



SHIRE OF YORK

NOTICE OF MEETING

Dear Councillors

I respectfully advise that the ORDINARY COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Monday, 26 March 2018, commencing at 5.00pm.

MEETING AGENDA ATTACHED

Paul Martin

PAUL MARTIN
CHIEF EXECUTIVE OFFICER
Date: 16 March 2018

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

Local Government Act 1995 (as amended)

Part 1 Introductory Matters

1.3. Content and intent

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

Part 2 Constitution of Local Government

Division 2 Local Governments and Councils of Local Governments

2.7 The Role of Council

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

Meetings generally open to the public

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

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



Shire of York

G 2.6 PUBLIC QUESTION TIME

Policy Statement

- 1.0 “Public Question Time” will be limited to 15 minutes*. The Council may exercise a discretion to extend the time by resolution if required. If there are questions remaining unasked at the expiration of the time allotted members of the public will be asked to submit their questions in writing to the Chief Executive Officer who will provide a written reply with the response placed in the Agenda of the next Ordinary Meeting of the Council.
- * A minimum of 15 minutes is provided by Regulation 6(1) of the Local Government (Administration) Regulations 1996 (S.5.24 of the Local Government Act 1995)*
- 2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire’s operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.
- 3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.
- 4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.
- 5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.
- 6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.
- 7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.
- 8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.
- 9.0 There will be no debate on the answers to questions.

- 10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.
- 11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

CONTINUED

Please ensure that your question complies with the Public Question Time Policy Statement as published in the Council Agenda and stated as per the attached

Residential Address: _____
(Required if written response requested)

Council Meeting Date: _____

Item No. Referred To:
(If Applicable) _____

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

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL WILL BE
HELD ON MONDAY, 26 MARCH 2018, COMMENCING AT
5.00PM 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

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

1.5 Declarations of Interest that Might Cause a Conflict

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

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

1.6 Declarations of Financial Interests

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

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

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

1.7 Disclosure of Interest that May Affect Impartiality

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making process.

Name	Item No & Title

2 ATTENDANCE

- 2.1 Members
- 2.2 Staff
- 2.3 Apologies
- 2.4 Leave of Absence Previously Approved
- 2.5 Number of People in the Gallery at Commencement of the Meeting

3 QUESTIONS FROM PREVIOUS MEETINGS

- 3.1 Response to previous public questions taken on notice

Questions and Responses Taken on Notice at the 18 December 2017 Ordinary Council Meeting

Mr Maurice Buck

Question 2:

Is the Environmental Health Officer going to inspect all the units at Settlers House with all current Management for compliance?

Question 3:

I have received a telephone call from the Environmental Health Officer regarding my premises but there has been no follow up. Is the Environmental Health Officer going to follow this up?

Response for Question 2 and 3 provided by the Acting Executive Manager Infrastructure & Development Services:

Officers have held several meetings with the Strata Management Company of Settlers House/Complex to address issues of compliance over the past 12 months.

The Shire has been advised that there has recently been changes in the ownership of some of the units at Settlers House/Complex.

When these ownership and management arrangements are finalised compliance will be followed up on all respective units.

3.2 Response to unasked questions from the previous meeting

Questions and Responses from the 18 December 2017 Ordinary Council Meeting:

Ms Lynley Bashford

Questions 1:

Were the Shire of York and all Councillors, Chief Executive Officer and staff informed of the intended application for extension of time from Alkina Holdings Pty Ltd - (from the original timeline that was set by the SAT Planning Tribunal as March 2018) - for another 2 years which gives Alkina Holdings until March 2020 in relation to the landfill at Allawuna Farm before 21st October 2017? If so, why was this not included as essential information provided to ratepayers for selection of councillors?

Response provided by the Acting Executive Manager Infrastructure & Development Services:

The Shire received the first correspondence regarding the extension of time from the applicant, which was a Form 2 Application to amend condition 9 to extend the period for substantial commencement on 24 November 2017 (considered complete on the 28 November 2017 after payment of fees and the application form had been submitted).

Question 2:

The first knowledge to ratepayers of this intended proposal was the local paper of the 8th December of which a lot of people do not receive, then followed by a few letters that only people who wrote to the Shire last time around re: landfill knew about but very late. With the past history of adamant opposition to this proposal why did the Shire of York fail in due diligence to ratepayers and community by not providing this information to them at the earliest opportunity via mail or email to allow adequate preparation time for objections?

Response provided by the Acting Executive Manager Infrastructure & Development Services:

The application was considered complete on 28 November 2017, enabling the application to be processed. This was advertised in the local paper at the earliest opportunity which was 8 December 2017, and again on 15 December 2017. Letters to adjoining landowners and those who had previously made submissions on the application were dated 4 December 2017. Notice of the application was placed on the Shire's website and a copy made available at the front counter for viewing. Notification was made by letter which is standard practice for notification of development applications by the Shire, and because emails are not available for all those that had previously made a submission and are not likely to be updated like our mailing addresses.

The Regulations require public consultation to be undertaken for a period of no less than 14 days from the day on which the notice is published, or notice is given to a person. An extended period of 42 days was given to make comment, which was the maximum available to enable consideration by Council and submission within statutory timeframes to the Development Assessment Panel.

Question 3:

Why was this high priority issue not tabled to be included in this council meeting as this is the last meeting for 2017, and most likely the last meeting before 19th January 2018 - the closing date for submissions/objections to the Shire of York.

Response provided by the Acting Executive Manager Infrastructure & Development Services:

Consideration by Council on whether to endorse the Responsible Authority Report prepared by officers was not able to be made until after the submission period had closed, so all submissions made during that period could be given due regard.

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.

4.1 Written Questions – Current Agenda

4.2 Public Question Time

5 APPLICATIONS FOR LEAVE OF ABSENCE

6 PRESENTATIONS

6.1 Petitions

6.2 Presentations

6.3 Deputations

6.4 Delegates reports

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Minutes of the Ordinary Council Meeting held 26 February 2018

Confirmation

“That the minutes of the Ordinary Council Meeting held 26 February 2018 be confirmed as a correct record of proceedings.”

7.2 Minutes of the Special Council Meeting held 14 March 2018

Confirmation

“That the minutes of the Special Council Meeting held 14 March 2018 be confirmed as a correct record of proceedings.”

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

9 OFFICER’S REPORTS

SY026-03/18 – Responsible Authority Report: Form 2 Application to Mid-West Wheatbelt Joint Development Assessment Panel to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronans

FILE REFERENCE: GR2.290
APPLICANT OR PROPONENT(S): LSV Borello, AMI Enterprises Pty Ltd
AUTHORS NAME & POSITION: Carly Rundle, Senior Planner
RESPONSIBLE OFFICER: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: 12 February 2018 – SY001-02/18 &
14 March 2018 – SY025-03/18
DISCLOSURE OF INTEREST: Nil.
APPENDICES: A. Responsible Authority Report

Nature of Council's Role in the Matter:

- Advocacy

Purpose of the Report:

To seek the endorsement of Council on the Responsible Authority Report prepared by officers in response to a Form 2 application submitted to the Mid-West Wheatbelt Joint Development Assessment Panel (JDAP) to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronan's.

Background:

Council previously resolved at Special Council Meeting 12 February 2018 that it:

1. *Endorses the Shire's Responsible Authority Report (as provided in Attachment A) to the Mid-West Wheatbelt Joint Development Assessment Panel in relation to the Form 2 Application to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronans.*
2. *Authorises the Chief Executive Officer to make any minor typographical changes to the report."*

The Responsible Authority Report was submitted to the Department of Planning, Lands and Heritage on the 15 February and a JDAP meeting was scheduled on 27 February 2018 to determine the application.

On receipt of correspondence 20 February 2018 from the Western Australian Planning Commission advising that the Minister for Planning had considered Scheme Amendment No.50 and required modification to delete the Special Use No.8 zone over the Allawuna Farm site, notification was provided to the JDAP in regards to impact on the RAR endorsed by Council. Notification was then received that the JDAP meeting was cancelled to be rescheduled based on a number of reasons which were outlined at Special Council Meeting 14 March 2018. The intent of the 14 March 2018 Special Council Meeting had been to present an updated RAR to Council for endorsement reflecting the modification to Scheme Amendment No. 50. This was amended to provide an update to Council and Community on the status of the application, when notice was received from the JDAP on 8 March 2018 that AMI Enterprises Pty Ltd & Anor had submitted an application for appeal against the 'deemed refusal' of the application to the State Administrative Tribunal (SAT) on 1 March 2018

Council resolved at Special Council Meeting 14 March 2018:

That Council in relation to the Form 2 application submitted to the Mid-West Wheatbelt Joint Development Assessment Panel (JDAP) to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronan's, notes that:

- 1. The applicant has submitted an appeal to the State Administrative Tribunal against the deemed refusal by the Mid-West/Wheatbelt Joint Development Assessment Panel; and*
- 2. As a consequent, no Mid-West/Wheatbelt Joint Development Assessment Panel will take place to consider the matter unless an order to do so is received from the State Administrative Tribunal.*

An update was also provided at SCM 14 March 2018 advising that the Shire received notification that the Minister for Planning had approved Scheme Amendment No. 50 on 12 March 2018 under Section 87(2)(a) of the *Planning and Development Act 2005* in the format referred above. Scheme Amendment No. 50 was published in the Government Gazette on 16 March 2018 and now has effect as part of Shire of York Town Planning Scheme No. 2.

