Transfer \$10,000 from Gwambygne Park Boardwalk Renewals. There is \$10,000 in this account renew or remove the boardwalks which are currently closed due to safety issues. In addition, there is \$5,000 in the same account for renewal of the picnic tables. It is proposed these funds remain and be used for this purpose.
- Transfer \$10,000 from GL 113335 Heritage/Avon River Trails. \$25,000 is allocated in the budget for renewal the Avon River Walk Trail. This was planned to be used for materials with Shire staff using Shire equipment to make improvements. Allocating \$10,000 from this account will reduce the scope of the upgrades which can occur this year to the Avon Walk Trail.

If Council wanted to proceed with the Monger Street Reserve, Officers would recommend that funds be allocated from Gwambygne Park Boardwalk Renewals to facilitate the RV relocation at Monger Reserve.

- **Legal and Statutory**
'Public Works' are exempt from requiring development approval in accordance in accordance with Section 6 of the Planning and Development Act 2005, although requires the responsible authority is to be have regard to:
 - (a) *the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised; and*
 - (b) *the orderly and proper planning, and the preservation of the amenity, of that locality at that time.*

Officers consider that an RV parking area is generally consistent with the purpose of the reserve identified for Recreation and Open Space and is consistent with the scheme. There could be an arrangement to have a 30m buffer between development and the river, however, the type of development proposed (ie gravel and bollards) is necessary to have in proximity to high areas of amenity and attractions.

- **Risk related**
The RV's provide an economic development benefit to the town in terms of expenditure and promotion of York. It is important that Council makes the correct decision regarding this proposed relocation to avoid any future reputational or financial risks.
- **Workforce Implications**
Once Council approves a location the Shire's workforce will commence construction.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
071117**

Moved: Cr Ferro

Seconded: Cr Trent

“That Council requests the Chief Executive Officer to:

- 1. Advertise the two site plans for the proposed relocation of RV's from Avon Park for a period of 4 weeks inviting submissions;***
- 2. Present a report to Council on any submissions received for Councils consideration.”***

CARRIED: 7/0

SY139-11/17 – Committees and Reference/Working/Working Groups

FILE REFERENCE/WORKING: FI.FRP.6; HS.GEN.3; OR.CMA.9.1; RS.FES.5; TR.RDT.5; FI.FAG.3; WK.PRO.1; CS.CEV.8.1

APPLICANT OR PROPONENT(S): Shire of York

AUTHORS NAME & POSITION: Suzie Haslehurst – Executive Manager, Corporate and Community Services;
Carly Rundle – Senior Planner;
Helen D’Arcy-Walker – Council & Executive Support Officer

RESPONSIBLE OFFICER: Suzie Haslehurst – Executive Manager, Corporate and Community Services

PREVIOUSLY BEFORE COUNCIL: Nil

DISCLOSURE OF INTEREST: Nil

APPENDICES: A. Draft Shire of York Committee Booklet

Nature of Council’s Role in the Matter:

- Executive
- Review

Purpose of the Report:

This report seeks Council’s consideration of proposed Council Committees and Reference/Working Groups, and representation on external committees and working groups. The Draft Committee Booklet attached at Appendix A provides information and where applicable, Terms of Reference for these committees and reference/working groups.

Background:

In accordance with Section 5.11 of the *Local Government Act 1995*, Council representatives on Committees (and subsequently, Shire of York Reference/Working Groups and externally administered Committees) are discontinued following a local government election and as such, nominations for Council representation are required.

Comments and details:

Shire officers have drafted the Committee Booklet containing Terms of Reference for all active Shire of York Council Committees, Reference/Working Groups and external Committees requiring Council representation. Parts 1 and 2 of the Committee Booklet outline Council Committees and Reference/Working Groups and Part 3 outlines Council representation on external Committees.

Below is an outline of the committees and working groups that are currently active and require Council representation.

<i>Committees of Council</i>	<i>Details</i>	<i>Membership</i>
Access & Inclusion Advisory Committee	Provide oversight of matters relating to Disability, Access & Inclusion in the Shire, including development of the Shire’s DAIP.	2 Councillors 1 Deputy 6 Community members
Audit and Risk Committee	Provide advice and information on matters relevant to statutory audits, internal controls, compliance, financial management and risk. Required in accordance with Section 7.1A of the Local Government Act.	All Councillors
Local Emergency Management Committee	Section 38 of the Emergency Management Act 2005 requires LGs to for LEMCs to oversee the district’s Local Emergency Management Arrangements.	1 Councillor 1 Deputy

Council Groups	Working	Details	Membership
Christmas Decorations Working Group		To provide advice regarding the Shire's annual Christmas Decorations	1 Councillor 6 Community members
External		Details	Membership
Avon Midland Ward (Zone) of WA Local Government Association		Zones are groups of geographically aligned Member Councils who are responsible for direct elections of State Councillors, providing input into policy formulation and providing advice to WALGA on various matters.	1 Councillor
Avon Regional Roads Sub-Group		A subgroup of the Wheatbelt North Regional Road Group.	1 Councillor
Avon Region Organisation of Councils (AROC)		Shires of Northam, Toodyay, York, Chittering, Dowerin, Goomalling and Victoria Plains work together on one or more common issues, collaborate and lobby on behalf of the region.	Shire President, CEO (ex-officio)
Avon Valley Tourism Association		Formed as a peak body to market the Avon Valley to domestic and international visitors.	1 Councillor
Development Assessment Panel		Convened by the WAPC to determine all development applications in excess of \$10 million and 'opt-in' for applications between \$2M and \$10M	Cr Smythe, Cr Ferro 2 Deputies
York By-Pass Working Group		Convened by Main Roads WA as a Reference/Working group for the development of the York Heavy Haulage By-Pass	Shire President, CEO
York Community Resource Centre		Local community organisation that provides a resource and information centre to the community and to build capacity through economic, business and social development.	1 Councillor
York District High School Board		Council representation on the Board at the request of York DHS.	1 Councillor
York Health Advisory Group		Informal group established to work together to improve the provision of health and allied services in York through collaboration, communication and lobbying.	1 Councillor
York Honours Reference/Working Group		Formed to confer honour on York citizens ie awards, street naming etc. Currently meets annually to determine Australia Day Award recipients.	1 Councillor 1 IGA 1 Bendigo Bank 4 Community members
York-Quairading Road Working Group		Reference/Working Group convened by Main Roads WA.	1 Councillor EMIDS

Other/Potential	Details	Membership
York Liquor Accord	To be re-established by York WAPOL to provide opportunities for communication and collaboration between stakeholders.	1 Councillor 1 Deputy EMCCS
YRCC Management Steering Group	To be established to transition to the management of the YRCC Bar and Kitchen facility.	1 Councillor EMCCS

Inactive committees and working groups that have not been included in the Committee Booklet are:

- Rural Roads Advisory Group
- Avon Park Working Group
- Age-Friendly Communities Plan Reference/Working Group

Access and Inclusion Advisory Committee

In June 2017, Council resolved to establish the above committee to provide advice regarding the Shire's activities in relation to disability, access and inclusion. Expressions of interest were sought from the community for appointment to the Committee for a period of four weeks. Only two EOI's were received and at the OCM held 26 August 2017, it was resolved;

"That Council:

1. *Appoints Cr Smythe and Cr Ferro to the Access and Inclusion Advisory Committee;*
2. *Appoints two members of the community to the Access and Inclusion Advisory Committee in accordance with the nominations received as attached to this report;*
3. *Reduces the quorum required to three (3) members including at least one Councillor;*
4. *Requests the CEO to;*
 - a) *update the Terms of Reference/Working for the Committee accordingly;*
 - and*
 - b) *identify and approach further potential members and make a recommendation to Council."*

Officers have since met with the Committee to identify potential additional members and have contacted the agencies and individuals identified. Six EOI's have been received in total and officers propose that all proponents are appointed to the Committee.

Development Assessment Panel

On 1 July 2011, Development Assessment Panels (DAP) came into operation under the *Planning and Development (Development Assessment Panels) Regulations 2011*. Each DAP determines development applications that meet set type and value thresholds as if it were the responsible authority under the relevant town planning scheme.

The DAP is required to determine all development applications within the local government area in excess of \$10 million in value (mandatory DAP application) and optional "opt-in" (determined by DAP at the choice of the applicant) for applications between \$2 million and \$10 million in value (provided they are not development types within the exempt category).

The Shire is required to nominate two local government members and two alternate local government members to the relevant Development Assessment Panel which are then appointed by the Minister for Planning. The alternates will sit on the panel in the event that a local government member is not able to attend the Development Assessment Panel meeting.

Councillors Smythe and Ferro are currently appointed to the DAP until 26 July 2018, with possibility of extension for the remainder of the maximum term of up to three years (26 July 2020). Appointment is on the basis that the nominee is a member of Council, and if a councillor's term of office ceases, appointment as a JDAP local government member expires at the same time. Following the recent local government elections, two vacancies exist for alternate members. Council is requested to nominate two Councillors as alternate members for consideration by the Minister for Planning.

Options

The officer's recommendation is to nominate two new alternate local government members to the relevant Development Assessment Panel, as these are currently vacant positions.

