



SHIRE OF YORK

Agenda Agenda Settlement Briefing

Dear Councillors

I respectfully advise that the Agenda Settlement Briefing will be held in the Lesser Hall, York Town Hall, York on Wednesday, 21st October, 2015, commencing at 5.00pm.

AGENDA FOR THE AGENDA SETTLEMENT BRIEFING ATTACHED

Graeme Simpson

G K SIMPSON
ACTING CHIEF EXECUTIVE OFFICER
Date: 14th October, 2015

MISSION STATEMENT
"Building on our history to create our future"

Table of Contents

1. OPENING	5
1.1 Declaration of Opening.....	5
1.2 Standing Orders.....	5
1.3 Declarations of Interest that Might Cause a Conflict.....	5
Financial Interests.....	5
Disclosure of Interest that May Affect Impartiality	5
2. ATTENDANCE	6
2.1 Members.....	6
2.2 Mentoring/Monitoring Panel	6
2.3 Staff	6
2.4 Apologies.....	6
2.5 Leave of Absence Previously Approved.....	6
2.6 Number of People in Gallery at Commencement of Meeting.....	6
3. DEPUTATIONS	6
4. OFFICER'S REPORTS.....	6
Development Services	7
4.1.1 Proposed Outbuilding (aggregate floor area above 200m ²) – Lot 134 (125) North Road, York.....	7
4.1.2 Application for Development Approval	15
Administration Reports.....	23
4.2.1 Extra Ordinary Election.....	23
4.2.2 Dedication of Road – Reserve 39603 Lot 5001 (25) Howick Street, York	25
4.2.3 Keeping of Poultry	31
4.2.4 Process For Recruitment Of The Chief Executive Officer.....	33
4.2.5 Appointment of Recruitment Consultant for the Position of Chief Executive Officer	37
Works Reports.....	41
Financial Reports	41
4.4.1 Monthly Financial Reports – September 2015	41
4.4.2 Investments – September 2015.....	43
4.4.3 Sponsorship – Kiara Simons.....	45
Late Reports	47
Confidential Reports	47
5. CLOSURE	47



SHIRE OF YORK

THE AGENDA SETTLEMENT BRIEFING WILL BE
HELD ON WEDNESDAY, 21ST OCTOBER, 2015, COMMENCING AT
5.00PM IN THE LESSER HALL, 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 Standing Orders

Clause 3.2 – Order of Business

The Shire President resolves to:

1.3 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.

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)

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 Mentoring/Monitoring Panel
- 2.3 Staff
- 2.4 Apologies
- 2.5 Leave of Absence Previously Approved
- 2.6 Number of People in Gallery at Commencement of Meeting

3. DEPUTATIONS

Procedures for Deputations

- Public Question Time will not be held during the AGENDA SETTLEMENT BRIEFING Session. Questions should be directed before the session to your elected member or the CEO (records@york.wa.gov.au Attn: Executive Support Officer)
- Deputation requests are to be approved by the Presiding Member and must relate to matters listed in the Agenda of the Agenda Settlement Briefing
- A person wanting to make more than one deputation must lodge a request with the Presiding Member by 4.00pm the Friday before the commencement of the Agenda Settlement Briefing
- A maximum time of 10 minutes per Agenda item is provided. Where there is more than one person speaking for or against an item, the timeframe will be reduced accordingly
- Groups of people with the 'same interest' are encouraged to elect one 'spokesperson' to speak on behalf of the group

4. OFFICER'S REPORTS

Development Services

4. OFFICER'S REPORTS

4.1 DEVELOPMENT REPORTS

4.1.1 Proposed Outbuilding (aggregate floor area above 200m²) – Lot 134 (125) North Road, York

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

FILE NO: P1007, No2.8730
COUNCIL DATE: 26 October 2015
REPORT DATE: 9 October 2015
LOCATION/ADDRESS: Lot 134 (125) North Road, York.
APPLICANT: Paul Wheeler
SENIOR OFFICER: Graeme Simpson (Acting CEO)
REPORTING OFFICER: Keith Burgemeister (PO)
DISCLOSURE OF INTEREST: Nil
APPENDICES: 1 – Aerial Photo
2 – Site Photos
3 – Signed Letter
4 – Technical Plans
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

Council is in receipt of a planning application to construct a garage next to an existing dwelling at Lot 134 (125) North Road, York. The application will be adding 54.9m² to the 557.45m² of outbuilding floor space already existing.

The application was advertised in accordance with the provisions of the York Town Planning Scheme No. 2 and no submission was received regarding the proposal.

An assessment of the proposal has been carried out and it is recommended that the application be approved subject to the conditions listed at the end of this report.

Background:

A planning application was submitted to the Shire of York on 12 September 2015 proposing to construct a garage with a 200mm gutter clearance to an existing dwelling at Lot 134 (125) North Road, York.

The property is zoned Rural Residential with a site area of 4.07ha and is located on the northern town boundary in an area not affected by flood plain.

Notification of the proposal was given to surrounding neighbours with no submission received regarding the proposal.

The original application showed the location of all aviaries but not their areas. However, Local Planning policy No.5 requires that animal enclosures more than 20m² and above 2.1m in height be included in the total area of outbuildings. The total area of all existing outbuildings and aviaries is 557.45m². As each shed was added, no planning approval was given to exceed the 200m² limit imposed by the Shire of York's Local Planning Policy regarding outbuildings. The last, a caravan shed 9m x 7.25m and wall height of 3.7m was approved under Building Permit 162/2011 on the 26 September 2011 after the LPP on outbuildings was adopted on the 15 August 2011.