As part of SAT proceedings, a Directions Hearing was held 15 March 2018, where the SAT issued orders inviting the JDAP to reconsider the 'deemed refusal' in accordance with section 131 of the *State Administrative Tribunal Act 2004* by no later than 13 April 2018. At the time of writing this report, the meeting date for the JDAP reconsideration has not been confirmed.

An updated 'Responsible Authority Report' reflecting gazettal of Scheme Amendment No. 50 (in the format consistent with the modifications required by correspondence dated 20 February 2018) has been prepared (Appendix A) for Council's consideration and endorsement prior to submission for consideration at the JDAP meeting. The appendices of the RAR endorsed by Council at SCM 12 February 2018 are not being amended and only the updated RAR report is presented to Council for endorsement.

Comments and details:

The updated Responsible Authority Report is attached, which contains a detailed background of the proposal, assessment and recommendation for the application to extend the period for substantial commencement.

Options:

Practice notes released by the Development Assessment Panel provide the following:

- It was the original intention of the DAP Regulations that the report be provided by a local government planning officer giving a technical opinion on the application, not necessarily by Council. Although in the absence of any delegation arrangements, Councils may or shall endorse a RAR prepared by the planning officer.
- Given the original intent, the DAP suggests that if the local government or Council wishes to make a statement regarding an application, it should do so by making a submission on the RAR.

Based on the above, should Council not support the recommendation of the Responsible Authority Report in it's current format it could:

- Resolve not to endorse the submission, which would create uncertainty in terms of what could be submitted to the JDAP for consideration; or

- Resolve to make a submission to the Mid-West/Wheatbelt JDAP including statements for consideration.

Implications to consider:

- **Consultative**
Consultation undertaken is discussed within the RAR. Submitters will be notified of the JDAP meeting once a date and location is confirmed.
- **Strategic**
Strategic implications are discussed within the RAR.
- **Policy related**
Policy implications are discussed within the RAR.
- **Financial**
There are no direct financial implications as a result of the RAR recommendations. The current SAT appeal is against the decision maker, the Mid-West/Wheatbelt Joint Development Assessment Panel.

Should the JDAP support the officer's recommendation of the RAR to refuse the Form 2 Application to extend the period for substantial commencement, it is anticipated the appeal will proceed. In such event that an appeal proceeds the Shire's involvement in proceedings will be limited to the options provided by the SAT Act which are at the discretion of SAT to permit.

Should the Shire elect to have legal representation to best present the Shire's position to the extent permitted, it is anticipated that this would involve attendance at further directions hearing, preparation of submissions and potentially attendance at mediation, which could cost in the order of \$5,000 to \$10,000. This would exclude attendance at a hearing should the appeal proceed to this stage, although the Shire's input at a hearing may be limited depending on that permitted by SAT and attendance by legal representation may therefore not be warranted and representation as part of hearing proceedings is better assessed as a later date. These would be on top of costs already incurred to seek advice on matters regarding the Responsible Authority Report.

In light of costs that could be incurred as part of proceedings, Council direction is sought as to whether further legal representation should be engaged to represent the Shire's interests as part of future potential SAT proceedings. Given the high level of opposition against the development by the community, officers recommend that support be given to engage legal representation (excluding attendance at a hearing) to be engaged in the SAT appeal, at the discretion of the CEO.

- **Legal and Statutory**
Relevant legal and statutory documents applicable to assessment of the application are outlined in the attached RAR.

State Administrative Tribunal Act 2004.

- **Risk related**
Risks associated with the proposal, i.e environmental risks etc are discussed within the RAR.

- **Workforce Implication**

The recommendation of the RAR has no implications on workforce.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

“That Council:

- 1. Endorses the Shire’s Responsible Authority Report (as provided in Appendix A) to the Mid-West Wheatbelt Joint Development Assessment Panel in relation to the Form 2 Application to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronans.***
- 2. Authorises the Chief Executive Officer to make any minor typographical changes to the report.***
- 3. Authorises the Chief Executive Officer to engage McLeods Barristers & Solicitors to represent the Shire of York at State Administrative Tribunal proceedings as considered necessary.”***

SY027-03/18 - Development Application – Recreational Aviation and Five Hangar/Chalets: Lot 2308 Cameron Road, Malebelling

FILE REFERENCE: CA1.60838
APPLICANT OR PROPONENT(S): Andrew Cotterell
AUTHORS NAME & POSITION: Colleen Thompson, Consultant Planner
RESPONSIBLE OFFICER: Bret Howson, Acting Executive Manager
Infrastructure and Development
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Application and Site Plans
B – Submissions from Advertising
C – Road Construction Area

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 proposed recreational aviation use and five hangar/chalets at Lot 2308 Cameron Road, Malebelling.

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

Background:

A private airstrip has been located on Lot 2308 Cameron Road for over 37 years. One hangar/chalet to promote short stay accommodation associated with the airstrip was approved on the property in March 2016 and has since been constructed.

An application for development approval on Lot 2308 Cameron Road for the construction of five additional aircraft hangar/chalets was submitted on 31 January 2017. The Shire requested additional information from the applicant on 6 February 2017. Over the course of 2017, information and clarification was requested and provided. This resulted in an amended development application, which included the proposed use of the existing runway by the flight school on the adjacent Lot 8038, with necessary supporting documentation being submitted by the applicant on 31 October 2017.

The application proposes use of the existing airstrip for private recreation and flight school aviation activities and the construction of five additional aircraft hangar/chalets to expand niche aviation-based tourist accommodation on the site.

The application including site plans, elevations and an acoustic report are provided at **Appendix A**.

Council considered this item at Ordinary Council Meeting 26 February 2018 and resolved:

"That Council defer this matter to allow Officers to investigate access options other than opening Needling Hills Road."

The reason for requesting deferral for further investigation was noted as relating to the road access and cost of development of this road. The outcome of this further investigation is discussed further below under the heading 'access' in the 'comments and details' section.

Comments and details:

Proposed use

The applicant has requested a proposed use of "private recreation" which is defined by the scheme as "land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not normally open to the public without charge". This use is not listed in the zoning table, therefore requires consideration in accordance with clause 3.2.4 of the scheme whereby the local government may:

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

In accordance with clause 3.2.4(b) of the scheme, the application has been advertised.

The purpose of the proposed private recreation use is to facilitate private recreational aviation by users of the hangar/chalets and use of the existing runway by the flight school that operates from Lot 8038.

The nature of the proposed use, being recreational aviation activities, does not comfortably sit within the definition of private recreation. Further, aviation includes air based activities that present specific management implications. Irrespective, it is noted that recreational aviation activities do not comfortably fit within any of the land use definitions under the scheme and would therefore be defined as a use not listed. In this regard, the necessary statutory process of clause 3.2.4(b) has been followed to enable consideration of the application as a use not listed.

To manage aviation activities on the site, any approval should include conditions that reflect the intended use and exclude operations which go beyond appropriate recreational activities, for example regular commercial flights and tours. A suggested condition that reflects the proposed use for the property that would facilitate the development of hangars/chalets is "land and buildings used for recreational aviation purposes only, including the storage of private aircraft and recreational flying lessons, and are not to include any commercial aviation activities and movements."

The property is zoned 'General Agriculture' by TPS2. The proposed use of recreational aviation can be considered consistent with the objectives of the general agriculture zone set out in clause 4.15.1 of the scheme, in particular:

- (b) *to consider non-rural land uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment*
- (c) *To allow for facilities for tourists and travellers, and for recreation uses.*

Noise management

In Western Australia, the assessment of noise is undertaken using either the *Environmental Protection (Noise) Regulations 1997* or *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning*. Both the regulations and policy specifically exclude assessment of aircraft noise. The acoustic assessment provided to support the application presents noise criteria based on *Australian Standard (AS) 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction*. The criteria provided are based on a small aerodrome with a small number of civil, non-jet aircraft movements.

The key outcome of the acoustic assessment is that noise modelling for aviation activities on Lot 2308 can meet acceptable noise levels at the nearest sensory receptor, being the dwelling on 50 Russ Retreat, on the basis that there are not more than 30 flights per day. The acoustic assessment also recommends a noise management plan be prepared for the development.