Should Council choose to, it could resolve to submit new nominations for all four positions, and nominate two councillors as local government members and two alternate members

Should the Shire fail to submit nominations for all four positions, the Minister has power to appoint two alternative community representatives to ensure local representation is on the panel. The regulations require that these alternate representatives are residents of the local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.

York Honours Reference Group

This Reference group was initially formed to advise Council on;

- (a) *The Community Honours Awards.*
- (b) *The process to be used for the appointment of an Honours Group or Advisory Committee.*
- (c) *The awards criteria to be used in the assessment of nominees in the various award categories.*
- (d) *Matters relating to the community and other awards, road and place names and volunteer recognition.*

In addition, the York Honours Reference/Working Group is authorised to put forward nominations for all categories of the awards. The existing Terms of Reference for this group have not been amended since 2007.

Currently, the York Honours Group meets annually to determine the recipients of the Shire of York's Australia Day Awards. Therefore, Officers are proposing to amend the Terms of Reference (TOR) as contained in Appendix A to this report to reflect this and to ensure the TOR are consistent with the other TOR for Shire Reference/Working groups and Council's Policy G 2.5 *Reference Groups*.

YRCC Management Steering Group

At the October Ordinary Council Meeting, it was resolved;

"That Council;

1. *Notes the submissions received from user groups regarding the management of the York Recreation and Convention Centre;*

2. *Agrees to establish a steering group to work through identified issues relating to the future management of the YRCC including;*
 - *Establishment of an incorporated association*
 - *Financial management and responsibilities*
 - *Operations and commitment by user groups*
 - *Volunteer management and support*
 - *Timeline for implementation*
3. *Requests the CEO to prepare a Terms of Reference/Working for a steering group which includes;*
 - a) *a representative from each user group;*
 - b) *2 x community representatives with relevant skills and experience;*
 - c) *a Councillor representative;**to be considered by Council at the November Ordinary Council Meeting when it considers the Shire's other committees and working groups.*
4. *Notes that the proposed timeline and a volunteer management strategy will be considered as part of the Minor Strategic Review to be undertaken in November."*

Therefore, officers have included a TOR for the proposed Steering Group in the Draft Committee Booklet.

Options:

Officers have provided suggestions regarding the number of nominations to be made which are, for the most part, consistent with the current TOR or operating procedures. Council could, if it wished change the number of elected member representatives on those committees and reference/working groups that are convened by the Shire of York. For those convened by external agencies or groups, Council would need to liaise with those groups if it wished to change the number of representatives nominated from the Shire of York.

Furthermore, officers have recommended the nomination of deputies only for Council Committees or where required (ie DAP). Council could choose to nominate additional deputy positions if it wished.

Implications to consider:

- **Consultative**
 - Main Roads WA
 - WA Police – York
 - York DHS
 - Users of the York Recreation and Convention Centre
 - Moore Stephens
 - Department of Local Government, Sport and Cultural Industries
- **Strategic**
 - Strong and Effective Leadership*
 - 5.1 Effective and informed governance and decision-making
 - 5.5 A Strong collective voice
 - 5.6 High level of community engagement
 - 5.7 Shire and community exhibit a can-do philosophy
 - 5.8 Open, smart communication between Shire and the community
 - 5.9 Community networks supported to increase civic involvement
- **Policy related**
 - G 2.5 *Reference Groups*

- **Financial**

Committees and reference/working groups do not have any decision-making authority and therefore can only make recommendations to Council. Therefore, any expenditure in relation to recommendations made by committee and working/reference groups would need to either be adopted as part of the annual budget process or considered as a budget amendment.

Consequently, the only financial implications are the internal costs to administer those committees and reference/working groups convened by the Shire which may include officers' time and in some cases, refreshments as required.

- **Legal and Statutory**

Local Government Act 1995

Subdivision 2 — Committees and their meetings

5.8. *Establishment of committees*

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. *Committees, types of*

(1) *In this section —*

other person means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only.*

5.10. *Committee members, appointment of*

(1) *A committee is to have as its members —*

- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

(3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.

(4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

(5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —

(a) to be a member of the committee; or

(b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

(1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

* Absolute majority required.

(2) A person who is appointed as a deputy of a member of a committee is to be —

(a) if the member of the committee is a council member — a council member; or

(b) if the member of the committee is an employee — an employee; or

(c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or

(d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.

(3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.

(4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

5.11. Committee membership, tenure of

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or

(b) the person resigns from membership of the committee; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the term of the person's appointment as a committee member expires; or

(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

- **Risk related**

Tenure of Committee Membership is in accordance with the *Local Government Act 1995* Section 5.11 with previous appointments ceasing on 21 October 2017. Council is therefore required by legislation to review membership of Council Committees and Reference/Working Groups.

Should Council choose not to do this the reputational risk to the Shire would be moderate.

- **Workforce Implications**

The time to administer and participate in Committees and reference/working groups is the only workforce implication and currently, can be managed within existing resources.

Voting Requirements:

Absolute Majority Required: Yes

RESOLUTION

081117

Moved: Cr Trent

Seconded: Cr Smythe

"That Council suspends Part 10 – Debate of Substantive Motions and Part 11 – Procedural Motions of Standing Orders to discuss Item SY139-11/17."

CARRIED: 7/0

**RESOLUTION
091117**

Moved: Cr Ferro

Seconded: Cr Trent

“That Council resumes Standing Orders.”

CARRIED: 7/0

**RESOLUTION
101117**

Moved: Cr Trent

Seconded: Cr Smythe

“That Council appoints the following Councillors to the Audit and Risk Committee;

- Cr David Wallace***
- Cr Kevin Trent***
- Cr Denese Smythe***
- Cr Heather Saint***
- Cr Jane Ferro***
- Cr Pam Heaton***
- Cr Denis Warnick.”***

CARRIED: 7/0

**RESOLUTION
111117**

Moved: C Trent

Seconded: Cr Saint

“That Council;

- 1. Appoints Cr Smythe and Cr Ferro to the Access and Inclusion Advisory Committee with Cr Saint as Deputy.***
- 2. Appoints the following community representatives to the Access and Inclusion Advisory Committee;***
 - Ms Liz Christmas – Community Representative***
 - Ms Carolyn Robinson – Senses Australia***
 - Ms Rosemary Parker – Community Representative***
 - Ms Bev Penny – Community Representative***
 - Ms Wendy Hoare – Essential Personnel***
 - Ms Heather Bates – Alzheimers Australia.”***

CARRIED: 7/0

**RESOLUTION
121117**

Moved: Cr Saint

Seconded: Cr Heaton

“That Council appoints Cr Wallace to the Shire of York Local Emergency Management Committee with Cr Trent as Deputy.”

CARRIED: 7/0

**RESOLUTION
131117**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council

- 1. Appoints Cr Heaton to the Christmas Decorations Working Group;***
- 2. Requests the Chief Executive Officer to seek expressions of interest from community members for appointment in accordance with Policy G 2.5 Reference Groups and report back to Council.”***

CARRIED: 7/0

**RESOLUTION
141117**

Moved: Cr Trent

Seconded: Cr Ferro

“That Council appoints Cr Smythe to the Avon-Midland Country Zone of the WA Local Government Association with Cr Saint as Deputy.”

CARRIED: 7/0

**RESOLUTION
151117**

Moved: Cr Smythe

Seconded: Cr Saint

“That Council appoints Cr Tent to the Avon Regional Roads Sub-Group.”

CARRIED: 7/0

**RESOLUTION
161117**

Moved: Cr Trent

Seconded: Cr Warnick

“That Council appoints the Shire President, Cr David Wallace and the Chief Executive Officer (ex-officio) to the Avon Regional Organisation of Councils (AROC).”

CARRIED: 7/0

**RESOLUTION
171117**

Moved: Cr Saint

Seconded: Cr Smythe

“That Council appoints Cr Ferro as the Shire’s representative on the Board of Avon Tourism Inc.”

CARRIED: 7/0

RESOLUTION

181117

Moved: Cr Ferro

Seconded: Cr Heaton

“That Council confirms the appointment of Cr Jane Ferro and Cr Denese Smythe and nominates Cr Warnick and Cr Trent as Deputies on the Development Assessment Panel.”

CARRIED: 7/0

RESOLUTION

191117

Moved: Cr Trent

Seconded: Cr Smythe

“That Council appoints the Shire President, Cr David Wallace and the Chief Executive Officer to the York By-Pass Working Group.”

CARRIED: 7/0

RESOLUTION

201117

Moved: Cr Smythe

Seconded: Cr Smythe

“That Council appoints Cr Heaton as the Shire’s representative on the Board of the York Community Resource Centre.”

CARRIED: 7/0

RESOLUTION

211117

Moved: Cr Smythe

Seconded: Cr Saint

“That Council appoints Cr Ferro as the Shire’s representative on the Board of the York District High School.”

CARRIED: 7/0

RESOLUTION

221117

Moved: Cr Trent

Seconded: Cr Warnick

“That Council appoints Cr Wallace as the Shire’s representative on the York Health Advisory Group.”

CARRIED: 7.0

RESOLUTION

231117

Moved: Cr Trent

Seconded: Cr Heaton

“That Council

- 1. *Appoints Cr Wallace to the York Honours Reference Group;***
- 2. *Requests the Chief Executive Officer to seek expressions of interest from;***
 - a) representatives from York IGA and Bendigo Bank;***
 - b) community members for appointment in accordance with Policy G 2.5 Reference Groups;******and report back to Council.***

CARRIED: 7/0

RESOLUTION

241117

Moved: Cr Saint

Seconded: Cr Trent

“That Council appoints Cr Warnick to the York-Merredin Road Working Group.”