This application proposes a garage comprising a floor area of 9m by 6.1m (54.9m²) and a wall height of 2.8m. The shed will have a guttering clearance of 200mm on the west side of the house sharing the same setback of 20.8m from North Road. The reason for the additional floor area is to house a boat and his wife's car with the other sheds being used for storing machinery, cars, caravan and other items.

Consultation:

The application has been advertised in accordance with 8.3.3(a) of the York Town Planning Scheme.

No further consultation is required.

Statutory Environment:

York Town Planning Scheme No. 2

The subject property is zoned Rural Residential under the provisions of the Scheme.

An outbuilding is an ancillary development to a single house and in accordance with Clause 4.2, is considered permitted development, except where the development requires variation under the Scheme. As the outbuildings to be constructed are located on a property in the Rural Residential zone all development requires planning consent subject to clause 4.13.4 Development Requirements Shire of York TPS No. 2. The setbacks as required in this zone and their actual setbacks are displayed in the table below.

The matters for consideration listed in Clause 8.5 of the Scheme have been considered as follows:

- (a) *The aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area.*

The York Town Planning Scheme No. 2 applies to all land in the Shire of York and is the only operating Scheme in the area. This assessment will illustrate that the proposal is consistent with the aims of the Scheme.

The objective of the Rural Residential zone are:

- (a) *"To provide closer settlement for residential use in a rural environment, and such uses as hobby farms, horse breeding, rural residential retreats.*
- (b) *To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas."*

The proposal is consistent with the objectives of the Rural Residential zone.

- (b) *The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought.*

There are no new schemes or amendments applicable to the property or this proposal.

- (c) *Any approved statement of planning policy of the Commission.*

There are no statements applicable to this application.

- (d) *Any approved environmental protection policy under the Environmental Protection Act 1986.*

There are no policies applicable to this application.

- (e) *Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State.*

Nil. With regards to the maximum allowable floor area of all outbuildings, Council has adopted a Local Planning Policy that provides acceptable provisions to meet the Design Principles of the R-Codes to ensure that outbuilding proposals that do not meet the Deemed to Comply provisions meet the principle that “*Outbuildings that do not detract from the streetscape or visual amenity of residents or neighbouring properties.*”

Refer to the following section.

- (f) *Any Planning Policy adopted by the local government under clause 9.8, any policy for a designated heritage precinct adopted under clause 5.1.3, and any other plan or guideline adopted by the local government under the Scheme.*

Local Planning Policy – Outbuildings in Residential Zones

The aim of the LPP is to guide the assessment of outbuildings in residential zones.

Table 2 – Rural Residential (Garage)

Provision	Requirement	Proposed	Comment
4.13.3 TPS No. 2	Front: 20m Side: 10m Rear 10m	Front: 20.8m Side: 11m Rear: >150m	Complies
7.3.1 General	a) Are not attached to the dwelling b) are non-habitable or used for commercial or industrial purposes c) are not within the primary street setback d) are setback at least 15m from a side or rear boundary.	Yes Yes Yes Garage 11m from side	Generally complies except for the side setback of the garage west of the dwelling which is less than the 15m required. When there is conflict between the Scheme and Policy the provisions of the Scheme prevail (i.e. 10m).
7.3.2. (a) Floor Area	Outbuildings on a Rural Residential lot that have a combined area not exceeding 200m ² or 10 per cent in aggregate of the site area, whichever is lesser	Garage: 9 x 6.1 = 54.90m ² Total area of outbuildings = 557.45m ² Combined area of existing with proposed 557.45m ² + 54.9m ² = 612.35m ² OR Site area = 4.07ha x 10% = 4070m ² .	Up to 200m ² can be approved. However, as each outbuilding was approved at the building licence stage the floor area is well above the 200m ² threshold where approval by Council is required. As the 54.9m ² addition is within the building cluster in the north western corner of the lot the shed would have minimal impact and can be approved.
7.3.2 (b) Floor area	Outbuildings on a rural town-site lot that is within 5% of the requirements of the above and the applicant has provided a copy of plans that have been endorsed in writing on plans by affected adjoining landowner(s) indicating that there is no objection to the proposed building.	+402.35m ²	The approval of the garage where floor area of existing outbuildings is above 200m ² may set a precedent elsewhere however, advertising and Council approval would be required in each individual case.
7.3.3. Height	Outbuildings on a rural townsite lot that has a maximum wall height less than 3.0m, and ridge height of 4.2m	Proposed wall height = 2.8m garage Proposed Ridge Height = 3.34m garage	Complies.

Whilst the proposed development does not comply with the floor area provisions of the LPP, the applicant has justified the reason for the increased variation. Oversized sheds are relatively common in York and based on the location of this proposal in relation to the street, this proposal is likely to have minimal impact on the surrounding locality.

- (g) *In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve.*

The land is not reserved under the Scheme.

- (h) *The conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List*

under clause 5.1.2, and the effect of the proposal on the character or appearance of a heritage precinct.

The property is not heritage listed nor is it within a heritage precinct.

(i) The compatibility or a use or development with its setting.

The development of ancillary outbuilding is a permissible use within a Rural Residential Zone subject to planning consent. Whilst the proposed outbuilding requires variation of the Local Planning Policy, it is still considered to be compatible with the setting.