The Shire engaged suitably qualified acoustic and aviation consultants to undertake a peer review of the acoustic assessment. The review identified that the standards used are appropriate to guide acceptable aircraft noise levels. The peer review identified that modelling outcomes are very dependent on certain assumptions regarding aircraft type and future demand, creating potential for acceptable noise impacts to be exceeded should there be noisier aircraft used or a larger number of daily flights – this is also a key concern raised by the residents of 50 Russ Retreat. Flight school operations involve “touch and gos” which simulate landing and take off, in effect presenting the noise impacts of an additional aircraft flight. These important management issues should be regulated through a noise management plan that ensures operations are consistent with the assumptions of the noise modelling.

In summary, noise impacts from private aviation on Lot 2308 can be considered acceptable if operations occur within the parameters of noise modelling undertaken, and additional management techniques are employed such as avoiding taxiing and ground operations in proximity to the residence on 50 Russ Retreat. Hours of operation should also be controlled.

Compliance will be a key issue for noise management of the site. A noise management plan for the operations should provide a basis for compliance monitoring include reporting requirements – such as logs of activity and aircraft type – to be provided to the Shire on a regular basis or in the event of any complaints.

Access

Legal access to Lot 2308 is currently via an easement across various lots linking west to Taylor Road and via the unconstructed Needling Hill Road reserve. The current access way to Taylor Road is not constructed within the legal easement area. The easement crosses six different lots and is approximately 3.5km in length to reach the boundary of Lot 2308.

Any additional development on Lot 2308 should be supported by formalised access arrangements.

In a previous development approval issued to Lot 2308, a condition required access via either a constructed road in the Needling Hill Road reserve or an easement via Lot 8038. Neither of these access arrangements have eventuated as an easement has not been successfully agreed with the owner of Lot 8038. The applicant has advised they have a memorandum of understanding in place with the owner of Lot 8038 regarding access, but this is insufficient to provide a permanent, formal access solution for the property.

The only appropriate access arrangement to support increased development on Lot 2308 is through construction of an access road within the Needling Hill Road reserve. This should be a condition of approval to be undertaken prior to the commencement of any construction works. Construction of the road access by the applicant will provide safe access and egress for both construction and operations. The road access will also direct all aviation road traffic in the locality via Cameron Road.

If the applicant is able to negotiate a more formal access arrangement through Lot 8038 then, in accordance with the deemed provisions in the *Planning and Development (Local Planning Schemes) Regulations 2016*, they have the ability to apply to amend conditions of the development approval.

In response to Council's deferral of the item at Ordinary Council Meeting 26 February 2018 to investigate access options other than opening Needling Hills Road, Officers reconsidered the options listed above, and a meeting was held with the applicants to discuss alternate access options. The applicants verbally advised that the easement to Taylor Road provides appropriate access to the property suitable for the proposed development. Written correspondence from the applicant was also provided 2 March 2018 that an easement through the adjoining White Gum Farm (Lot 8038) is not practical as it provides no flexibility for the alignment of the easement to be varied if Lot 8038 was to be redeveloped in the future.

The applicant has proposed an option whereby access through adjoining Lot 8038, via a Legal Deed of Agreement supported by a caveat on the title of Lot 8038, would provide an access right to the benefit of Lot 2308. This suggested access arrangement would be binding in perpetuity, in that the landowner of Lot 8038 could not sell the lot unless the purchaser had first entered into the legal deed to provide access to Lot 2308. The applicant suggested the following condition could be substituted for condition 7:

7. *Prior to the commencement of works, the Applicant shall, at their cost, either:*
- (i) enter into a legal agreement secured by a caveat, with the owner of Lot 8038 to provide access to Lot 2308; or*
 - (ii) Construct Needling Hill Road in the location shown on the attached plan, to the satisfaction of the Shire.*

Taylor Road which is effectively a 3.5km easement, is not currently constructed in the easement alignment, and crosses six different properties to reach Lot 2308. The easement is not of an adequate standard to account for additional vehicular movements and there is uncertainty whether the construction of the track within the easement alignment is topographically achievable. It is also uncertain as to whether construction is permitted by the easement or able to be imposed as a condition of planning approval. The length, standard and fragmented ownership of the easement makes it unsuitable for increased vehicular movements, particularly given the close proximity of an unconstructed road reserve (Needling Hills Road) which would provide suitable and appropriate constructed road access to the property.

Officers have concerns that a legal agreement supported by a caveat will not provide sufficient certainty of access, as the Shire's ability to enforce the conditions of approval relating to maintenance, standard and location of access will be limited. The Shire would need to demonstrate a caveatable interest to intervene and enforceability would be limited to the extent of solvency of each of the parties at that time. The additional development proposed by the flight school and 5 additional units in officers' opinion, and in consideration of clause 5.6 of the Shire of York Town Planning Scheme relating to Development of Lots abutting unconstructed road reserves, warrants constructed road access being provided.

Visual amenity

The proposed hangars/chalets will be visible from the neighbouring property at 50 Russ Retreat.

The proposed hangars/chalets are of zincalume construction with a wall height of 4.25 metres and a roof apex of 6.179 metres. Each has a floor area of 154m², and a 22,000 litre water tank. The utilitarian design is necessary to support the private aviation use and aircraft storage.

The site plan shows a landscaping area of 140 metres by 15 metres to provide a landscaped visual screen for the residence on 50 Russ Retreat. The plan identifies that screening vegetation with a range of species were planted in July 2017. The success of the planting is unknown. A condition of approval should require a landscape plan for this area to confirm the suitability of screening species, and ensure ongoing maintenance and replacement of plants until the screening is established.

Fuel infrastructure

The application refers to a fuel station on the adjoining Lot 8038. No fuel infrastructure is shown on the proposed site plans for Lot 2308, therefore are assumed to not form part of the development application. Any future fuel infrastructure will be subject to separate approval that will consider the environmental and bushfire implications of fuel storage on site. Approval conditions and advice notes should clarify that the approval does not include any fuel infrastructure on site.

North south runway

The proposed site plans include an 'existing' north south runway on Lot 2308. This has been constructed however there is no record of any development approval or planning consent for that runway. There is concern about the location of the proximity of the unapproved runway to the residence on 50 Russ Retreat. This requires further technical consideration and should be excluded from the application at this stage.

The applicant will be advised that the runway is not approved and is to be decommissioned. Any proposed north south runway will require the approval of Council through a future development application.

Future development

The acoustic report includes an appendix that illustrates the future development vision for Lot 2308 as a tourist airpark. The concept plan indicates an intensification of development that is most appropriately addressed through amendment to the scheme, and does not form part of this application. An advice note to the applicant limiting the approval to the 5 hangar/chalets is recommended.

Implications to consider:

- **Consultative**

The application was advertised from 3 November 2017 until 27 November 2017.

An objection was received from the owners of the adjacent property. This is provided in Appendix B. Key concerns raised in the submission, including noise impacts, visual impact, hours of operation, and fuel hazards have informed the assessment, and resulted in recommended conditions. Many concerns raised in the objection relate to ongoing compliance, and there will be a need for the Shire to actively ensure compliance of operations and development.

Submissions were received from the following government agencies; however no objections were made:

- Aboriginal Heritage Directorate of the Department of Planning, Lands and Heritage
- Australian Government Civil Aviation Safety Authority
- Department of Health
- Department of Water and Environmental Regulation
- Water Corporation
- Western Power

Agency submissions are provided in **Appendix B**.

- **Policy Implication**

There are no specific policies that influence the application.

- **Strategic Implications**

The proposal, subject to appropriate conditions being implemented is not considered to have an adverse impact on the amenity of the locality and is consistent with the broad objectives of the Shire of York's 2016-2026 Strategic Community Plan.

- **Financial Implications:**

Proposed aviation use on the property, if not appropriately managed, will present impacts to the neighbouring property. The Shire will need to ensure compliance with conditions, particularly around noise management, and this may present potential financial implications.