CARRIED: 7/0

RESOLUTION

251117

Moved: Cr Ferro

Seconded: Cr Heaton

“That Council appoints the following people to the proposed Liquor Accord;

- 1. *Cr Trent with Cr Smythe as Deputy.***
- 2. *The Executive Manager, Corporate and Community Services as a staff representative.”***

CARRIED: 7/0

RESOLUTION

261117

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council appoints Cr Trent, Cr Warnick and the Executive Manager, Corporate and Community Services to the YRCC Management Steering Group.”

CARRIED: 7/0

RESOLUTION

271117

Moved: Cr Smythe

Seconded: Cr Warnick

“That Council:

- 1. *Adopts the Committee Booklet as attached at Appendix A to this report which outlines the Terms of Reference for the Committees and Reference/Working Groups convened by the Shire of York and information regarding external Committees and Working Groups.***
- 2. *Requests the Chief Executive Officer to;***
 - a) update the Committee Booklet to reflect the appointment of members by Council;***
 - b) make any minor editorial amendments as required.***
 - c) place a copy of the booklet on the Shires website when updated.”***

CARRIED: 7/0

SY140-11/17 – Council Meeting Dates 2018

FILE REFERENCE:	ORG.MTG
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Suzie Haslehurst - Executive Manager Corporate and Community Services
RESPONSIBLE OFFICER:	Suzie Haslehurst - Executive Manager Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL:	SY139-11/16 – 2017 Council Meeting Dates and Forums
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil

Nature of Council's Role in the Matter:

- Executive
- Legislative

Purpose of the Report:

This report seeks Council approval for advertising of the proposed dates and times for Ordinary Council Meetings to be held during 2018 in accordance with the *Local Government (Administration) Regulations 1996*.

Background:

In November 2016, Council resolved to hold its Ordinary Meetings generally on the fourth Monday of each month with an agenda briefing held during the week prior to the meeting. It was further resolved that the agenda would be distributed generally ten days but no later than a week prior to the meeting. The dates for the Ordinary Council Meetings were advertised via:

- Local print media
- Shire noticeboards
- Shire website

Since May 2016, Council has also met monthly at a Council forum to provide Officers with the opportunity to bring to Council's attention any emerging issues and to seek guidance regarding Council's strategic direction in accordance with the Corporate Business Plan and Strategic Community Plan. Council forums are generally held on the first Monday of the month.

Ordinary Council Meetings are usually held in Council Chambers. However, where an issue or report is likely to attract more than 16 members in the public gallery, the Shire President may determine to hold the Ordinary Council Meeting in the Lesser Hall of the York Town Hall.

Council has historically held a meeting once a year in Talbot and Greenhills respectively.

Comments and details:

Officers are proposing that concept forums, agenda briefings and ordinary Council meetings continue to be held on Mondays in 2018. Ordinary Council Meetings are scheduled to commence at 5.00pm to give members of the public an opportunity to attend.

Historically, no Ordinary Council Meeting is held in January. This provides an opportunity for staff and Councillors to take annual leave. However, comment has been received that, given the December meeting is early, the period between the December meeting and the February meeting (10 weeks) is too long, resulting in a backlog of issues to be considered by Council in February. At this stage, officers are not proposing that an Ordinary Council Meeting is held in January.

Options:

Council could choose to commence Ordinary Council Meetings at an earlier time. However, given that Ordinary Council Meetings are open to the public, this could preclude members of the community from attending.

Council could consider holding an Ordinary Council meeting in January. However, officers are proposing no Ordinary Council Meeting is held in January and that if anything urgent arises prior to the February meeting, a Special Council Meeting is convened.

Implications to consider:

Consultative

- Department of Local Government and Communities

Strategic

This report is submitted in accordance with the Shire's commitment to improving governance and systems and responds to recommendations made in the Probity Audit undertaken in 2014.

Policy related

Policy G 2.7 *Conduct of Council Forums*

Legal and Statutory

Local Government Act 1995

5.25 Regulations about council and committee meetings and committees

- (1) *Without limiting the generality of section 9.59, regulations may make provision in relation to —*
- (g) *the giving of public notice of the date and agenda for council or committee meetings; and*
 - (j) *the circumstances and time in which notice papers and agenda relating to any council or committee meeting and reports and other documents which could be —*
 - (i) *tabled at a council or committee meeting; or*
 - (ii) *produced by the local government or a committee for presentation at a council or committee meeting,**are to be made available for inspection by members of the public.*

Local Government (Administration) Regulations 1996

12. Meetings, public notice of (Act s. 5.25(1)(g))

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
- (a) *the ordinary council meetings; and*

- (b) *the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,*

are to be held in the next 12 months.

14. Notice papers, agenda etc., public inspection of (Act s. 5.25(1)(j))

- (1) *A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which —*

(a) are to be tabled at the meeting; or

(b) have been produced by the local government or a committee for presentation at the meeting,

and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.

- (2) *Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).*

Risk related

Outlined below are the identified risks related to the Officer recommendations contained in this report.

Identified Risk	Risk type	Level of Risk	Mitigation
Community criticism regarding transparency	Reputational	Moderate/ High	In order to increase the opportunity for community input, public distribution of meeting agendas is now generally ten days prior to Ordinary Council Meetings.
Contravention of Department of Local Government Guidelines	Compliance	Low	DLGC guidelines state that local governments should implement a system that best suits their needs. Policy G 2.7 outlines the Shire's framework for conducting Council Forums.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
281117**

Moved: Cr Saint

Seconded: Cr Warnick

“That Council;

- 1. *Adopts for the purposes of public advertising the following dates, times and venues for the 2018 Ordinary Council Meetings:***
 - 26 February 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 26 March 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 23 April 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 28 May 2018 at 5.00pm, Talbot Hall, Talbot***
 - 25 June 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 23 July 2018 at 5.00pm Council Chambers, York Town Hall***
 - 27 August 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 25 September* 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 22 October 2018 at 5.00pm, Greenhills Hall, Greenhills***
 - 26 November 2018 at 5.00pm, Council Chambers, York Town Hall***
 - 18 December** 2018 at 5.00pm, Council Chambers, York Town Hall***
- * This meeting to be held on the fourth Tuesday of the month due to a public holiday.***
- ** This meeting to be held on the third Monday of the month due to proposed Christmas closure.***
- 2. *Requests the Chief Executive Officer to advertise the above meeting details in accordance with Regulation 12 of the Local Government (Administration) Regulations 1996.***
- 3. *Notes that Agendas for Ordinary Meetings of Council will generally be distributed ten days but no later than one week prior to the Ordinary Council Meeting.***

CARRIED: 7/0

SY141-11/17 – Application to Trade in Public Places – TNT Pizza & Takeaway

FILE REFERENCE:	HS.ITL.6
APPLICANT OR PROPONENT(S):	TNT Pizza & Takeaway
AUTHORS NAME & POSITION:	George Johnson - Environmental Health Officer
RESPONSIBLE OFFICER:	Bret Howson – Acting Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A – Letter of Application

Nature of Council's Role in the Matter:

- Quasi-judicial

Purpose of the Report:

A Trading in Public Places application has been received from TNT Pizza & Takeaway seeking approval to operate a mobile food van which would sell ice-cream and service the industrial area for morning teas and lunches.

Background:

TNT Pizza & Takeaway is a registered local food business within the Shire of York, having a takeaway food shop in Avon Terrace and a food van.

The food van registered as 1EQ0315 was inspected on 14 August 2017 and approved by Officers under Delegation DE6-7 – Food Act 2008 – Powers of an Enforcement Agency.

TNT Pizza & Takeaway would like to utilise the vehicle to service the industrial areas of York in the mornings and at lunch time and to drive around the streets and parks of York selling soft serve ice cream at various times throughout the year.

The van will not be operated in Avon Terrace between Macartney Street and South Street unless for an event which would be approved as part of the event considered on a case by case basis.

Comments and details:

There currently is no food van servicing the Shire of York on a regular basis that offers a service to the industrial area and street service.

This service would be unique to York and offer a service that is normally only available to larger populated areas.

The vehicle that is to be used in the operation meets the criteria of any similar business.

Implications to consider:

- **Consultative**
Officers suggested the applicant consult with surrounding businesses.
- **Strategic**
Driving the economy forward. 3.2 of the Strategic Plan – York is known for business innovation and networks.

- **Policy related**

There are no policy implications associated with the officer's recommendation.

- **Financial**

There are no immediate financial implications associated with the officer's recommendation.

The following fees would be applicable:

Trading in Public Places Application Fee	\$44.00
Licence – 1 Day	\$11.00
Licence – 1 Week	\$60.00
Licence – 1 Month	\$122.00
Licence – 12 Months	\$1214.00

- **Legal and Statutory**

Licensing of vehicle with Department of Transport and the Shire of York.

The operator is to have current Public Liability Insurance at all times.