(j) Any social issues that have an effect on the amenity of the locality.

There are no social issues associated with this proposal.

(k) The cultural significance of any place or area affected by the development.

There is no cultural significance to this area.

(l) The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment.

The property is located on the edge of the town boundary on a rural residential lot. The garage is on the west side of the existing dwelling forming a cluster of buildings near the north western boundary where screening vegetation within the cluster further reduces the impact on the locality.

(m) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire or any other risk.

The subject lot is not affected by flooding.

(n) The preservation of the amenity of the locality.

Amenity is defined in the Model Scheme Text (and proposed in Scheme Amendment 50 to be included in TPS 2) as “*all those factors which combine to form the character of an area and include the present and likely future amenity*”. The amenity of this area is not likely to be affected as the garage is in the same building alignment as the existing dwelling 20.8m from North Road. Given the size of the lot and the combined area of outbuildings within that lot amenity is not likely to be impacted significantly by this proposal.

(o) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

This matter for consideration has been carefully considered during the assessment of this proposal. Large sheds are common in this area with some of the surrounding properties containing similar styles of outbuilding.

(p) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.

Access to the site is from North Road. The garage on the west side of the house is for boat storage and his wife's car.

(q) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

This proposal will not result in any increase in traffic to the locality.

- (r) *Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal.*

Not applicable to this development.

- (s) *Whether public utility services are available and adequate for the proposal.*

Public utility services are available to the site. No further services will be required for this development.

- (t) *Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities).*

Not applicable to this development.

- (u) *Whether adequate provision has been made for access by disabled persons.*

Not applicable to this development.

- (v) *Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.*

The proposal will not impact or require the removal of any significant vegetation.

- (w) *Whether the proposal is likely to cause soil erosion and degradation.*

It is unlikely that the development will cause soil erosion or degradation.

- (x) *The potential loss of any community service or benefit resulting from the planning consent.*

No community services or benefits will be affected by this proposal.

- (y) *Any relevant submissions received on the application.*

One submission was received from a ratepayer who after viewing the plans had no objection to the proposal.

- (z) *The potential impacts of noise, dust, light, risk, and other pollutants on surrounding land uses.*

There are no potential impacts of pollutants identified.

- (aa) *The comments or submissions received from any authority consulted under clause 7.4.*

Nil

- (bb) *Any other planning consideration the local government considers relevant.*

Nil.

Policy Implications:

The Local Planning Policy Outbuildings in Residential Zones has been varied for this proposal. There are a number of similar sized shed in this area and it is unlikely that this approval will result in any adverse policy implications.

Financial Implications:

There are no financial implications for the Shire. All relevant fees have been paid.

Strategic Implications:

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

Social

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

Environmental

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

Economic

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

This proposal is consistent with the objectives of the Plan, particularly as it will not affect the natural environment.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

There are no economic implications associated with this proposal.

Social Implications:

There are no social implications associated with this proposal.

Environmental Implications:

There are no environmental implications associated with the proposal. Any significant natural vegetation on this property will not be affected by the development.

Officers Comment:

The proposed boat and car shed requires a relaxation of the floor area to allow for a combined total floor area of 612.35m². Previous sheds approved under past building permits failed to pick up the variance to the Local Planning Policy *Outbuildings in Residential Zones*. The applicant has sufficiently justified the need for a garage on the west side of the existing dwelling where the garage is proposed to be contained within a building cluster near North Road.

The matters for consideration have been carefully addressed and it can be concluded that based on the proposed location of the garage within a large 4.07ha lot, the 54.9m² garage addition will have minimal impact on the surrounding setting and amenity of the location.

Therefore, it is recommended that the planning application be conditionally approved.

ASB Comment

OFFICER RECOMMENDATION

“That Council:

APPROVE the construction of an outbuilding at Lot 134 (125) North Road, York, subject to the following conditions and advice notes:

Conditions

- 1. Development must substantially commence within two (2) years from the date of this decision.***
- 2. Development must take place in accordance with the stamped approved plans.***
- 3. The outbuilding is not to be used for habitable, commercial and/or industrial purposes.***
- 4. Stormwater shall be managed on site to the satisfaction of the local government.***
- 5. Materials and colours used are to be complementary to the existing development.***

Advice Notes:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.

Note 4: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.

Note 5: Non-compliance against Condition 3 is an offence against the Public Health Act 1911.”

NB: This item was deferred from the October 2015 Ordinary Council Meeting. Amendments have been made to this item.

4. OFFICER'S REPORTS

4.1 DEVELOPMENT REPORTS

4.1.2 Application for Development Approval

FILE NO: GR2.41
COUNCIL DATE: 21 October 2015
REPORT DATE: 12 October 2015
LOCATION/ADDRESS: Lot 5113 Great Southern Highway, Daliak
APPLICANT: Avon Waste
SENIOR OFFICER: G Simpson, A/CEO
AUTHOR: C Thompson, Consultant Planner
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix 1 – Indicative Site Plans and Elevations
Appendix 2 – Traffic Impact Statement
Appendix 3 – Planning Report
Appendix 4 – DA Assessment Report
Appendix 5 – Schedule of Submissions
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE CEO: Graeme Simpson

Summary:

An application for development approval to develop a transport depot at Lot 5113 Great Southern Highway, Daliak is presented for consideration in accordance with clause 68(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (deemed scheme provisions).

Key planning issues that have been raised during the assessment relate to the consistency of the land use in the general agriculture zone, future expansion of the proposed development, visual impact, environmental impacts and traffic impacts. These are discussed in the comments section of this report.