- **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**

The Shire will need to actively ensure compliance of operations and development which could impact on existing resources.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

“That Council approves the development application for recreational aviation and five hangar/chalets at Lot 2308 Cameron Road, Malebelling, 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 This approval relates to recreational aviation purposes only, including the storage of private aircraft and flying lessons, and does not include any other commercial aviation activities and movements.***
- 4. The use of the runway strip on Lot 2308 shall not be used for any commercial aviation purposes, including tours and commercial flights.***
- 5. Hours of operation/use of the runway strip on Lot 2308 shall be restricted to occur between 7am and 7pm Monday to Saturday and 9am and 7pm Sundays and Public Holidays.***
- 6. The development approved is to be made available for short stay temporary accommodation only with no guest being accommodated for periods totalling more than 3 months in any 12 month period.***
- 7. Prior to the commencement of works, Needling Hill Road is to be constructed in the location shown on the attached plan to the satisfaction of the Shire, at the cost of the applicant.***
- 8. Prior to the commencement of aviation activities on the site, a noise management plan for recreational aviation is to be provided to the Shire for approval, and thereafter implemented. The noise management plan is to include:***
 - Restriction of aircraft types and number of daily flights on the property to comply with the criteria of Australian Standard (AS) 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction. “Touch and gos” associated with flying lessons are to be defined as an individual flight for the purpose of compliance with the criteria.***
 - Delineation of taxiing routes that do not pass the residence on 50 Russ Retreat.***
 - Compliance monitoring and reporting.***
- 9. A landscape plan is to be submitted to the Shire for approval prior to commencement of development. The landscape plan is to identify the location and species of vegetation to be used to screen the proposed buildings from the adjacent residential property. Screening vegetation in the approved landscape plan is to be planted within six months of the approval and thereafter maintained to the satisfaction of the Shire.***
- 10. Prior to the commencement of works, the following plans or details are to be submitted to the Shire’s planning department and approved in writing:***
 - 10.1 Details of a potable water supply, including water balance to demonstrate sufficiency of water tanks.***

10.2 Details of access routes to the units from Needling Hill Road and two car parking bays for each unit (inclusive of one disabled bay). Access ways [including crossover(s)] and parking areas shall be designed and constructed to the satisfaction of the Shire.

10.3 A bushfire management plan demonstrating maintenance of asset protection zones around the development.

11. The approved development shall not be occupied or used until all plans and details required by Conditions 7, 8 and 9 have been implemented to the satisfaction of the Shire.”

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: With respect to Condition 7, the current requirement is for construction to a gravel standard. The applicant should liaise with the Shire to confirm construction requirements.

Note 5: Existing runway 14 shown on the proposed site plans is not approved development. This runway is not to be used and is to be decommissioned. Any future runways on Lot 2308 in addition to runway 09-27 require development approval.

Note 6: No fuel infrastructure is approved on the site. Any future fuel infrastructure will be subject to separate development approval that will consider the environmental and bushfire implications of fuel storage on site. The applicant is advised that further dangerous goods approvals may be required for bulk fuel storage.

Note 7: The Landscape Plan should include a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.

Note 8: The applicant is advised that this approval relates to recreational aviation use and five hangar/chalets only. Any further development or intensification of aviation and tourist uses on the site may require an amendment to the local planning scheme. The applicant should liaise with the Shire in relation to this matter.

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.

SY028-03/18 – Memorandum of Understanding with the National Trust of Australia (WA)

FILE REFERENCE:	AV1.50096
APPLICANT OR PROPONENT(S):	Shire of York & National Trust of Australia (WA)
AUTHORS NAME & POSITION:	George Johnson, EHO
RESPONSIBLE OFFICER:	Bret Howson, Acting EMIDS
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A - Draft MOU
	B - Photos of Toilets

Nature of Council's Role in the Matter:

- Advocative

Purpose of the Report:

A shortage of public toilets has been identified during the occurrence of public events held in Avon Terrace, York.

This report recommends that the Shire of York and the National Trust of Australia (WA) enter a Memorandum of Understanding (MOU) for the Shire use of the facilities at the rear of the Court House complex located at Lot 603 (124) Avon Terrace, York for the duration of public events only.

Background:

The Court House complex is part of the National Trust of Australia (WA) and is open to paying customers Thursday through Monday from 10.00am to 4.00pm.

At present the toilets are only available to the clientele of the Court House complex.

As per the below aerial, the toilets are located off the alley way between the Court House complex and Australia Post. There are three (3) toilets within the complex (1 male toilet, 1 female toilet and 1 disabled toilet).



Comments and details:

The Shire of York is in the process of increasing Events within the township. At times, attendances at these events exceed the public toilets that are available.

The Court House complex has male, female and disabled toilets at the rear of the premises which are linked by an alley way from Avon Terrace to Avon Park.

On an event day, these toilets would service a great deal of the public attending events as the three (3) toilets are conveniently positioned near the main area where most events are held.

Options:

1. Hire portable toilets to service the increase of numbers wishing to use toilet amenities during Events at an additional cost.
2. Memorandum of Understanding (MOU) between the Shire of York and the National Trust of Australia (WA) to utilise the amenities during events.
3. Memorandum of Understanding (MOU) between the Shire of York and the National Trust of Australia (WA) to utilise the amenities daily during other public toilet open hours.

Implications to consider:

- **Consultative**

Consulted with the National Trust of Australia (WA).

- **Strategic**

Nil

- **Policy related**

Nil

- **Financial**

Maintenance of toilets during the event times and any repairs that may result from damage during this time.

Water charges associated with the use of the toilets. This should not alter the overall charges to any extent. If the Court House toilets are not used, the public will use the Avon Park or Town Hall toilets which will equate to the same amount of water usage.

All fees incurred while open during an event will be on charged to the event organisers or taken out of their cash in lieu sponsorship from the Shire of York.

- **Legal and Statutory**

Legal implications would be the agreement of Memorandum of Understanding (MOU).

- **Risk related**

Risk would only be cost due to vandalism.

- **Workforce Implications**

Cleaners on duty for those days would pick up the cleaning of the toilets.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

“That Council authorises the CEO to sign the Memorandum of Understanding between the Shire of York and the National Trust of Australia (WA) for the use of the Court House complex toilets during events only.”

SY029-03/18 – Avon Terrace Revitalisation Grant Applications

FILE REFERENCE: PS.PPD.2, FI.BUD1718
APPLICANT OR PROPONENT(S): Various
AUTHORS NAME & POSITION: Esmeralda Harmer, Events & Economic Development Officer
RESPONSIBLE OFFICER: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: N/A
DISCLOSURE OF INTEREST: N/A
APPENDICES: A. Avon Terrace Revitalisation Grant Schedule of Requests and Recommendations
B. Avon Terrace Revitalisation Grant Applications

Appendices A & B are confidential under Section 5.23 – (e) (ii) (iii) of the Local Government Act 1995 in that it deals with “information that has a commercial value to a person; or 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 requests Council to consider the funding applications received through the recent Avon Terrace Revitalisation Grant (ATRG) round for façade painting and improvements to main street businesses.

This report also seeks Council’s consideration of the financial contributions required to honour these applications. A detailed schedule of requests and recommendations is attached as a confidential report for Council’s consideration

Background:

Council at the Ordinary Council Meeting held 27 November 2017 resolved as follows:

“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.”*

Comments and details:

Following Council’s resolution to support the program, Officers amended the ATRG guidelines as recommended, advertising the round in December 2017 for an eight-week period utilising the following methods;

- Local print media
- Shire’s website
- Email distribution

- Social Media
- Business After Hours networking events

Eight applications were received by the closing date with requests totalling \$23,619.

Officers assessed all applications against the eligibility criteria and deemed two applications ineligible in accordance with Council's adopted guidelines. Officers have prepared a schedule of requests and recommendations as a confidential attachment for Council's review as **Appendix A**.

The schedule includes details of funding requested and comment from Officers on the merits of considering each request in accordance with the Avon Terrace Revitalisation Grant guidelines and Council's *C1.3 Community Funding; Grants & Sponsorship Policy*.

An outline of the six eligible applications received is included below;

Proponent	Grant application
Avon Valley Motor Museum	Replacement of canvas awnings and repainting of petrol pump at the entry to the Motor Museum
National Trust WA	Painting of windows and doors that front onto Avon Terrace
BG & LA Smith	Clean and paint exterior of buildings 74 – 82 Avon Terrace
York Cooperative	Painting of IGA shop frontage including awnings and signage
York Quality Butchers	Renovations to shop frontage and painting
Imperial Homestead	Painting Iron fencing facing Avon Terrace and Pressure cleaning Avon Terrace veranda area.

Since the last ATRG funding round, Officers have received positive feedback from local businesses and Avon Terrace property owners indicating the improvements made to the program including a longer application time have been beneficial. This is evident in the increased number of applications received in this round in comparison to the report considered by Council in May 2017 where only one ineligible application was received.

It is acknowledged that the ATRG program is considered important to main street businesses in providing support to improve commercial precinct streetscapes. Officers recommend the ATRG program be considered in the budgeting processes for the 2018/19 financial budget with the likelihood of stimulating more businesses to engage in the program. The ATRG program presents Council with a consistent mechanism to support both Council's commitment and business improvements in the Avon Terrace precinct.

Implications to consider:

- **Consultative**

Officers will undertake further consultation with all applicants following recommendation from Council to assess timeframes for work completion and opportunities to promote Council's contributions to these businesses through the ATRG program.