Food Act 2008

Section 110. Registration of food businesses

- (1) *The appropriate enforcement agency may register a food business in respect of any premises for the purposes of this Part.*
- (2) *The proprietor of a food business may apply, in the approved form, to the appropriate enforcement agency for the registration of the food business in respect of any premises under this Part.*
- (3) *The application must be accompanied by —*
 - (a) *if required by the appropriate enforcement agency — the design and fit-out specifications, in a form approved by the appropriate enforcement agency, of the premises, if food is to be handled in the course of conducting the food business at those premises; and*
 - (b) *any other information that the appropriate enforcement agency requires to determine the priority classification of the food business; and*
 - (c) *subject to subsection (4), the fee, if any, prescribed by the regulations.*
- (4) *If the appropriate enforcement agency is a local government —*
 - (a) *any fee prescribed by the regulations for the purposes of subsection (3)(c) does not apply to an application to the agency under this section; and*
 - (b) *the fee for an application to the agency under this section may be imposed and recovered by the agency under the Local Government Act 1995 Part 6 Division 5 Subdivision 2.*
- (5) *The appropriate enforcement agency may, after considering an application for registration —*
 - (a) *grant the application, with or without conditions; or*
 - (b) *refuse the application.*
- (6) *If the appropriate enforcement agency grants an application for registration, the appropriate enforcement agency must issue the applicant with a certificate of registration, in the approved form, that specifies the premises in respect of which the registration is granted and sets out any conditions to which the registration is subject.*
- (7) *A condition to which the registration is subject may relate only to compliance with this Act.*

- (8) *If the appropriate enforcement agency refuses an application for the registration of a food business in respect of any premises, the appropriate enforcement agency must give notice of the refusal in writing to the applicant setting out the reasons for the refusal.*

- **Risk related**

A risk assessment has been undertaken and the reputational risk to the Shire is considered low.

- **Workforce Implications**

There are no known workforce implications for the Shire associated with the officer's recommendation.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
291117**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council approves the application of TNT Pizza & Takeaway to operate a food van under a Trading in Public Places Permit within the Shire of York subject to the following conditions:

- a) The permit is to be renewed annually;***
- b) Operating between South Street and Macartney Street in Avon Terrace is not permitted unless operating as part of an event which would be approved by the event organiser on a case by case basis;***
- c) The mobile food van is to visit individual business within the industrial area and not park on the roadside;***
- d) The mobile food van is permitted to drive around the streets and parks of York selling soft serve ice cream at various times throughout the year.***
- e) The mobile food van is permitted to service the industrial areas of York in the mornings and at lunch time or when required.”***

CARRIED: 7/0

SY142-10/17 – Avon Terrace Revitalisation Grant Program Guideline Amendments

FILE REFERENCE: CS.CEV / FI.DON
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Esmeralda Harmer, Community and Economic Development Officer
RESPONSIBLE OFFICER: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: SY067 – 06/17
DISCLOSURE OF INTEREST: Nil
APPENDICES: A. Avon Terrace Revitalisation Grant Program Guidelines

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

To seek Council's approval to increase the capped amount of funding of the Avon Terrace Revitalisation Grant (ATRG) Program prior to advertising the next round for application.

Background:

In March 2016, Council resolved to support the Avon Terrace Revitalisation Grant Pilot Program. The existing funding conditions include the following;

- The contribution from the Shire of York is capped at \$2,000 per premise.
- Applicants are required to match the contribution they are seeking from the Shire in cash.
- Applications will be given preference if they contribute more than the allocation from the Shire.
- The matched financial contribution (not value-in-kind) to the project is not obtained through any other funding support from state, or federal governments, although leveraging funding from these sources in addition to the business contribution could be considered.

The pilot round was opened for a period of four weeks with a report presented to Council at its 26 June Ordinary Council Meeting, where Council resolved as follows;

"That Council:

1. *Notes that;*
 - a) *one application was received for the Avon Terrace Revitalisation Grant Pilot Program and the feedback received regarding the program.*
 - b) *the application received did not meet the assessment criteria as detailed in this report*
 - c) *a carry forward amount from GL41105 Avon Terrace Revitalisation has been included in the draft 2017/18 financial budget*
2. *Requests the Chief Executive Officer to notify the unsuccessful applicant as detailed in this report."*

CARRIED: 6/0

Since June, Officers have met with business owners and received feedback from the community regarding the ATRG program noting;

- The funding cap was significantly less than the costs incurred to undertake the works required.
- Consideration to extend application times to allow businesses appropriate time to receive quotations and fully scope proposed works.
- An increase in advertising through business forums and business networking opportunities could increase uptake.

Comments and details:

Prior to advertising for the next ATRG round, Officers seek Council's approval to increase the capped amount of funding businesses can apply for under the ATRG guidelines from \$2,000 to \$5,000 per premise. No other amendments to the guidelines are requested.

Officers suggest the benefits of increasing the capped amount could;

- Offer a higher level of financial support to enable project applications of a significant size to be considered.
- Encourage applications from business complexes that have multiple business shop fronting and owners. Each business in these complexes could apply as a single entity and pool funds to support entire projects to be completed.
- Increase the likelihood of businesses contributing more than the allocation from the Shire.

Officers also request Council considers opening the next round of applications for the ATRG program in November 2017 for a period of twelve weeks. The proposed timing means the grant round would be open for an additional eight weeks, with applications presented to Council in March 2018 for consideration. It is suggested the increased timeframe could allow businesses ample opportunity to fully scope and cost potential applications.

The deliberate timing of the next ATRG funding pool opening also aims to;

- Enable businesses an opportunity to collate information to include for application during York's quieter 'shoulder' tourist season.
- Increase exposure of the ATRG program through Business forums and Business networking opportunities.
- Allow successful applicants to undertake works, such as façade painting in the warmer months following February's Ordinary Council Meeting.

The current funding pool available for the ATRG program is \$10,000. Should an increase in applications occur when the next round of funding opens, Council could consider allocating additional funds from the surplus at the midyear budget review process to consider these applications.

A revised ATRG program guideline, including the suggested amendments as detailed in this report is attached as **Appendix A** for Council's consideration.

Options:

Council could consider leaving the capped amount at \$2,000 and continuing the ATRG program as it exists, including the funding pool opening for a duration of four weeks. Officers do not recommend this option as it does not reflect the community's feedback and comments received to improve the program and its functions.

Implications to consider:

- **Consultative**

Following the ATRG program pilot round, Officers have workshopped various concepts with local businesses through Business Forums, networking opportunities and individual meetings. The details of these consultations have been included in this report where relevant.

- **Strategic**

The ATRG program has the potential to improve the visual appeal of commercial precinct streetscapes and addresses Council's Corporate Business plan objective of revitalising the Avon Terrace area. It is envisioned through continued improvements and active business engagement, the ARTG program presents Council with an ongoing mechanism to strategically support both Council's commitment and business improvements in the Avon Terrace precinct.

- **Policy related**

There are no policy implications associated with the officer's recommendation.

- **Financial**

The ATRG program is considered from GL41105 Avon Terrace revitalisation budget allocation. The total funding pool available in the 2017/18 budget for potential use is \$10,000.

- **Legal and Statutory**

There are no legal and statutory implications associated with the officer's recommendation.

- **Risk related**

If Council choose to continue the ATRG program as it exists, consideration should also be given to the reputational risk to the Shire's credibility in responding to the needs of its businesses as they are presented in this report.

- **Workforce Implications**

There are no known workforce implications for the Shire associated with the officer's recommendation.

Voting Requirements:

Absolute Majority Required: No

RESOLUTION**301117****Moved: Cr Smythe****Seconded: Cr Ferro*****"That Council:***

- 1. Adopts the Avon Terrace Revitalisation Program amendments as presented to Council in this report including;***
 - a. a capped amount of \$5,000 available per premise***
 - b. that the round remains open for a minimum of eight weeks to allow businesses to fully scope proposed works.***
- 2. Requests the Chief Executive Officer to call for applications for the program and present any applications received to Council for consideration."***

CARRIED: 7/0

SY143-11/17 – Australia Day Awards 2018

FILE REFERENCE: CS.CCS.3
APPLICANT OR PROPONENT(S): York Honours Reference Group
AUTHORS NAME & POSITION: Helen D'Arcy-Walker, Council & Executive Support Officer
RESPONSIBLE OFFICER: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: Awards are Presented each Year
DISCLOSURE OF INTEREST: Nil
APPENDICES: Confidential -
A. Notes - Meeting held 3 November 2017

Attachment A is confidential under Section 5.23 - 2(b) of the Local Government Act 1995 in that it deals with " the personal affairs of any person ".

Copies have been provided to Councillors, the Chief Executive Officer and Executive Managers Only.

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

The York Honours Reference Group has assessed nominations for the Citizen of the Year, Senior Citizen of the Year – Senior (65 years or over), Active Citizenship Award (for a community group or event) and the York Community Bank Awards for Junior and Senior Sports Star. This report recommends the recipients for these awards for Council's consideration.

Background:

The Awards are held every year in conjunction with Australia Day WA. The York Honours Reference Group assesses nominations received for each category of the Australia Day WA Awards and the Junior and Senior Sports Star Awards and make recommendations to Council.

Comments and details:

Recognition of individuals and organisation achievements is important in the Community.

Options:

Council could choose not to accept the recommendations of the York Honours Reference Group and determine to award different members of the community.

However the York Honours Reference Group was established to provide recommendations to Council regarding community awards.