Matters subject to later approval of details include siting, access and environmental matters. These are also discussed in the comment section of this report.

Background:

An application for planning consent to develop a transport depot at Lot 5113 Great Southern Highway, Daliak was received on 8 July 2015. The site is located on the corner of Ashworth Road and Great Southern Highway, Daliak, and is zoned "General Agriculture" under the Shire of York Town Planning Scheme No. 2.

The application was presented to Council at the September 2015 Ordinary Council Meeting with an officer recommendation for approval subject to conditions. At the meeting, Council resolved:

"That Council:

- 1. Defers the item to the October 2015 Ordinary Council Meeting.***
- 2. Requests the applicant for agreement in writing for further time for determination of the application in accordance with Clause 8.12.2 of the Shire of York Town Planning Scheme No. 2."***

The deferral of the application to the October 2015 Ordinary Council Meeting requires the application to be considered and determined against new scheme provisions which take effect on 19 October 2015.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) were gazetted on 25 August and take effect on 19 October 2015, replacing the *Town Planning Regulations 1967*. The Regulations introduce a set of deemed provisions that will form part of every local planning scheme in the State once the Regulations take effect – the new deemed scheme provisions effectively replace various elements of the Shire of York Town Planning Scheme No. 2. The deemed scheme provisions cover a broad range of matters including local planning policies, heritage protection, structure plans, local development plans, development contributions, development applications and approvals, enforcement and administration. Part 9 of the deemed scheme provisions provides the procedure for determination of development approval (previous referred to by the Shire of York Town Planning Scheme No. 2 as planning consent).

The applicant had requested that the application be progressed in accordance with clause 8.11 of the Shire of York Town Planning Scheme No. 2 (TPS2), which enables approval subject to later approval of details. Clause 8.11 states that;

'Approval subject to later approval of details

- 8.11.1 *Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning consent of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.*
- 8.11.2 *In respect of an approval requiring subsequent planning consent, the local government may require such further details as it thinks fit prior to considering the application.*
- 8.11.3 *Where the local government has granted approval subject to matters requiring the later planning consent of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.'*

This clause no longer applies. However, the deemed scheme provisions includes a similar clause:

74. *Approval subject to later approval of details*

- (1) *The local government may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the local government before the developer commences the development.*
- (2) *The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not substantially change the development approved.*

The application is supported by information that illustrates the likely scale and nature of the operation, with detailed site, access, and building plans to be provided as a subsequent application for approval.

Supporting information includes:

- A general development envelope location
- A general development site plan
- Indicative elevations/perspectives for structures
- A Traffic Impact Statement
- A Planning Report

These documents are provided in Appendix 1.

Consultation:

The application was advertised between 10 July and 27 July 2015.

Seventeen (17) submissions were received in relation to the application, eleven (11) from State Government agencies and six (6) from landowners.

A schedule of submissions is provided in Appendix 5.

Statutory Environment:

Shire of York Town Planning Scheme No. 2

Planning and Development (Local Planning Schemes) Regulations Schedule 2 – Deemed Provisions for Local Planning Schemes

Policy Implications:

The following policies are applicable to this application:

- Local planning policy 10 - Contributions for Road and Footpath Construction and Upgrading
- Local planning policy – Advertising Signage

Financial Implications:

There are no financial implications for the Shire as a result of this application.

Strategic Implications:

The Shire's Strategic Community Plan includes the following objectives relevant to this application:

- *Ensure Access to Services as Needs Change within the Community*
- *Protect and Enhance Our Rural Land and Spaces*
- *Develop Commercial and Economic Viability to Support Growth Capacity*
- *Facilitate Commercial and Service Industry Growth*

Voting Requirements:

Simple Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

The local business provides continuing local employment opportunities for the Shire.

Social Implications:

There are no social implications as a result of this application.

Environmental Implications:

Environmental risk of the proposed application are manageable, and can be adequately through management plans for stormwater and wastewater management.

Officer Comment:

The applicant has requested that this proposal be considered under clause 8.11 of the TPS2. The consideration of applications under this clause is for approval subject to the provision of additional information to be provided at a later date. Clause 8.11 of the scheme is no longer operative, having been replaced by the deemed scheme provisions. It is considered that the operation of Clause 74 of the deemed scheme provisions provides the same opportunity to consider the proposed use, subject to a condition requiring detailed site plans and elevations to be prepared. The purpose of the detailed site plans and elevations will be to ensure the proposed use is sited in the most appropriate location on the subject land to manage safety of access, noise, and visual amenity and will not substantially change the development requested for approval, in accordance with Clause 74(2) of the deemed scheme provisions.

Appendix 4 provides the officer's DA assessment report. This has been updated since the September meeting to reflect matters for consideration within the deemed scheme provisions, rather than the previous matters listed in TPS2. Key planning issues that have been noted are outlined below.

Land use

The proposed use is consistent with the land use class "Transport Depot" as defined by the TPS2. The definition of transport depot includes the maintenance, management and repair of the vehicles used in the transport depot. As a result, the ancillary components including the workshop, wash bay, spray booth, fuel supply and storage, can be accommodated within the definition of 'transport depot'.

If ancillary components, such as workshop areas, were to operate independently of the primary transport depot use, they would require separate development approval, and be subject to the land use permissibility of those individual uses.