- **Strategic**

The applications received through this round indicate a range of improvements to the main streetscape including painting, awning repairs/repainting and enhancements to shop fronts. These improvements are priority outcomes for the Shire and assist to ensure York's main street looks prosperous and cared for at all times, which is considered consistent with Council's Corporate Business planning to revitalise the Avon Terrace area.

- **Policy related**

Officers refer to the *C1.4 Community Funding; Grants & Sponsorship* policy and the Avon Terrace Revitalisation Grant program guidelines in the assessment process of the applications received. Should Council wish to continue the ATRG program into the 2018/19 financial year, a comprehensive policy detailing the program and its intended purposes is considered imperative.

- **Financial**

The Avon Terrace Revitalisation Grant pilot program is considered from GL41105 Avon Terrace Revitalisation budget allocation. The total funding pool available in this budget allocation to consider these applications is \$20,000.

Development applications will be required to ensure the works undertaken are consistent with heritage precinct guidelines and legislations. An application fee of \$147.00 is applicable (excluding advertising if required). Further to this a hoarding permit for the temporary erection of scaffolding or other materials which impact access to footpaths may also need to be considered by applicants who are undertaking painting works. Officers are recommending Council waives these fees to encourage applicants to complete the proposed improvements.

Fees applicable for building permit works cannot be waived as they are external to the Shire's fees and charges schedule. Officers propose this detail be communicated to successful applicants that may need to consider building permits and have identified these applicants in **Appendix A** for Council's review.

- **Legal and Statutory**

All Council supported activities would still need to comply with and be assessed against any statutory policies and legislations. In this regard some applications may require planning approval and a building permit to be issued prior to commencement of works. Officers propose the approval of grant funding is subject to the applicant obtaining the relevant planning and/or building approval.

- **Risk related**

If Council chooses to discontinue the ATRG program, consideration should be given to the reputational risk to the Shire's credibility, its commitment to the Avon Terrace Revitalisation program and potential benefits that could be realised by continuing the program.

Voting Requirements:

Absolute Majority Required: Yes

OFFICER RECOMMENDATION

“That Council:

- 1. Approves the following funding requests as part of the Avon Terrace Revitalisation Program in accordance with the Officer Recommendations in the confidential attachment to this report;***

<i>• Avon Valley Motor Museum Inc</i>	<i>\$1,170</i>
<i>• National Trust WA</i>	<i>\$1,300</i>
<i>• B & L Smith</i>	<i>\$5,000</i>
<i>• York Cooperative</i>	<i>\$1,290</i>
<i>• York Quality Butchers</i>	<i>\$4,809</i>
<i>• Imperial Homestead</i>	<i>\$5,000</i>

- 2. Approves the waiver of the hoarder’s fee and planning application fee to a maximum value of \$243.00 per application where required.”***

SY030-03/18 – York Motorcycle Festival Funding Agreement

FILE REFERENCE: CS.CEV.15
APPLICANT OR PROPONENT(S): Premiere Events
AUTHORS NAME & POSITION: Esmeralda Harmer – Events & Economic Development Officer
RESPONSIBLE OFFICER: Paul Martin – Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: Ordinary Council Meeting 26 February 2018
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – The Shire of York and Premiere Events Draft Funding Agreement

Appendix A is confidential under Section 5.23 – (e) (ii) (iii) of the Local Government Act 1995 in that it deals with “information that has a commercial value to a person; or 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 requests Council to consider entering a one year funding agreement with Premiere Events to deliver the 2018 York Motorcycle Festival and the obligations and responsibilities of such an agreement.

Background:

The details of these discussions were presented in a report to Council at the Ordinary Council Meeting held on 26 February 2018 where it was resolved as follows:

“That Council;

- 1. Receives the acquittal of the 2017 York Motorcycle Festival.*
- 2. Allocates \$5,000 from GL132150 Festivals Assistance for cash and in-kind support of the 2018 Triumph Motorcycle Club ride on Saturday 7 April, 2018.*
- 3. Notes the Wheatbelt Development Commission funding received will be utilised by the Shire to extend Saturday components of the York Motorcycle Festival as detailed in this report*
- 4. Requests the Chief Executive Officer to negotiate a draft Three Year Funding Agreement with the organisers of the York Motorcycle Festival subject to the following conditions:*
 - (a) a maximum of \$20,000 per annum to be provided as a cash contribution to the Festival;*
 - (b) permits and fees related to the Festival be charged separately;*
 - (c) agreement to work with existing partners to incorporate programmed activities into current and future York Motorcycle Festival programs*
 - (d) makes provisions to accept additional funding received by either parties for the York Motorcycle Festival*
 - (e) clarity of roles and responsibilities including insurance liabilities*

- (f) *promotion and acknowledgement of the Shire's contribution; and*
- (g) *provision of acquittal requirements as per the C1.3 Community Funding: Donations, Grants, Sponsorship, and Waiver of fees Policy.*

5. *Requests the Chief Executive Officer to present the draft Agreement to Council for consideration prior to execution."*

Comments and details:

Since this resolution, Officers and Premiere Events have negotiated the following for inclusion in the funding agreement;

- Developing a one year agreement to deliver the 2018 Motorcycle Festival
- A financial schedule detailing how the \$20,000 provided to Premiere Events will be managed.
- A copy of both the Shire and Premiere Events risk assessments addressing all planned activities and implemented strategies to mitigate identified risks.
- Clarity of roles and responsibilities including insurances.
- A schedule detailing advertising, publicity and how the Shires contribution will be acknowledged.
- Acquittal requirements in accordance with the *C1.4 Sponsorship of Tourism Policy* Clause 4, Acquittal.

Officers note that the level of acquittal reporting should be comensurate to the scale of funding offered in the agreement. Both the Shire and Premiere Events agree in additon to the standard acquittal reporting, a budget breakdown of how the Shire funds were spent will be included as a public document. It should be noted that there is currently no standard aquital form used for all major events. This is something officers propose to address in the coming months.

Although a proposed three year funding agreement was initially suggested, Officers note the outcome of a three year grant proposal submitted to Tourism WA – Regional Events Scheme (RES) is not expected until late April. Should RES funding be received, Premiere Events and Officers agree the propsed increased level of event scope will be difficult to capture in the existing funding agreement.

It is therefore proposed that following evaluation of the two day 2018 York Motorcycle Festival and RES funding outcome, the option of a multiyear agreement then be presented to Council for consideration. This would allow both parties to evaluate the success and learnings gained from the 2018 event and detail these in any multiyear agreement offered for future years. Council at that time could also accept any proposed grant funds received.

Officers are recommending Council considers a one year funding agreement as attached at Appendix A.

Implications to consider:

- **Consultative**
The funding agreement details have been drafted in conjunction with Premiere Events. Futher details have also been included in the funding agreement in relation to Premiere Events undertaking community engagement and business consultation as part of Festival preparations.
- **Strategic**
The benefits of the proposed funding agreement supports Council's Strategic Community Plan priorities which include:

- *Supporting the establishment and marketing of a calendar of key events to encourage visitors to the Shire. These events will be focused on achieving economic benefit and will sit alongside and complement more community focused events.*
- *Supporting the business community to build its networks.*

- **Policy related**

The proposed funding agreement can be considered under Policy; *C1.3 Community Funding: Grants & Sponsorship Policy, Clause 5.1 Duration of Assistance*

Clause 5.1 Duration of Assistance; The preference will be for provision for support for a year only for each application. In exceptional circumstances the Council may consider support for a project for a maximum period of three years where it considers the project presents major benefits to the community and it is consistent with strategic direction. Consideration must include the cost/benefit of effectively reducing the available funding pool for other applicants over this period.

- **Financial**

Officers seek Council's approval to utilise funds held in GL132150 Festivals Assistance of \$20,000 to support the proposed funding agreement with Premiere Events.

It is expected two payments will occur during the period of the agreement will occur including;

First Progress Payment (80%) – upon signing of the agreement

Final Payment on receipt of Acquittal (20%)

Recurrent budget allocations required to honour any proposed future multiyear agreements offered will need consideration as part of yearly budgeting processes.

Financial Acquittals would be required in accordance with the *C1.4 Sponsorship of Tourism Policy Clause 4, Acquittal*, including a budget breakdown of how the Shire funds were spent.

- **Risk related**

Officers have sought advice from the Shire's insurer LGIS in relation to the Saturday components of this year's York Motorcycle Festival as detailed in *Item SY010-02/18 – York Motorcycle Festival Multi-Year Funding Proposal* presented to Council in February 2018.

Information regarding the perceived risks associated with the Mt Brown Hill Climb activity and mitigation strategies to address these risks has been requested. As a Shire coordinated event, Officers are developing a risk management plan including a risk register with assistance from the Shire's insurer LGIS.