Implications to consider:

- **Consultative**
York Honours Reference Group
- **Strategic**
Corporate Business Plan – Civic and Community Events – Direct and regular support of specified community events with a civic focus for general community enjoyment
- **Policy related**
Policy C1.2 - Australia Day Awards

- **Financial**
Council allocates an amount each year for the Australia Day Community BBQ celebrations as part of the annual budget process.
- **Legal and Statutory**
Nil
- **Risk related**
Nil
- **Workforce Implications**
Nil

Voting Requirements:
Absolute Majority Required: No

**RESOLUTION
311117**

Moved: Cr Smythe

Seconded: Cr Heaton

“That Council:

- 1. Receives the Notes from the York Honours Reference Group meeting held on Friday, 3 November, 2017***
- 2. Accepts the recommendation by the York Honours Reference Group for the Junior Sports Star of the Year Award and the Senior Sports Star of the Year Award for the Year 2017.***
- 3. Accepts the recommendation by the York Honours Reference Group for the Australia Day WA Awards – Citizen of the Year, Citizen of the Year – Senior (65 years or over), Active Citizenship Award (for a community group or event).”***

CARRIED: 7/0

SY144-11/17 – Shire of York & the York Community Resource Centre Multiyear Funding Agreement – Palace of the Stars

FILE REFERENCE:	CS.CEV / FI.DON
APPLICANT OR PROPONENT(S):	York Community Resource Centre
AUTHORS NAME & POSITION:	Esmeralda Harmer, Events Economic Development Officer
RESPONSIBLE OFFICER:	Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	SY130-10/17, 30 October 2017
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Confidential - A. Shire of York & York Community Resource Centre Draft Multi Year Funding Agreement

Appendix A is confidential under Section 5.23 – (e) (iii) of the Local Government Act 1995 in that it deals with “information about the business, professional, commercial or financial affairs of a person”

Copies have been provided to Councillors, the Chief Executive Officer and Executive Managers only.

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

This report presents Council with the draft Multiyear funding agreement between the Shire of York and York Community Resource Centre for consideration and the responsibilities and obligations required from both parties to honour such an agreement.

Background:

In October 2017, Council considered a multiyear funding proposal from the Toodyay Festivals Inc to support the Palace of the Stars event for a two-year period. Council considered this request at its 30 October Ordinary Council meeting and resolved the following:

“That Council:

1. Receives the acquittal of the 2017 Palace of the Stars event.
2. Requests the Chief Executive Officer to negotiate a draft two-year Funding Agreement with the organisers of the Palace of the Stars event subject to the following conditions:
 - (a) the funding agreement is between the Shire of York & Toodyay Festivals Inc;
 - (b) a maximum of \$10,000 for 2017/18 and \$5,000 for 2018/19 to be provided in cash contributions to the event organisers and waiver of the fee for the use of the Town Hall for full three (3) days each year;
 - (c) any works undertaken by the Shire to be charged as private works;
 - (d) *promotion and acknowledgement of the Shire’s contribution; and*
 - (e) provide acquittal requirements as per the C1.3 Community Funding: Grants & Sponsorship Policy.
3. Requests the Chief Executive Officer to present the draft Agreement to Council for *consideration prior to execution.*”

Since this time Toodyay Festivals Inc has indicated it will no longer be the auspicing body for this event with Palace of the Stars event organiser, Ms McRoberts confirming the York Community Resource Centre (YCRC) has agreed to auspice the event. Officers have reflected this change in the draft agreement and met with the York Community Resource Centre to finalise the draft funding agreement obligations and responsibilities.

Through these consultations with the YCRC, the following points summarise the content of the draft agreement as agreed by both parties:

- The agreement is between the Shire of York & the YCRC.
- The agreement provides \$10,000 in the first year of the agreement and \$5,000 in the second year, commencing in December 2017.
- Waiver of the fee for use of the York Town Hall for three full days each year
- The YCRC will provide the Shire with a two-year Business Plan which details event programming, operational controls, financial budgets and initiatives which reflect improved visitor numbers and experiences intended for each year of the event.
- Auspicing of the Palace of the Stars event will not affect the YCRC's ability to apply for Community Funding for its events and activities that occur as part of its usual operations.
- Use the funds provided to it by the Shire in accordance with the terms and conditions as outlined within the agreement.
- The template used is consistent with the multiyear funding agreements provided by the Shire for events.

Officers have included the draft funding agreement as a confidential attachment for Council's review as attached at **Appendix A**.

Comments and details:

Officers consider that the draft agreement accurately represents the responsibilities and obligations of both parties over the two years of the agreement.

Council's financial support committed through this agreement provides the opportunity for the Palace of the Stars event to grow and develop into one of York's large-scale community events. The tapered funding model used encourages the event to become sustainable over time by utilising the initial funds available to increase market exposure, ticket sales, grant opportunities and by lowering the financial risk unproven events face in their development stages.

The draft agreement indirectly provides a mechanism to encourage not for profit groups, individuals, and residents to connect and develop new partnerships, including utilising York's iconic Town Hall for its intended purpose.

Options:

Council could request further commitments regarding sustainability however this may come with either increased financial commitments required or further involvement from the Shire.

Implications to consider:

- **Consultative**
Extensive consultation with both the event organisers and the York Community Resource Centre has been undertaken and is detailed within this report.
- **Strategic**
The Strategic implications of this support was outlined when Council previously considered the matter.
- **Policy related**
Nil

- **Financial**

The She Wears White Bridal Expo did not proceed as the application indicated that without the entire amount of \$10,000 requested, the event could not proceed. The \$6,000 committed for this event remains in the existing festival assistance budget allocation for consideration of the current application received.

Council could allocate \$10,000 for this years contribution from GL 132150 Festival Assistance for this purpose. Council will need to consider an allocation of \$5,000 as part of the 2018/19 draft budget.

- **Legal and Statutory**

The agreement template used is the version used for providing multiyear funding agreement for events.

- **Risk related**

The support provided of this nature represents a relatively low risk to the Shire, although the funds proposed can be perceived as significant. In an attempt to mitigate this perceived risk, Officers have requested a Business Plan as detailed in the multiyear agreement which details and clearly demonstrates how the funds will be used to maximise the events reach and revenue.

- **Workforce Implications**

Nil

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

"That Council:

1. *Notes that Toodyay Festivals Inc will no longer auspice the Palace of the Stars event and the York Community Resource Centre will now be the auspicing body.*
2. *Agrees to the Multiyear Funding Agreement between the Shire of York and the York Community Resource Centre as attached at Appendix A providing a maximum of \$15,000 over two years commencing in the 2017/18 financial year.*
3. *Authorises the Shire President and Chief Executive Officer to engross the agreement on behalf of the Shire of York.*
4. *Requests the Chief Executive Officer to allocate \$10,000 for the 2017/18 FY from Festivals Assistance GL 132150 and include an amount of \$5,000 in the 2018/19 FY draft budget for Councils consideration."*

**RESOLUTION
321117**

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council:

- 1. Notes that Toodyay Festivals Inc will no longer auspice the Palace of the Stars event and the York Friendship Club Inc will now be the auspicing body.***
- 2. Agrees to the Multiyear Funding Agreement between the Shire of York and the York Friendship Club Inc as attached at Appendix A providing a maximum of \$15,000 over two years commencing in the 2017/18 financial year.***
- 3. Authorises the Shire President and Chief Executive Officer to engross the agreement on behalf of the Shire of York.***
- 4. Requests the Chief Executive Officer to allocate \$10,000 for the 2017/18 FY from Festivals Assistance GL 132150 and include an amount of \$5,000 in the 2018/19 FY draft budget for Councils consideration.”***

Reason – change is due to the original auspicing body is unable undertake the event and has asked the York Friendship Club Inc to auspice it.

SY145-11/17 – Outstanding Rates and Sundry Debtors

FILE REFERENCE: FI.DRS.1, FI.DRS.3, FI.DRS.4
APPLICANT OR PROPONENT(S): Various
AUTHORS NAME & POSITION: Anneke Birleson, Finance Officer
RESPONSIBLE OFFICER: Suzie Haslehurst, Executive Manager
Corporate & Community Services
PREVIOUSLY BEFORE COUNCIL: 27 March 2017
DISCLOSURE OF INTEREST: Nil
CONFIDENTIAL APPENDICES: Confidential -
A - Schedule of Outstanding Rates (Non-Pensioners)
B - Schedule of Outstanding Sundry Debtors

The appendices are confidential in accordance with Section 5.23(2)(e)(iii) of the Local Government Act 1995 as they deal with matters that if disclosed, would reveal information about the financial affairs of a person.

Copies have been provided to Councillors, the Chief Executive Officer and Executive Managers only.

Nature of Council's Role:

- Executive

Purpose of the Report:

The purpose of this report is to provide Council with an update regarding current outstanding rates, services and sundry debts for the period ending 30 October 2017.

This report seeks confirmation and direction from Council regarding the recommended courses of action to be taken against defaulting rate payers and sundry debtors.

Background:

Council has a significant number of outstanding rates and sundry debts.