The application does not propose any waste management or storage/recycling of waste on the site. Approval of the site as a transport depot would not give any approval or support for any use beyond the proposed transport depot.

The land use definition of transport depot does not differentiate between the nature of the transport depot, nor its relationship to other uses permitted in the zone. There is no current planning policy or scheme provision that would treat a transport depot for the purposes of a waste management provider any differently than a transport depot for an agricultural business, or any other business type. Transport Depot is a 'SA' use in the General Agriculture Zone. This means the use is capable of approval if it meets the objectives and requirements of the zone.

The application is generally consistent with the objectives of the General Agriculture Zone, as they relate to non-rural uses. The proposal will not prevent the continuation of broad-hectare agriculture in the district and will enable the remainder of the site to be used for general agricultural purposes. Environmental matters can be managed through stormwater and wastewater management plans and restricting removal of vegetation. The proposal provides local employment opportunities and local waste management services, providing a benefit to the district. The proposal is not a tourist operation and does not interface with a residential zone.

The land use is consistent with the General Agriculture zone. Other planning matters considered under the scheme can be managed through the application of planning conditions where the application does not provide detail at this time, in accordance with Clause 74 of the deemed scheme provisions.

Rural character and visual impacts

Clause 74 of the deemed scheme provisions allows Council to grant approval for a use, subject to the subsequent approval for other matters. This includes siting, design, external appearance of buildings, means of access, landscaping, and such other matters. This provision can be used to require approval for the siting and design of the development envelope and all structures to be located such as to minimise visibility from Great Southern Highway and Ashworth Road.

Whilst an indicative envelope for the proposed depot was provided within application documentation, the applicant is continuing more detailed analysis to identify the most appropriate location for the depot to manage amenity impacts.

A site visit identified that the natural landforms on the site will enable the location of the proposed use in an area that, combined with potential screening, will minimise visibility from local roads.

Noise and other nuisance impacts are considered manageable; identification of the most appropriate location for the depot within the subject land through subsequent approval can include either a minimum 200 metre setback from houses in the locality (which is the generic, unmanaged buffer distance recommended by the EPA Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses) or alternatively include acoustic modelling to demonstrate that no noise impacts are presented by the location. In addition, conditions to restrict the operating hours of workshop components of the transport depot are suitable to provide greater comfort regarding management of noise impacts.

A detailed site and building plan, prepared and approved in a subsequent approval, will ensure the development will not have a detrimental effect on the rural character of the locality.

Traffic and Access

A Traffic Impact Statement (TIS) was prepared by Opus. The TIS recommends that the local road network has sufficient capacity to manage traffic associated with the development. The TIS makes recommendations for access to the new development:

- *'Would be best positioned in Ashworth Road at the crest in the road approximately 30 metres south of the existing crossover*
- *The access to be designed and constructed for a design Semi trailer vehicle to a sealed standard with suitable strength pavement*
- *Widening of Ashworth Road is not required*
- *Upgrading of the intersection of Ashworth Road and the York-Chidlow Road is not required'*

Main Roads WA have requested that swept path diagrams for Great Southern Highway and Ashworth Road intersection to ensure there is sufficient turning room for waste trucks. In addition a detailed site plan for the property entry on Ashworth Road would manage potential impacts on the adjacent property access and the surrounding established vegetation. As provided by Clause 74 of the deemed scheme provisions, these items can be confirmed in a subsequent approval.

Access to the property is proposed via Ashworth Road. It is anticipated that trucks accessing the property will only use Ashworth Road between Great Southern Highway and the crossover to the subject land. A condition on development approval can confirm this, and prevent trucks accessing the depot to use Ashworth Road north of the subject land.

Future Expansion

The applicant has noted that they have plans to expand the facility. Any expansion of the facility (including additional trucks, increased areas for wash bays, storage, maintenance, increased fuel tank size and any development or activity likely to result in modifications to the traffic movements or structures on site) from that approved by this – and subsequent approval of details - would require a separate development approval at the time of expansion. This would consider management of any amenity and traffic impacts arising from expansion at that time.

Environmental Considerations

The proposed development includes areas for maintenance, wash down, refuelling and storage. There are potential environmental risks associated with these components of the development in relation to contamination of ground water and stormwater. The scale of the operation makes risk of environmental impacts low, and manageable through stormwater and wastewater management plans. These plans can be developed, assessed, and approved on the advice of Department of Water and Department of Health as part of subsequent approval.

Consideration of a detailed site plan, through subsequent approval, showing the location of the transport depot, internal access ways and all existing development and significant features on the site, can ensure any impacts on vegetation are managed.

OFFICER RECOMMENDATION

“That Council:

Pursuant to Schedule 2, clause 68(1)(b) and clause 74 of the Planning and Development (Local Planning Schemes) Regulations GRANT approval subject to later approval of details for a Transport Depot at Lot 5113 Great Southern Highway, Daliak, subject to the following conditions:

- 1. An application for approval of details to be made no later than 12 months from the date of determination, to include:***
 - A scaled, detailed site plan for the depot area and access ways, to include the scaled location of all structures, pavement areas, storage areas, and landscape areas (Note 6).***
 - Siting of the depot area and access ways to minimise visibility from Ashworth Road and Great Southern Highway.***
 - Siting of the depot area to achieve a 200 metre setback from any existing house, or provision of acoustic modelling to demonstrate management of noise impacts.***
 - Details of chemical storage and management.***
 - Swept path diagrams for the intersection of Great Southern Highway and Ashworth Road.***
 - The crossing place to the property, internal access road and turning areas are to be designed for a 4 axel articulated truck and trailer.***
 - Stormwater management plan and wastewater management plan (Note 7).***
 - A landscape plan detailing screening of the development from public roads and neighbouring properties where the development will be visible.***
- 2. The portion of Lot 5113 Great Southern Highway, Daliak used and developed as a transport depot must not occupy an area greater than 4 hectares (excluding access).***
- 3. No waste shall be stored, transported or processed on the site.***
- 4. No vegetation shall be removed as a result of this application.***