The perceived risks noted include;

- Conditions of the roads prior to and on the day of the event;
- Weather conditions prior to and on the day of the event;
- Isolation and barriers for spectators;
- Traffic management for events on roads;
- Emergency procedures for accidents or incidents; and
- The provision for cancellation if the Shire feels there is any danger to participants or spectators.

For technical specialities such as road engineering, traffic management regulations and barricade requirements, Officers have sought professional advice from industry professionals for inclusion in the risk management planning.

- **Workforce Implications**

The execution of the funding agreement will be undertaken in house within existing Shire resources. Additional casual staff to assist with event delivery has been factored into existing budgets which support this event.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION

“That Council;

- 1. Agrees to enter into a Funding Agreement with Premiere Events as attached to this report at Appendix A.***
- 2. Authorises the Shire President and Chief Executive Officer to engross the Shire of York and Premiere Events Funding Agreement as attached to this report at Appendix A.***
- 3. Notes that a Risk Register and Management Plan will be developed for the Mt Brown Hill Climb component of the 2018 York Motorcycle Festival in consultation with the Shire’s insurer.”***

SY031-03/18 – The York Festival 2017 Acquittal and 2018 Youth Engagement Proposal

FILE REFERENCE:	CS.CEV.19
APPLICANT OR PROPONENT(S):	The York Festival
AUTHORS NAME & POSITION:	Esmeralda Harmer, Events & Economic Development Officer
RESPONSIBLE OFFICER:	Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A – 2017 York Festival Acquittal
	B – The 2018 York Festival Youth Engagement Proposal
	C – The 2018 York Festival Youth Engagement Budget

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

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

Council is requested to receive the 2017 York Festival Acquittal as attached to this report and to consider a proposal received requesting additional funds to include in the 2018 York Festival program.

This report also details the Shire of York’s existing multiyear funding agreement with the York Festival and considers the proposed budget allocations required to honour the additional funding proposal received.

Background:

The York Festival, formerly the York Bazaar, was established in 2014 with an aim to revitalise the festival atmosphere in York of previous years. Since its establishment, the York Festival has grown in number and size attracting a reported 1,539 visitors in 2014 with an increase to 5,212 visitors in 2017.

Festival attractions now include a hay bale sculpture competition, workshops, family activities, exhibitions, Mt Brown footrace and the inclusion of community driven events under the Festival umbrella such as the York Medieval Fayre, York Society Art & Craft Awards and Ballardong Noongar Cultural Tours.

In December 2016, Council considered Item SY159-12/16 *York Festival Multi-Year Funding Proposal* which presented the 2016 York Festival Acquittal and detailed the proposal received from the York Festival requesting multiyear funding support. The resolution requested the Chief Executive Officer negotiate a draft three-year funding agreement with Festival organisers and present this agreement to Council prior to execution.

Further details to be included in the multiyear agreement were negotiated with the Festival organisers including;

- Key Performance Indicators and data collection methods to measure these indicators
- Progress reports at least two months before the York Festival takes place each year

- Acquittal requirements in accordance with the *Shire's C1.4 Sponsorship of Tourism Events Policy*
- Submissions for additional funding in any of the years listed in the agreement be considered separately to the multiyear agreement negotiated

Officers presented the multiyear agreement to Council in February 2017 in Item SY013-02/17 *York Festival Multi Year Funding Proposal* where Council resolved:

That Council;

1. *Agrees to enter a Multiyear Funding Agreement with York Arts & Events Inc. to the value of \$22,000 (ex GST) per annum as attached to this report at Appendix 1.*
2. *Authorises the Shire President and Chief Executive Officer to engross the Shire of York and York Arts & Events Inc Multi Year Funding Agreement as attached to this report at Appendix 1."*

Since this time, Officers have received the Acquittal for the 2017 York Festival and a proposal for additional funding, to support inclusion of youth specific activities, as part of the 2018 York Festival planning.

Comments and details:

Officers have reviewed both documents to equally measure the value of the current funding agreement and to determine if any additional benefits to the Shire can be realised from the funding proposal received. A summary of the key points from both documents is provided below including Officer comments, for Council consideration.

Program Extension

Previously a weekend event, the 2017 Festival moved to a four-week program in an attempt to;

- Increase the duration exhibiting works could be viewed by the public
- Provide York with more than one weekend of event activation
- Include promotion of events occurring throughout the month the festival ran
- Encourage multiple opportunities for volunteer and community participation

Officers agree the move to a four-week program provided value for Shire investment in consideration of the multiple weekends of activities offered. The Festival program eventually comprised of 30 separate events compared to the 15 planned in the original funding submission to the Shire. There is evidence to suggest this has increased the economic and social impact the Festival had on residents, visitors and businesses in the 2017 year.

Community Involvement

Of the 5,212 who attended the Festival in 2017, 1,831 people were local participants. This can be attributed to;

- The increase in local program content such as The York Conversations exhibition which included a collection of local resident memories of early life in York.
- An increase in community revisitation number patronising the Balladong Noongar Culture Tour, Night Tours and the Roald Dahl puppet performances multiple times.
- The inclusion of separate community driven events promoted under the festival umbrella. These events included the Shire's Art Forum, New Holland Consort, The York Society's Art & Craft Awards and the Medieval Fayre & Banquet.

It is acknowledged the community events promoted each received a level of Shire support to deliver the event. However, the promotional exposure received through the Festival's targeted media campaign could have otherwise proved cost prohibitive for each event to consider individually within their existing budgets.

Acquittal Summary

In summary, the four-week program, extensive public relations campaign, inclusion of community-based events and increase in community participation rates all contributed to the Festival exceeding the key performance indicators (KPI's) as detailed in the existing multiyear agreement and the Acquittal report received. The KPI's reflect an increase in visitor numbers, average length of stay, average spend and estimated spend of visitors throughout the festival period. Officers acknowledge the increase in service levels can be attributed to the success of the 2017 York Festival and inclusion of broader community-based events within the Festival programming.

Additional Funding Proposed

Officers note that a request for additional funds to support the 2017 festival extensions was received as part of the 2017 Acquittal report in late November. Through discussions with Festival organisers at that time, Officers indicated support for additional funding was unlikely due to the retrospective costs requested, existing funding agreement and the Shire's budget constraints. Both parties agreed any additional funding proposals would require consideration as part of the 2018/19 financial budgeting process for future festival occurrences.

The York Festival is now seeking \$4,500 of additional funding to support the inclusion of youth specific content as part of the 2018 Festival program. The request is attached at **Appendix B** details;

- the festival's intention to broaden the program content to target the youth demographic
- an outline of the proposed youth engagement program and partners who will assist to facilitate the activities
- external funding sought to support the youth engagement program

A budget estimate including the external funding applications made to support the program has been included as a confidential report for Councillors review at **Appendix C**.

This request is considered consistent with the multiyear agreement, *Clause 6, Shire's responsibilities; Any submissions for additional funding in any years listed in this agreement will be considered separately to this agreement.*

The activities planned for the youth engagement program will be free to attend and include;

- Pop Up Skate Park: including obstacles for people learning for the first time and more advanced elements for skilled users. As part of this activation Skateboarding WA will host free clinics, protective equipment and professional demonstrations.
- Giant Scrabble: members of the community will learn how to make a giant scrabble set and supervise it over each weekend of the festival.
- Cardboard City: the facilitation of a cardboard city with painted walls, hidden rooms and tunnels for people of all ages
- Kitemaking: two kitemaking workshops and fly times with an international kite maker from Kite Kinetics.
- Murals / Car Painting: the artistic creation of either a mural between the Post Office and Courthouse or a car with cosmetic surgery.
- Weaving workshops: facilitated by international weaver, Yidana Godwin, the workshops will be a mixture of sculpture, weaving and thought sharing.

In addition to these activities, RUOK, a suicide prevention charity will be present across the youth activated festival weekends to inspire meaningful connection with the people around them and provide strategies to support peers and other community members.

For Council, the funding request presents a low risk yet high return investment. The activities and facilitators proposed could prove valuable for the Shire in assessing the current needs of the youth demographic in York. This information could then inform any youth strategies had for the town. Strategically, the proposal supports Council's Corporate Business Plan themes to facilitate youth projects in coordination with other localised providers. Further to this, implementation of the Avon Park concept planning for skate park inclusions is currently scheduled in 2021. Officers see the proposal as an interim opportunity for the Shire to

- capture feedback from youth regarding skate parks
- participate through open promotion of the youth engagement program
- reinforce positive perception of placemaking opportunities and current aspirations had for youth public spaces.