On 27 March 2017 Council resolved the following:

RESOLUTION

120317

Moved: Cr Smythe

Seconded: Cr Randell

“That Council:

- 1. Receives the updated summary of Outstanding Rates and Sundry Debtors as at 28 February 2017 as attached to this report as Confidential Attachments A and B and notes the work undertaken by officers to date to recover outstanding monies owed to the Shire.*
- 2. Approves the recommendations contained in Confidential Attachment A – Outstanding Rates noting that;*
 - (a) in five instances, the Shire will be proceeding to sale of property in accordance with Section 6.64 of the Local Government Act 1995;*
 - (b) in twelve instances, a debt collection process is currently active with the Shire's debt collection agency or in legal process; and*
 - (c) in six instances, the Chief Executive Officer is requested to seek legal advice and report back to Council.*
- 3. Approves the recommendations contained in Confidential Attachment B – Outstanding Sundry Debtors noting that in twenty seven instances*

the debtor is to be sent a Final Demand Notice as approved by the Fines Enforcement Registry."

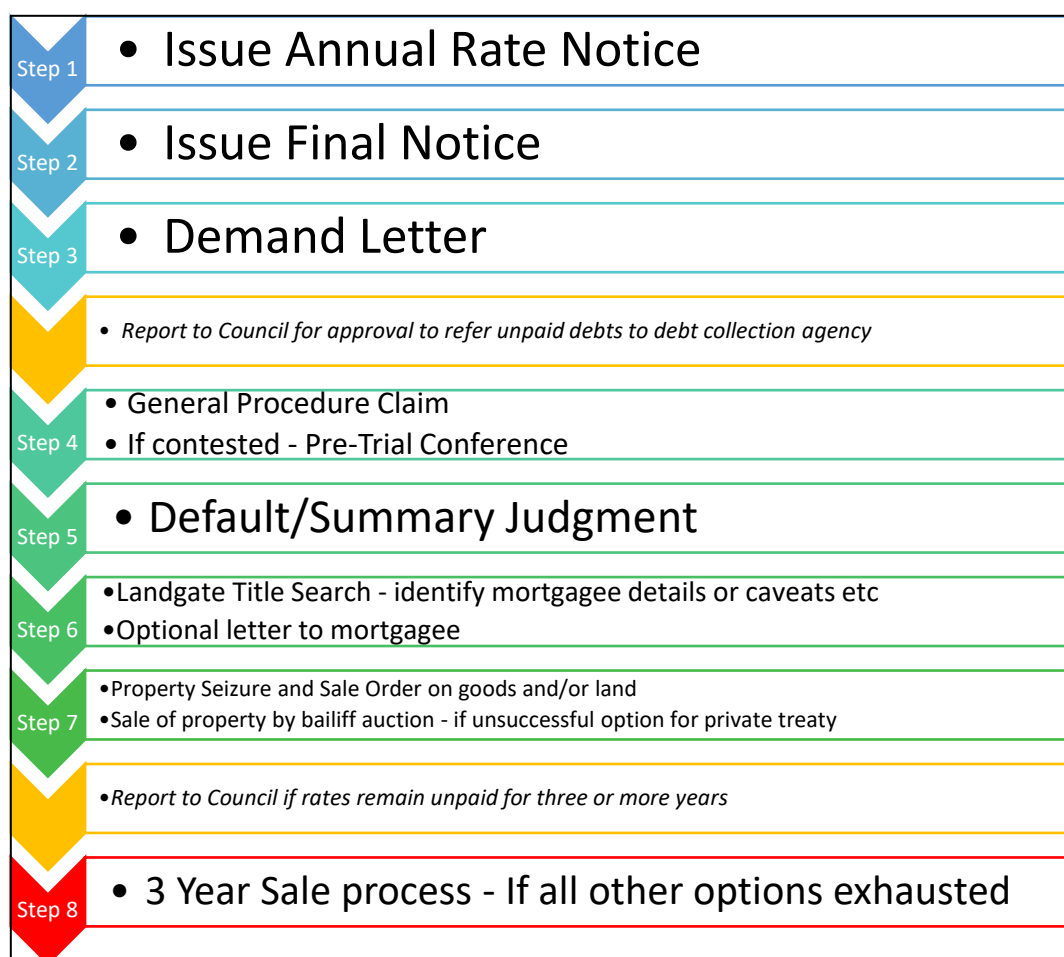
Council's Policy *F1.1 Revenue Collection* adopted on 27 June 2016, outlines the legal recovery process. A number of instances have been identified when Council is to be informed and to approve the Officer recommended step for debt recovery.

On 18 September 2017, Council awarded the tender for debt collection services to Milton Graham Lawyers. There are no open accounts with the previous Debt Collection agency.

Comments and details:

Attached to this report is a confidential summary of all outstanding sundry debts and rates. The documents include recommended strategies for implementation to recover amounts owing for Council's consideration and approval.

The following Council adopted Recovery Process (Resolution 180616) outlines the steps the Shire is to take when attempting to recover outstanding rates and charges.



Sundry Debts

There are nine outstanding sundry debt amounts that are to be recommended to be referred for debt collection, mostly relating to unpaid fees and charges.

There is one fine listed on the sundry debtor system which is to be sent to Fines Enforcement in accordance with Council's Policy *F1.1 Revenue Collection*.

Rates and Charges

Officers are recommending that in six instances, Council proceeds with the Three Year Sale process. The sale of property through the debt recovery process is seen as the last resort however, prior to Council being able to go through the Three Year Sale process as provided for in the *Local Government Act 1995*, Council must make all reasonable attempts for collection through the courts. This is outlined in Council's Policy *F1.1 Revenue Collection*.

As part of the transition between AMPAC Debt Recovery and Milton Graham Lawyers, sixty nine (69) properties are to be referred to Milton Graham Lawyers as per Resolution 120317. The majority of these properties have already had legal action commenced on the outstanding amount. A further 113 properties have been recommended for immediate referral for debt collection.

Four (4) properties have payment arrangements in place for the 2017/18 financial year and are to be monitored and reviewed in early 2018.

The Shire has received eight (8) applications for payment arrangements. These applications are to be reviewed following adoption of the revised Finance Policy *F1.1 Revenue Collection*.

Approximately 81 properties have either expired payment arrangements or have had some payments made towards the outstanding debts. The Shire has held off on entering new agreements until the *F1.1 Revenue Collection* policy is reviewed. Officers are recommending that following adoption of the revised policy, these debtors be written to requesting they apply for a payment arrangement. If a suitable arrangement is not entered into, it is recommended the outstanding amounts are to be referred for debt collection.

In accordance with Council Policy F1.1, once legal action is initiated, Council recognises that the Chief Executive Officer is to monitor the process and make decisions regarding courses of action, unless there is an issue that requires Council input, such as sale of land under Section 6.64 of the *Local Government Act 1995*.

It is worthwhile to note that for those accounts that have not been previously sent for debt collection, no costs are incurred unless legal action is taken. No legal action will be taken until a further report is presented to Council providing information regarding attempts by the Shire's debt collection agency to collect the due amounts, in accordance with the Shire's legal recovery process.

Options:

Council could choose to alter the number of outstanding debts to be referred for debt collection. However, officers have made the recommendations based on the length of time the debts have remained outstanding and the likelihood of an acceptable payment arrangement being entered into and honoured.

Implications to Consider:

- **Consultative**

Milton Graham Lawyers
AMPAC Debt Recovery
Price Sierakowski
Baycorp

- **Strategic**

Theme 5: Strong Leadership and Governance

5.3 The Shire's public finances are sustainable in the short and long-term.

5.4 There is a major focus on systems which improve and maintain accountability and transparency.

The current outstanding amount of rates and charges is approximately \$3.5 million (including instalment payers and pensioners). It is vital that the Shire of York is proactive and engages the services of an effective debt collection provider to reduce this significant and in some cases, long standing debt.

- **Policy related**

F1.1 Revenue Collection

Shire of York Finance Policy *F1.1 Revenue Collection*, identifies that the Shire is to ensure timely cashflow and minimise bad debts. In addition, the Shire must ensure that appropriate measures are undertaken to recover outstanding amounts. The recovery of these outstanding debts must be fair, consistent and transparent.

- **Financial**

As at 31 October 2017 the amount of outstanding rates debt was \$3,012,351.62. This includes those on instalments and pensioners.

The rates outstanding debt is approximately \$1.4 million if instalment payers and pensioners are excluded.

As at 31 October 2017 the amount of outstanding sundry debt was \$349,137.56.

- **Legal and Statutory**

Local Government Act 1995

Subdivision 5 — Recovery of unpaid rates and service charges

6.55. Recovery of rates and service charges

(1) Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from —

- (i) the owner at the time of the compilation of the rate record; or
- (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.

(2) A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.

6.56. Rates or service charges recoverable in court

(1) *If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.*

(2) *Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.*

Subdivision 6 — Actions against land where rates or service charges unpaid

6.64. Actions to be taken

(1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*

- (a) from time to time lease the land; or*
- (b) sell the land; or*
- (c) cause the land to be transferred to the Crown; or*
- (d) cause the land to be transferred to itself.*

(2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*

(3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

- **Risk related**

The current situation can be assessed as follows:

The Financial Impact is Extreme (5)

The Likelihood of Recurrence is currently likely (4).

This results in an Extreme Risk to the Shire of York.

This assessment may be significantly reduced depending on the success of the debt recovery process.