- 5. Operation of the workshop component of the transport depot shall not commence prior to 7:30am and shall cease by 5:00pm from Monday to Friday, unless otherwise approved by the Shire of York.**
- 6. No expansion to the transport depot shall be undertaken without the development approval of the Shire of York.**
- 7. No trucks accessing or leaving the transport depot are to utilise Ashworth Road north of Lot 5113 Great Southern Highway, Daliak.**

ADVICE NOTES:

- Note 1: Development approval is being granted subject to further details being approved later. As a result, no development may commence on the site until such time that subsequent planning approval is obtained.**
- Note 2: If approval as required by Condition 1 is not obtained within 12 months of the date of determination, the approval will lapse and be of no further effect.**
- Note 3: 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 4: 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 5: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.**
- Note 6: The application for approval of details are to include scaled plans, elevations, and all matters as set out in the Shire of York planning application checklist.**
- Note 7: The stormwater management plan is to be prepared in accordance with Stormwater Management Manual for Western Australia (DoW 2004) to ensure stormwater is appropriately managed on site. The plan will be referred to and approved by the Department of Water as part of subsequent planning approval.**
- The wastewater management plan will be referred to and approved by the Department of Health.”**

Administration Reports

4. OFFICER'S REPORTS

4.2 ADMINISTRATION REPORTS

4.2.1 Extra Ordinary Election

FILE NO:
COUNCIL DATE: 26 October 2015
REPORT DATE: 7 October 2015
LOCATION/ADDRESS: N/A
APPLICANT: N/A
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Letter from WA Electoral Commission and Alternative Timetables

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

The timing of the resignation, the time of the year and the statutory provisions of the Local Government Act lead to the conclusion that Council should formally request the WA Electoral Commission to conduct a Postal Election to fill the extra ordinary vacancy.

Background:

The Shire President submitted his resignation from the office of Councillor and Shire President at the Council Meeting on 21 September, 2015. It is not possible to join the 2015 Biennial Election process so an extra ordinary vacancy has been created.

Consultation:

Senior Staff
WA Electoral Commission

Statutory Environment:

WA Local Government Act Part 4

Policy Implications:

Nil

Financial Implications:

To be tabled.

Strategic Implications:

This proposal is consistent with the Council's previous decision of 22 June, 2015.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

The election schedule is statutorily set and the suggested dates have taken into account the Christmas/New Year period and the school holiday period.

With the suggested date for the Election Day being mid January 2016 it will be advantageous to conduct a Postal Election to fill the vacancy. Electoral papers would be distributed on 18 December, 2015 which will allow electors to take their papers and complete their voting at their convenience and then post the completed papers back to the Commission. In person voting election will be inconvenient for those away on leave.

Environmental Implications:

Nil

Officer Comment:

In an endeavour to maximise the voter participation during a difficult period to engage with the community it is suggested that Postal Voting will be the preferred system.

ASB Comment

OFFICER RECOMMENDATION

“That Council:

- ***Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2016 Extra Ordinary Election together with any other elections or polls which may be required***
- ***Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.”***

NB: This item was deferred from the October 2015 Ordinary Council Meeting

4. OFFICER'S REPORTS

4.2 ADMINISTRATION REPORTS

4.2.2 Dedication of Road – Reserve 39603 Lot 5001 (25) Howick Street, York

FILE NO: Ho3.60448
COUNCIL DATE: 26 October 2015
REPORT DATE: 28 August 2015
LOCATION/ADDRESS: Reserve 39603 Lot 5001 Howick Street, York
APPLICANT: Helena Gibbs / Shire of York
SENIOR OFFICER: Graeme Simpson, CEO
REPORTING OFFICER: Keith Burgemeister, Town Planner
DISCLOSURE OF INTEREST: Nil
APPENDICES:
1 – Aerial photo
2 – Certificate of Title – DP59742
3 – Certificate of Title – DP 57508 (survey plan)
4 – E-mails I145950 and I149315
5 – Advice from the Department of Lands
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

Helena Gibbs and her tenants have been using Lot 5001 reserve 39603 for access to 4 units on Lot 18 (137 – 143) Avon Terrace, York since 1993. She formally requests that Council dedicates Reserve 39603 Lot 5001 as a right of carriageway for herself and her tenants into perpetuity.

If a decision is made in support of the above, Council may undertake to advertise the dedication of the reserve as a right of carriageway, with letters to adjoining neighbours and relevant government agencies.

Background:

Crown land Reserve 39603 Lot 595 reduced in size to 494m² is now contained within Lot 5001 (25) Howick Street zoned Public Purposes, on DP 57508.