Financially, the funding request is considered proportionate to the amount of activity proposed. The proposal requests the Shire to consider funding \$4,500 of a proposed \$31,180 program. However, equal weighting of the budgets available to support youth activities throughout the remainder of the 2018/19 financial year should also bear consideration. Should Council support the proposal and commit these funds from the 2018/19 Youth Activities financial budget, a significant reduction of remaining funds is likely. This could result in reduced efforts in providing support for other youth initiatives such as the Chaplaincy program, school holiday programs and other one-off activities. Although no applications for these activities have been received at this time, historically Council has provided support to assist deliver these initiatives.

Officers see this proposal as an opportunity to begin the body of work that shapes future youth strategies regarding parks and the use of York's public spaces within the 2018/19 year. With plans from 2021 onwards to implement these youth projects, incremental steps towards shaping these strategies is considered imperative. Further support given to recently funded Shire activities such as the Early Years Literacy program and Winter in York event also reinforce Council's commitment to provide relevant and engaging activations across the youth sector.

In an effort to give equal consideration to applications that may be received through the next round of community funding, Officers are recommending the proposal be referred to the community funding pool for assessment and consideration by Council at that time.

Options:

Council could choose not to accept the acquittal as received and request further details be provided to determine the value of the existing funding agreement. Officers are not recommending this option but do see the benefits of developing a standard acquittal template for Sponsorship of Tourism multiyear agreements.

Council could decline the request for additional funding to support the youth engagement program. Officers are not recommending this option as the aspirations of the proposal are consistent with Council's adopted Strategic Community and Corporate Business plans.

Council could approve the additional funding request and commit to the funds in addition to the youth budget allocation for the 2018/19 financial year. Officers are not recommending this option as equal review of applications that may be received through the next round of community funding should also be considered.

Implications to consider:

- **Consultative**

As detailed in the proposal attached, consultation with stakeholders, community groups and Volunteering WA has already commenced as part of festival planning. Should Council support the Officer recommendation to consider the application through the next round of community funding, information detailing this recommendation will be communicated with Festival organisers.

- **Strategic**

The benefits of supporting the proposal address Council's Corporate Business Plan priorities to:

- *Develop and implement community plans for children and youth, disability access and inclusion and arts and culture.*
- *Implement Avon Park Concept Designs*
- *Supporting the business community to build its networks.*

- **Policy related**

The proposal can be considered under Policy: *C1.3 Community Funding: Grants & Sponsorships*

- **Financial**

Budget allocations to consider this proposal could potentially come from GL109158 Youth Activities, however this would need to happen as part of the 2018/19 financial year budgeting process. No budgeted funds are available currently to support the proposal.

Historically the GL109158 Youth Activities budget has an allocation of \$8,500. Should Council wish to fund this proposal, a significant reduction to the remaining amount of funds available to support other youth related activities in the 2018/19 year are likely.

Officers are recommending the proposal be referred for consideration in the first round of Community Funding; Grants & Sponsorship funding. This would enable Council to equally consider the applications received and the funding requests required to support the applications.

Financial Acquittals would still be required in accordance with the *C1.3 Community Funding: Grants & Sponsorship Policy Clause 8, Acquittal*.

- **Risk related**

Should Council support the proposal, there is the potential for the additional funds to be perceived as an inequitable distribution of funds, in consideration of the existing funding agreement the Shire has with the York Festival. Although Officers rate this as a low likelihood, equal weighting should also be given to the monetary amount requested and the Shire's credibility to support youth related programs.

- **Workforce Implications**

Assessment of the funding proposal and subsequent engagement with the York Festival will be undertaken in house within existing Shire resources.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION

“That Council;

- 1. Receives the acquittal of the 2017 York Festival and congratulates Festival Organisers on a successful 2017 event.***
- 2. Refers the request for the additional funding for the youth engagement program to the next round of 2018 Community Funding; Grants & Sponsorship for consideration.”***

SY032-03/18 – Agreements for the Provision of Licensing Services in the Shire of York

FILE REFERENCE:	LE.CNT
APPLICANT OR PROPONENT(S):	Government of Western Australia, Department of Transport
AUTHORS NAME & POSITION:	Suzie Haslehurst – Executive Manager, Corporate and Community Services
RESPONSIBLE OFFICER:	Suzie Haslehurst – Executive Manager, Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Letter of Extension – Department of Transport B. Agreement for the Provision of Licensing Services in the Shire of York in Terms of Section 11 of the <i>Road Traffic (Administration) Act 2008</i> C. Agreement for the Provision of Non Road Law Functions in Shire of York

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report presents for Council's consideration two agreements proposed to be entered into with the Department of Transport (DOT) for the provision of licensing services within the Shire of York.

Background:

The Shire's current agreement for the provision of licensing services was signed in December 2007 and expired on 31 December 2017. Two new agreements were forwarded to the Shire on 21 December 2017 with a proposed expiry date of 31 December 2020. On 2 January 2018, the Shire received a letter from the DOT granting an extension of the current agreement until 31 March 2018 in order to provide sufficient time for the Shire to consider the new agreements. (Appendix C).

In April 2015, the Road Laws came into effect which made it necessary for a separate agreement to be entered into for non-Road Law functions (licensing of vessels, photo cards, firearm licenses, off-road vehicle licensing and driving instructor fees). Previously, only a single agreement was required.

Comments and details:

The Agreements (attached at Appendices A and B to this report) provide the terms under which the Shire is authorised to undertake licensing services as an agent of the DOT and the fees payable by the DOT to the Shire for these services.

Under the Agreements, the DOT provides hardware (PC, eftpos machine, image capture unit, printers), software, physical stock and vehicle licence plates for the duration of the agreements. As the agent, the Shire has a number of obligations including but not limited to;

- compliance with the DOT's Business Rules;
- daily receipt and reconciliation of all revenue collected on behalf of the DOT;
- monthly reconciliation and reporting including identification of any processing errors;
- security, maintenance and upkeep of information, equipment and physical stock;
- achievement of agreed performance measures; and

- ensuring that all Shire staff responsible for providing licensing services have attended mandatory training provided by the DOT and are duly authorised by the DOT.

In return, the DOT will pay the Shire a commission for each transaction as prescribed in the Schedules to the Agreements. Commissions payable will be reviewed on 1 July each year of the Agreement in accordance with the Consumer Price Index.

The Shire of York has been providing licensing services for at least fifteen years and in 2016/17 collected an average of \$128,000 per month on behalf of the DOT. This equated to \$1,535,361 for the year with commissions of \$63,600 paid to the Shire. The Shire allocates 67 officer hours per fortnight to licensing duties and in most years, the commissions paid will exceed this allocation by between \$5,000 and \$11,000.

While the provision of licensing services does not generate significant income for the Shire of York, it is considered a service to the community which is frequently offered by the local government authority in regional towns.

Options:

Council could request the Chief Executive Officer to investigate whether this service should be delivered by another local business or not-for-profit organisation (eg Australia Post or the Community Resource Centre). The Shire would need to inform the DOT of its decision not to provide licensing services and potentially, seek a further extension to the current agreement to ensure no disruption of service while another provider can be sourced.

However, the Shire has the relevant hardware and software in place and has invested officer time in training staff to be authorised users, who have developed the skills and experience required to offer these services.

Officers are therefore recommending that Council authorises the execution of the proposed agreements and the Shire continues to provide licensing services for the York community.

Implications to consider:

- **Consultative**
Department of Transport
- **Strategic**
This activity relates to the following outcomes of the Shire's Strategic Community Plan;

Theme 5: Strong and Effective Leadership
5.2 Skilled effective and committed Shire staff
5.4 Open and accountable systems
- **Policy related**
CP1.1 *Execution of Documents and Use of the Common Seal*
- **Financial**
The following table outlines the financial implications for the Shire to provide licensing services for the past four years.

Item	2017/18 FY Budget (\$000's)	2016/17 FY (\$000's)	2015/16 FY (\$000's)	2014/15 FY (\$000's)
Salaries	51.5	52.3	45.1	57.9
Super etc	7.9	8.8	11.3	7.3
Commissions	-65.0	-63.6	-68.8	-75.9
Operating Result	-5.6	-2.5	-11.6	-10.2

- **Legal and Statutory**
Road Traffic (Administration) Act 2008

11. Agreements for performance of functions

- (1) *The CEO may enter into an agreement providing for the CEO's functions under a road law that are described in the agreement to be performed on behalf of the CEO.*
- (2) *The agreement may be with the Commissioner of Police, a local government, or any other person or body, whether or not the person or body has itself functions of a public nature.*
- (3) *A function described in the agreement may be performed —*
 - (a) *in accordance with the agreement; and*
 - (b) *on and subject to terms and conditions in the agreement.*
- (4) *If the performance of a function is dependent upon the opinion, belief, or state of mind of the CEO it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.*
- (5A) *The CEO may disclose the following information to the body or person with whom the agreement is made if the CEO considers that the information is required for the purposes of performing a function under the agreement —*
 - (a) *driver's licence information;*
 - (b) *permit information;*
 - (c) *vehicle licence information;*
 - (da) *optional plates information;*
 - (d) *demerit points information;*
 - (e) *instructor information.*
- (5) *For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person under the agreement of a function of the CEO is as effectual as if it had been done by, to, by reference to or in relation to, the CEO.*

[Section 11 amended by No. 18 of 2011 s. 18; No. 8 of 2012 s. 210.]