- **Workforce Implications**

The process of handing over accounts for debt collection will impact on the workload of the Finance Department, particularly in respect of collating necessary documentation and communication with the debt collection provider in the initial set up phases. However, by referring them to an external provider the demands on Shire resources will be reduced over time.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
331117**

Moved: Cr Trent

Seconded: Cr Ferro

“That Council, following a comprehensive review conducted with the Council appointed debt collection firm:

- 1. Receives the updated summary of Outstanding Rates and Sundry Debtors as at 31 October 2017 as attached to this report as Confidential Appendices A and B and notes the work undertaken by officers to date to recover outstanding monies owed to the Shire.***
- 2. Approves the recommendations contained in Confidential Appendix A – Outstanding Rates noting that;***
 - (a) in six instances, the Shire will be proceeding with actions in accordance with Section 6.64 of the Local Government Act 1995;***
 - (b) in one hundred and thirteen instances, the unpaid rates and charges are to be referred for debt collection.***
- 3. Approves the recommendations contained in Confidential Appendix B – Outstanding Sundry Debtors noting that in ten instances the debtor is to be referred for debt collection.”***

CARRIED: 7/0

SY146-11/17 – Review of Policy: F1.1 Revenue Collection

FILE REFERENCE:	FI.DRS.3, FI.DRS.4
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Anneke Birleson, Finance Officer (Rates and Sundry Debts)
RESPONSIBLE OFFICER:	Suzie Haslehurst, Executive Manager Corporate & Community Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A: F1.1 Revenue Collection (tracked changes)

Nature of Council's Role in the Matter:

- Executive
- Review

Purpose of the Report:

The purpose of this report is to present for Council's consideration and approval for adoption proposed amendments to the existing Shire of York Finance Policy *F1.1 Revenue Collection*.

Background:

The objective of the existing policy is to provide guidance regarding the collection of all outstanding revenues owed to the Shire to ensure timely cashflow and to minimise bad debts.

The Shire of York recently engaged Milton Graham Lawyers (MGL) through a tender process for the provision of debt collection services.

Following an initial meeting with MGL it was noted that the Shire's existing policy had areas for improvement that would clarify actions and processes. The proposed amendments seek to enhance efficiency of the revenue collection process and set clear parameters.

Comments and details:

The policy was originally developed at a time when rates had increased considerably and a significant number of ratepayers were experiencing difficulty meeting payment deadlines. However, it should be noted that the acceptance of payment arrangements has not resulted in a significant recovery of rates or sundry debtor charges. Part of this policy review aims to define clearer parameters for the acceptance of such agreements and further define the steps taken to recover outstanding debts.

Proposed Changes to Policy F1.1 Revenue Collection

The recovery process, as approved by Council (Resolution 180616) has been included to clearly state the process taken to recover outstanding rates and charges.

The process for payment agreements is now included as a separate section, which provides clear parameters for the basis of payment agreements. The Chief Executive Officer currently has Delegated Authority (DE3-3) to approve applications for a payment agreement provided that the balance will be paid in full by the 30 June of the applicable year. Any applications outside this scope are to be reported to Council for approval or rejection.

The classifications of outstanding rates and charges have now been divided into two groups. The first relates to outstanding debts in excess of \$500 that have remained unpaid for less than three years. Debts less than \$500 are not unreasonable to request the debtor to pay, it also reduces the possibility of the costs of legal action outweighing the cost of recovery. In addition anything less than \$500, if it remains unpaid into the next financial year, can be added to a claim in the subsequent year.

The second classification is rates and charges that have remained unpaid for three years or more. In these circumstances, a different section of the *Local Government Act 1995* becomes relevant and a different process applied to the standard debt recovery through a court of competent jurisdiction.

Under the *Bush Fires Act 1954*, if an owner or occupier of a property does not comply with firebreak requirements the Shire can enter the property and install firebreaks for the purpose of bush fire risk mitigation. Section 33(8) specifies that any costs incurred to do so are considered a charge against the land. The amended policy includes a statement that allows costs incurred by the Shire to install firebreaks, to be levied against the property as a charge against the land and if unpaid can be recovered in the same way as unpaid rates.

More detail regarding the process for collecting outstanding sundry debtor fees and charges is provided to further clarify the steps Shire officers are to take to recover debts and if those debts are deemed unrecoverable.

Invoices have a payment timeframe of 14 days. After 14 days has passed a reminder notice is to be issued. If the invoice remains unpaid for 30 days then a final notice is to be sent giving the debtor seven (7) days to pay or legal action may be taken.

Prior to seeking Council approval to refer the debts for debt collection, Officers are to review the circumstances and issue a demand letter if appropriate.

Once referred for debt collection the Council appointed debt collection agent will be able to ascertain if legal action is the best approach. If a debt is deemed unrecoverable Officers are to submit a written request to the Chief Executive Officer (DE3-4) or to Council (for debts over \$500.00) for the amount to be considered for write-off.

Options:

Council could choose not to accept the proposed changes and request that a further review is carried out. However, officers have undertaken a thorough review including consulting MGL and debt collection policies from other local governments as well as careful consideration of the Shire's previous experience in recovering outstanding debts from the local demographic. Without clearer parameters under which to operate and considering the current policy terms, it becomes very difficult to justify legal action as a course of debt recovery and reduces the ability to make clear and equitable decisions.

If Council chooses to accept the changes, this comes with the understanding that officers review the effectiveness of the policy as an ongoing process, particularly as debts are referred to the Council appointed debt collection agency, assessing whether the recovery of outstanding debts improves as a result of the proposed policy.

Implications to consider:

- **Consultative**

Milton Graham Lawyers – including referral to exemplar policies and procedures from other local governments, such as the Shire of Kalamunda Debt Collection Policy.

- **Strategic**

Theme 5: Strong Leadership and Governance

5.1 The Council supported by the administration of the Shire of York is effective and informed in its decision-making and exhibits good practice in its governance role.

5.3 The Shire's public finances are sustainable in the short and long-term.

- **Policy related**

Shire of York Finance Policy *F1.1 Revenue Collection*, identifies that the Shire is to ensure timely cashflow and minimise bad debts. In addition, the Shire must ensure that appropriate measures are undertaken to recover outstanding amounts. The recovery of these outstanding debts must be fair, consistent and transparent.

- **Financial**

As at 31 October 2017 the amount of outstanding rates debt was \$3,012,351.62. This includes those on instalments and pensioners.

The rates outstanding debt is approximately \$1.4 million if instalment payers and pensioners are excluded.

As at 31 October 2017 the amount of outstanding sundry debt was \$349,137.56.

- **Legal and Statutory**

Local Government Act 1995

Subdivision 5 — Recovery of unpaid rates and service charges

6.55. Recovery of rates and service charges

(1) *Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from —*

(i) *the owner at the time of the compilation of the rate record; or*

(ii) *a person who whilst the rates or service charges are unpaid becomes the owner of the land.*

(2) *A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.*

6.56. Rates or service charges recoverable in court

(1) *If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.*

(2) *Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.*

Subdivision 6 — Actions against land where rates or service charges unpaid

6.64. Actions to be taken

(1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*

- (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

Bush Fires Act 1954

33. Local government may require occupier of land to plough or clear fire-break

- (8) Any amount recoverable by a local government under this section as a debt due from the owner or occupier of land is, until paid in full —
- (a) a debt due from each subsequent owner in succession; and
 - (b) a charge against the land with the same consequences as if it were a charge under the Local Government Act 1995 for unpaid rates; and
 - (c) recoverable by the local government in the same manner as rates imposed in respect of the land are recoverable under that Act.

- **Risk related**

The current situation can be assessed as follows:

The Financial Impact is Extreme (5)

The Likelihood of Recurrence is currently likely (4).

This results in an Extreme Risk to the Shire of York.

This assessment may be significantly reduced depending on the success of the debt recovery process.

- **Workforce Implications**

Implementation of the new policy will reduce demand on workforce in relation to time spent issuing letters of demand and contact attempts with debtors.

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
341117**

Moved: Cr Saint

Seconded: Cr Smythe

“That Council:

- 1. Adopts the amendments to the Shire of York Finance Policy F.1.1 Revenue Collection, as attached to this report.***
- 2. Requests the Chief Executive Officer to report back to Council at six monthly intervals regarding progress in this area.”***

CARRIED: 7/0

SY147-11/17 – Financial Report for October 2017

FILE REFERENCE:	FI.FRP
APPLICANT OR PROPONENT(S):	Not Applicable
AUTHORS NAME & POSITION:	Tabitha Bateman, Financial Controller
RESPONSIBLE OFFICER:	Suzie Haslehurst, Executive Manager Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Monthly Statements
	B. List of Creditors Payments
	C. Corporate Credit Card Transaction Listing

Nature of Council's Role in the Matter:

- Legislative
- Review

Purpose of the Report:

The purpose of financial reporting and the preparation of monthly financial statements is to communicate information about the financial position and operating results of the Shire of York to Councillors and the community and monitors the local government's performance against budgets.

Background:

Local governments are required to prepare general purpose financial reports in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the *Australian Accounting Standards*.

A statement of financial activity and any accompanying documents are to be presented to the Council at an ordinary meeting of the Council within two months after the end of the month to which the statement relates. The Statement of Financial Activity Report summarises the Shire's operating activities and non-operating activities.