- 24 December 1986 management order was gazetted designating the reserve for 'Parking, Vehicle Parking and Tourism Purposes'.
- 16 February 2007 advice received on excising a portion of lot 595 Reserve 39603 to be on sold as freehold to the owners of Settlers House.
- 16 April 2007 approval was given for a two storey mixed use development on a portion (Lot 5006) of Lot 595 Reserve 39603.
- 8 September 2008 Certificate of title showing Lot 595 Reserve 39603 subdivided into 5 lots leading to formation of the Reynolds Lane with two storey development being wholly contained with Lot 5006 (deposited plan (DP) 59742). A 13m wide access to Lot 18 was retained within Lot 5001 (DP 57508).
- 22 June 2009 Minister for Lands made a new order designating reserve Lot 5001 for 'Parking, Vehicle Parking and Tourism Purposes to be placed with the Shire of York under Section 41 of the Land Administration Act 1997.

On the 26 February 2015, Helena Gibbs e-mailed the Shire of York's building surveyor with a proposal to apply for a built strata on Lot 18 Avon Terrace, York. An extract of the letter as it pertains to strata development is given below. A copy of the e-mail is enclosed under I145950.

"After consultation with a surveyor in relation to the strata development I wish to undertake, I am advised that the rear access to my property needs to be defined by the Shire as a 'right of way' and not just a 'reserve' as it is vital for the future access and development which I intend to undertake on my property".

This was followed by a second e-mail dated 30 July 2015 as follows:

"Please note I wish to make a formal request for the York Council to define the access way at the rear Lot 18 Avon Tce York.

Currently it is noted as a reserve which is not appropriate as this area needs to be redefined as a right of way to the rear of my property for the purposes of parking, delivery and for safety reasons for the benefit of the retail shops fronting Avon Tce York.

This has always prevailed in the past but with the development of Settlers the access has been substantially reduced with the possibility that it could be obstructed by people using the units which stand on land previously marked as tourist parking area".

The entire e-mail is enclosed under I149315.

The decision to progress with dedication of Reserve 39603 Lot 5001 was based on the Department of Lands advice enclosed below (see statutory environment).

Consultation:

Consultation with the community and relevant authorities is required under the provisions of the *Land Administration Act 1997*.

Statutory Environment:

"I note you refer to it as 'Public Purpose'. This may be the appropriate zoning but its purpose as far as the LAA is concerned is Park, Vehicle Parking and Tourist purposes.

Essentially if all clearances are received and subject to the approval of the Minister for Lands and there being no native title implications it may be possible to have Lot 5001 on DP57508 dedicated as a public road. This will require the Shire to first carry out its obligations in relation to dedication of roads pursuant to the requirements of the Local Government Act, Land Administration Act 1997 and 1998 LAA Regulations. At this stage I'm not certain whether there will be a requirement for survey or whether the existing DP 57508 can be used.

I am unable to advise on the specifics of how the Shire proceeds since this is a matter for the local authority to address through its relevant area. Further information on the LAA requirements are explained in the Crown Land Practice Manual available on the Department of Lands web site. Specifically Chapter 5 and Table D refer.

As a broad overview, to dedicate Lot 5001 on DP57508, the Shire will need to provide as part of its compliance requirements the requisite Council resolution to relinquish its management order over that part of the reserve and resolution pursuant to section 56(1) of the LAA for the Minister for Lands to dedicate the land as a road, along with the necessary indemnification pursuant to section 56(4) of the LAA.

It should be noted that if and when this request is delivered to the Minister for Lands, through DoL, we will also need to undertake our own due diligence and seek some additional statutory clearances".

Policy Implications:

Council does not have a current policy in relation to construction and maintenance of roads or acceptance of new assets. There are various related standards and operation decisions.

The nearest applicable policy covering this situation would be the standard requirements of subdivision under which terms the developer would normally be expected to provide a road access to all lots created which is constructed to the standard and specification of the WAPC, as advised by the Shire of York.

Financial Implications:

The owner has agreed to cover the costs of advertising but not the associated costs for creating, dedicating and transferring the new road to the Shire. Under the proposal the Shire will manage a new asset (approx. 38 m section of road) including financial responsibility to operate, maintain and refurbish the access as a public road.

Strategic Implications:

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

Social

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

Environmental

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

Economic

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

The proposal is consistent with the goals of the Plan as it will improve the safety of the community and visitors using Reserve 39603 as a means of access to not only the Settlers development but also realise rear parking opportunities available at the rear of the shops on Lot 18.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

This proposal will indirectly support local businesses on Lot 18, the adjoining Settlers development and the local tourism industry.

Social Implications:

The proposal will result in improved road safety and therefore have positive social outcomes.

Environmental Implications:

There are no environmental implications associated with this proposal.

Officers Comment:

Reserve 39603 Lot 5001 (25) Howick Street 13m wide x 38m long is paved and being used for access by the tenants on Lot 18 and for parking adjoining the Settlers development. Such an arrangement must remain in place to head off any claims that the road does not permit parking. If councillors accede to the request to dedicate the above reserve as a public road then the proposal should be put out for advertising in accordance with the *Land Administration Act 1997*.

The owner of Lot 18 has offered to only pay the advertising costs but not the associated costs for creating, dedicating and transferring the new road to the Shire. However, as the main beneficiary of changing the reserve into a public road is the owner of Lot 18 the associated costs should also be included.