- **Risk related**

Should Council determine not to enter into agreements with the DOT, there is a reputational risk to the Shire as it could be perceived that the Shire is reducing its level of service to the community. This risk is considered high.

In addition, this could result in disruption of service for the Shire's clients (the community) while the DOT sources another provider of licensing services. This risk is considered. This risk is also considered high.

If Council agrees with the officer recommendation to enter into the agreements, these risks will be mitigated.

- **Workforce Implications**

The provision of licensing services can continue to be undertaken within existing resources.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

"That Council:

- 1. Agrees to enter into agreements with the Department of Transport for the provision of licensing services within the Shire of York, noting an expiry date of 31 December 2020; and***
- 2. Authorises the Shire President and the Chief Executive Officer to engross the agreements attached at Appendices A and B to this report."***

SY033-03/18 – Outstanding Rates and Charges – Payment Agreements

FILE REFERENCE: FI.DRS.3
APPLICANT OR PROPONENT(S): VARIOUS
AUTHORS NAME & POSITION: Anneke Birleson, Finance Officer
RESPONSIBLE OFFICER: Suzie Haslehurst, Executive Manager Corporate & Community Services
PREVIOUSLY BEFORE COUNCIL: 26 February 2018
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Table of Application Details (Confidential)

The appendix to this item is confidential in accordance with Section 5.23(2)(b) of the Local Government Act 1995 as it contains information regarding the personal affairs of a person and Section 5.23(2)(e)(iii) as it deals with a matter that if disclosed, would reveal 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 in the Matter:

- Executive

Purpose of the Report:

The purpose of this report is to provide Council with details regarding payment arrangement applications received by the Shire that do not qualify for approval under Delegation DE3-3.

This report seeks Council's approval to accept the officer recommendations regarding the proposed arrangements as detailed in Confidential Appendix A.

Background:

At the Ordinary Council Meeting held on 27 November 2017, Council resolved to accept a revised Finance Policy F1.1 *Revenue Collection*.

The policy and Delegation 3-3 authorises the Chief Executive Officer to accept payment arrangements where there are no arrears and the balance will be paid in full by 30 June of the relevant financial year. Any applications outside this scope must be presented to Council for review and acceptance or rejection.

Comments and details:

At the Ordinary Council Meeting on 26 February 2018, Council considered 18 such applications.

The Shire has received two further applications that do not qualify under DE3-3 and therefore, require Council consideration.

Approximately 70 properties are currently in legal proceedings with Milton Graham Lawyers. One of these made application for a payment arrangement and was considered at the February meeting.

A further 59 properties were referred for the pre-legal debt collection stage, four of which applied for a payment arrangement and were considered at the February meeting.

The remaining 13 applications related to ratepayers that had been making regular payments but had no formal arrangement in place for this financial year.

The two applications that are the subject of this report also involve ratepayers that have been making payments but have no formal agreement. They have not been referred for debt collection.

Confidential Appendix A details the current debts and a brief reason why the ratepayer cannot meet the requirements of a standard payment arrangement. The table also provides an officer recommendation for each application.

Any application that is approved is subject to the condition where any default will result in legal action for debt recovery without further notice. The debtors are also made aware that interest continues to accrue and that the 2018/19 rates will be added in July.

Each application has been assessed on a case by case basis, taking into consideration people's circumstances, in accordance with policy F1.1 Principle (c).

Following the issue of the 2018/19 rates and charges, the applicants will need to apply to enter into a new arrangement and the expectation will be that the full amount will be cleared prior to 30 June 2019.

Options:

Council could elect to approve all, a selection of, or none of the officer recommendations. Officers have worked with the applicants regarding their current financial circumstances and ability to pay. One of the principles of the revenue collection policy is that people's circumstances are taken into account.

It will be difficult for the applicants to pay the full debt by 30 June 2018. Therefore, as the applicants are proposing to make regular payments it would be more productive to encourage payment based on the applications and then make new arrangements once the 2018/19 rates and charges have been levied.

Implications to consider:

- **Consultative**
Officers have liaised with the applicants.
- **Strategic**
Theme 5: Strong Leadership and Governance
5.3 The Shire's public finances are sustainable in the short and long-term.
- **Policy related**
F1.1 Revenue Collection
DE3-3 Agreement as to Payment of Rates and Service Charges
- **Financial**
The total debt associated with the payment arrangements as at 28 February 2018 is approximately \$13,000.

This represents approximately 0.7% of the current outstanding debt.

- **Legal and Statutory**

Local Government Act 1995

6.49. Agreement as to payment of rates and service charges

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Shire of York Finance Policy F1.1 Revenue Collection

Principles

- a) *the Shire's cashflow is optimised and bad debts minimised by ensuring timely collection of all revenue owing to the Shire.*
- b) *the recovery of the Shire's revenue is clear, equitable, consistent and transparent.*
- c) *that account is taken of the circumstances of people with debt owing to the Shire.*
- d) *all reasonable action be undertaken to recover revenue before the debt is written off.*
- e) *debt collection activities are in accordance with relevant legislation and standards and credit controls are monitored to minimise potential financial loss.*

- **Risk related**

The Financial Risk is Moderate.

The Likelihood of occurrence is Likely.

The overall Risk rating is High (12).

The risk can be considered acceptable as there is a policy in place to control and manage the risk. Should any of the debtors default on their arrangement, legal action can be taken to recover the due amounts.

- **Workforce Implications**

The scope of this report will have a minor impact on the workforce, relating to ongoing monitoring of payments.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

"That Council:

- 1. Approves the applications for payment agreements as detailed within Confidential Appendix A, with the condition that any default will result in legal action.***
- 2. Requests the Chief Executive Officer to report back to Council regarding progress after 30 June 2018."***

SY034-03/18 – Financial Report for February 2018

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 summarises the Shire's operating activities and non-operating activities.

Comments and details:

The Financial Report for the period ending 28 February 2018 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 28 February 2018
- List of Creditor's Payments
- Corporate Credit Card Transaction Listing

The following information provides balances for key financial areas for the Shire of York's financial position as at 28 February 2018;

Outstanding Rates and Services

The total outstanding rates as at 28 February 2018 were \$1,958,021 compared to \$2,114,928 as at 31 January 2018.

Previous Years

3 years and over	\$273,208.08	13.95%	of rates outstanding
2 years and over	\$254,392.37	12.99%	of rates outstanding
1 year and over	\$296,075.20	15.12%	of rates outstanding
<u>Total Prior Years outstanding</u>	<u>\$823,675.65</u>	42.07%	of rates outstanding
Current Rates	<u>\$1,134,345.06</u>	57.93%	of rates outstanding
<u>Total Rates Outstanding</u>	<u>\$1,958,020.71</u>		

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 28 February 2018 were \$309,965 compared to \$296,321 as at 31 January 2018.

90 days and over	\$275,424.02	88.86%	of sundry debtors outstanding
60 days and over	\$505.28	0.16%	of sundry debtors outstanding
30 days and over	\$3,557.45	1.15%	of sundry debtors outstanding
Current	<u>\$30,478.13</u>	9.83%	of sundry debtors outstanding
<u>Total Debtors Outstanding</u>	<u>\$309,964.88</u>		

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 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

OFFICER RECOMMENDATION

“That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 28 February 2018 as summarised below:

Feb-18	
MUNICIPAL FUND	AMOUNT
Cheque Payments	89,608.47
Electronic Funds Payments	282,624.41
Payroll Debits	173,775.08
Payroll Debits - Superannuation	36,849.67
Bank Fees	1,602.51
Corporate Cards	326.69
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	451.44
TOTAL	585,474.89
TRUST FUND	
Electronic Funds Payments	4,901.20
Cheque Payments	0.00
Direct Debits Licensing	109,044.65
TOTAL	113,945.85
TOTAL DISBURSEMENTS	699,420.74

”

SY035-03/18 – Investments – February 2018

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:	A. 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 28 February 2018.

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 28 February 2018
- 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 3 years;*
 - (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**

OFFICER RECOMMENDATION

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

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11 QUESTIONS FROM MEMBERS WITHOUT NOTICE

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

13 MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the meeting may be closed

SY036-03/18 – Appointment of Working Group Members

13.2 Public reading of resolutions to be made public

14 NEXT MEETING

The next Ordinary Meeting of Council will be held on Monday, 23 April 2018 at 5.00pm in Council Chambers, York Town Hall, York.

15 CLOSURE