Comments and details:

The Financial Report for the period ending 31 October 2017 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 31 October 2017
- List of Creditor's Payments
- Corporate Credit Card Transaction Listing

It should be noted that the figures reflected in the following reports in relation to 30 June 2017 and carried forward to 31 October 2017 are an estimate of the end of year position only and are subject to audit adjustments to the 2016/17 Annual Financial Report.

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 October 2017;

Outstanding Rates and Services

The total outstanding rates as at 31 October 2017 were \$3,012,352 compared to \$3,576,689 as at 30 September 2017.

Previous Years

3 years and over	\$281,506.56	9.35%	of rates outstanding
2 years and over	\$262,162.93	8.70%	of rates outstanding
1 year and over	\$384,973.77	12.78%	of rates outstanding
Total Prior Years outstanding	\$928,643.26	30.83%	of rates outstanding
Current Rates	\$2,083,708.36	69.17%	of rates outstanding
Total Rates Outstanding	\$3,012,351.62		

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 October 2017 were \$349,138 compared to \$424,192 as at 30 September 2017.

90 days and over	\$286,594.64	82.09%	of sundry debtors outstanding
60 days and over	\$2,083.70	0.60%	of sundry debtors outstanding
30 days and over	\$34,410.13	9.86%	of sundry debtors outstanding
Current	\$26,049.09	7.46%	of sundry debtors outstanding
Total Debtors Outstanding	\$349,137.56		

Council is currently in the process of finalising a number of large long-standing debts contained within the above balances. As a risk mitigation strategy, a contingent liability has been included in the Balance Sheet.

Implications to consider:

- **Legal and Statutory**

Local Government Act 1995

6.10. *Financial management regulations Regulations may provide for —*

- (a) *the security and banking of money received by a local government; and*
- (b) *the keeping of financial records by a local government; and*
- (c) *the management by a local government of its assets, liabilities and revenue; and (d) the general management of, and the authorisation of payments out of —*
- (i) *the municipal fund; and (ii) the trust fund, of a local government.*

Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1A) *In this regulation —*

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) *budget estimates to the end of the month to which the statement relates; and*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*

- (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*
- (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
- (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
- (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

[Regulation 34 inserted in Gazette 31 Mar 2005 p. 1049-50; amended in Gazette 20 Jun 2008 p. 2724.]

- **Policy**

Policy F1.2 Procurement

Policy F1.5 Authority to make payments from Trust and Municipal Funds

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
351117**

Moved: Cr Smythe

Seconded: Cr Warnick

“That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 31 October 2017 as summarised below:

Oct-17	
MUNICIPAL FUND	AMOUNT
Cheque Payments	31,647.31
Electronic Funds Payments	725,000.72
Payroll Debits	198,449.60
Payroll Debits - Superannuation	40,492.03
Bank Fees	1,048.46
Corporate Cards	1,168.86
Fuji Xerox Equipment Rental	311.83
Fire Messaging Service	82.50
TOTAL	998,201.31
TRUST FUND	
Electronic Funds Payments	2,512.47
Cheque Payments	0.00
Direct Debits Licensing	102,232.10
TOTAL	104,744.57
TOTAL DISBURSEMENTS	1,102,945.88

”

CARRIED: 7/0

SY148-11/17 – Investments – October 2017

FILE REFERENCE:	FI.FRP
APPLICANT OR PROPONENT(S):	Not Applicable
AUTHORS NAME & POSITION:	Tabitha Bateman, Finance Manager
RESPONSIBLE OFFICER:	Suzie Haslehurst, Executive Manager Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Investment Portfolio

Nature of Council's Role in the Matter:

- Legislative
- Review

Purpose of the Report:

To report to Council the balance of investments held by the Shire of York as at 31 October 2017.

Background:

Council's policy F1.4 - *Investment* requires Council to review the performance of its investments on a monthly basis. In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York.

Comments and details:

The Shire of York Investment Portfolio includes the following items that highlight Council's investment portfolio performance:

- a) Council's Investments as at 31 October 2017
- b) Application of Investment Funds
- c) Investment Performance

Implications to consider:

- **Legal and Statutory**

Local Government Act 1995

6.14. Power to invest

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may —*
 - (a) *make provision in respect of the investment of money referred to in subsection (1); and*
 - [(b)deleted]*
 - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*
 - (d) *provide for the application of investment earnings; and*
 - (e) *generally provide for the management of those investments.*

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

- (1) *A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.*
- (2) *The control procedures are to enable the identification of —*
 - (a) *the nature and location of all investments; and*
 - (b) *the transactions related to each investment.*

19C. Investment of money, restrictions on (Act s. 6.14(2)(a))

- (1) *In this regulation —*

authorised institution means —

- (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
- (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*

foreign currency means a currency except the currency of Australia.

- (2) *When investing money under section 6.14(1), a local government may not do any of the following —*
 - (a) *deposit with an institution except an authorised institution;*
 - (b) *deposit for a fixed term of more than 12 months;*
 - (c) *invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
 - (d) *invest in bonds with a term to maturity of more than 3 years;*
 - (e) *invest in a foreign currency.*

- **Policy**

Policy F1.4 *Investment*

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

361117

Moved: Cr Saint

Seconded: Cr Heaton

“That Council receives and notes the Shire of York Investment Portfolio attached to this report.”

CARRIED: 7/0

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

12. BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

13. MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the meeting may be closed

RESOLUTION

371117

Moved: Cr Trent

Seconded: Cr Smythe

“That Council goes behind closed doors to discuss Items SY149-11/17 – Overpayment of Rates; SY150-11/17 – Write-Off Rates Interest; SY151-11/17 – Legal Costs – Write Off; SY152-11/17 – Request for Boundary Realignment; SY153-11/17 – Recruitment of Executive Manager Infrastructure & Development Services in accordance with Section 5.23 2(a)&(b) of the Local Government Act 1995”

CARRIED: 7/0

The Gallery and staff member Carly Rundle, Senior Planner left the meeting at 6.23pm and the doors where closed.

Disclosure of Interest – Cr Trent – Impartial – Mr M Galvin was a member of the York Sub-Branch RSL. I am the Sub-Branch President.

Cr Trent read the Impartiality Declaration - ... With regard to Mr M Galvin was a member of the York Sub-Branch RSL and I am President of the Sub-Branch the matter in Item SY149-11/17 I disclose that I have an association with the applicant (or person seeking a decision). The association is former member of the York Sub-Branch RSL. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

SY149-11/17 – Overpayment of Rates

RESOLUTION

381117

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council:

- 1. Approves the refund of \$5,358.09 to the previous owner, for rates and charges paid in error between 1 July 2011 and 13 September 2016 on A7031.***
- 2. Approves the refund of \$ 987.91 to the current owner, for rates and charges paid in error between 13 September 2016 and 30 June 2017 on A7031, to be allocated to the outstanding rates and charges on A7030.***
- 3. Requests the Chief Executive Officer to increase the expenditure for Back Rates, GL 31221, and formalise the budget amendment as part of the mid-year budget review.”***

CARRIED: 7/0

SY150-11/17 – Write-Off Rates Interest

RESOLUTION

391117

Moved: Cr Smythe

Seconded: Cr Trent

“That Council:

1. Approves the write-off of interest accrued in accordance with the reasons provided in the report, on the following properties:

- A628***
- A60473***
- A3510***
- A60895***
- A3511***

2. Notes that the estimated total to be written off is \$27.47.”

CARRIED: 7/0

SY151-11/17 – Legal Costs – Write Off

RESOLUTION 401117

Moved: Cr Ferro

Seconded: Cr Smythe

“That Council:

- 1. Approves the write off of legal costs and accrued interest on property A50008 subject to the outstanding 2017/18 rates and charges being paid in full or by an acceptable payment arrangement.***
- 2. Notes that the estimated total to be written off is \$354.22 as at 1 November 2017.”***

CARRIED: 7/0

Cr Warnick has declared a Financial Interest to this item and left the room at 6.29pm

SY152-11/17 – Request for Boundary Realignment

**RESOLUTION
411117**

Moved: Cr Smythe

Seconded: Cr Saint

“That Council:

- 1. Authorises the Chief Executive Officer to submit an application to the Local Government Advisory Board to make a minor change to the existing boundary between the Shire of York and Shire of Northam in the Quellington district, affecting one property, A60663.***
- 2. Notes that the boundary currently dissects the affected property and the change would move the boundary to run along Grass Valley South Rd.***
- 3. If the submission is successful, authorises the Chief Executive Officer to negotiate with the applicant regarding costs of gazettal.”***

CARRIED: 6/0

Cr Warnick returned to the room at 6.30pm.

The Shire President advised Cr Warnick of the Council decision.

SY153-11/17 – Recruitment of Executive Manager Infrastructure and Development Services

RESOLUTION 421117

Moved: Cr Saint

Seconded: Cr Smythe

“That Council endorses the appointment of Bret Howson as Acting Executive Manager Infrastructure and Development Services until 30 June 2018.”

CARRIED: 7/0

RESOLUTION 431117

Moved: Cr Saint

Seconded: Cr Smythe

“That Council opens the meeting to the public at 6.31pm.”

CARRIED: 7/0

13.2 Public reading of resolutions to be made public

As no one from the Gallery returned to the meeting the Shire President did not read out the Council decisions.

14. NEXT MEETING

The next Ordinary Meeting of Council will be held on Monday, 18 December 2017 at 5.00pm in Council Chambers, York Town Hall, York.

15. CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 6.32pm.