Recommendation

The officer recommends the Shire support the dedication of the new road subject to the parties, who are benefiting from this proposal, meeting all the initial costs or alternatively decide that in the interests of the local community Council proceed to pay all initial costs and all associated costs for road maintenance

Process

To dedicate Reserve 39603 Lot 5001 (25) Howick Street York, the Shire must:

1. Pass a Council resolution to relinquish its management order over that part of the reserve.
2. And pursuant to section 56(1) of the LAA for the Minister of Lands dedicate the land as a road, with a signed copy of the Council resolution, and a sketch clearly showing the land to be dedicated as road with parking spaces shown adjoining the Settlers development in addition to Certificate of Title DP 57508.
3. Indemnify the Minister for Lands against any claims for compensation and reasonable costs.
4. That the owner of Lot 18 pays the cost of advertising the road dedication and associated costs for creating, dedicating and transferring the new road to the Shire.
5. Provide details of any public consultation, and any submissions received.
6. Provide written confirmation that the Shire has complied with section 56(2) of the *Land Administration Act 1997*.

OFFICER RECOMMENDATION

“That Council:

- 1. Resolve to relinquish the management order over that part of Reserve 39603 on Lot 5001 and dedicate the land depicted on CT 57508 attached at Appendix 3 of this Report as a public road in accordance with the provisions of section 56 of the Land Administration Act 1997 subject to***
 - a. The Council/proponent, indemnifying the Minister for Lands against any claims for compensation and reasonable costs;***
 - b. The proponent agreeing to meet the costs of advertising the road dedication including the associated costs for creating, dedicating and transferring the new road to the Shire;***
 - c. The proposal being advertised for a period of 21 days to the community and interested agencies; and***
 - d. The proponent providing a sketch demonstrating that car parking on the south side of the road adjoining the Settlers development can be accommodated;***
- 2. Subject to no objections being received, authorise the CEO to provide written confirmation that the Shire has complied with section 56(2) of the Land Administration Act 1997; and in the event of objections refer the matter back to Council for further consideration; and***
- 3. Advise all adjoining landholders of Council’s resolution.”***

4. OFFICER'S REPORTS
4.2 ADMINISTRATION REPORTS
4.2.3 Keeping of Poultry

FILE NO: RS.ANC
COUNCIL DATE: 26th October 2015
REPORT DATE: 9th October 2015
LOCATION/ADDRESS: 4 Spencers Brook Rd
APPLICANT: Mr Ian Hepton
SENIOR OFFICER: Mr Gordon Tester, MDS
REPORTING OFFICER: Mr George Johnson, EHO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Copy of the Local Laws Division (3) Keeping of large animals Sec 5.3.1 and Division (4) Keeping of Poultry Sec 5.4.2.
DOCUMENTS TABLED: Rate payers Objections
REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary: Council

An application has been received from Mr Ian Hepton requesting to keep 4 Roosters, 20 Hens and 2 horses at his property situated at 4 Spencers Brook Road York 6302.

Background:

The Health Act 1911 / Shire of York Health Local Laws 2000 Part 5 / Division 4 / Section 5.4.1 which relates to the keeping of poultry of which is 20 hens and section 5.4.4 which relates to the keeping of roosters which is Nil without council permission.

Also a horse is classed as a large animal Section 5.3.1 which is attached.

Consultation:

The Shire of York Environmental Health Officer has liaised with the applicant who lives at the property after a complaint was received from the next door neighbour at No 6 Spencers Brook York in relation to the roosters crowing and the amount of chickens evident at the property.

The applicants property has neighbours either side and is Zoned Residential R 2.5 and consists of 3,995 Square Metres in size.

Statutory Environment:

Shire of York Health Local laws 2000
Part 5 Division 3 and 4 Sections 5.3.1 thought to 5.4.4

Policy Implications:

N / A

Financial Implications:

N / A

Strategic Implications:

N / A

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Meeting Undertaken Yes

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Obvious noise complaints from the roosters and the possibility of rodents due to the introduction of dry feed and an accumulation of the fly population unless the manure is totally under control.

Environmental Implications:

Possible flies and rodent infestation

Officer Comment:

Having spoken to the applicant and his partner at the property, they class their chickens as part of the family, and in all fairness ratepayers within a 300 metre radius of the property were asked for comment on the application, there was eight objections against the application to one for who later emailed concerned about the possible fly problem.

Due to the negative response by the neighbouring properties I would not be in favour of this application.

ASB Comment

OFFICER RECOMMENDATION

“That Council:

Decline the application due to zero tolerance on roosters for the reason that an ongoing noise complaints would be received and complaints would be of an ongoing scenario.

The property is 3995 Sq Metres, by the restricted clearances that a large animal is permitted to encroach near a dwelling doesn’t leave a lot of space for chickens and large animals to graze.”

4. OFFICER'S REPORTS
4.2 ADMINISTRATION REPORTS
4.2.4 Process For Recruitment Of The Chief Executive Officer

FILE NO:
COUNCIL DATE: 26 October 2015
REPORT DATE: 13 October 2015
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: M Dacombe, Governance Adviser
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Operational Guideline 10
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

The Council resolved on 24 August 2015 to advertise for consultants to conduct a recruitment process for the Chief Executive Officer position that is current vacant with the duties being performed by the Acting Chief Executive Officer, Mr Graeme Simpson.

The purpose of this report is to establish the approach the Council will take to direct the recruitment.

Background:

One of the early decisions that the newly elected Council will take is also possibly one of the most important they will make in the term of office. Selecting the right person for the position of Chief Executive Officer to lead the organisation is a critical factor in the future success of the elected Council and of the Shire.

The Department of Local Government and Communities has published a Guideline to assist Councils in this process. The Guideline is attached to this report.

Consultation:

Previous Council
Mentoring Panel

Statutory Environment:

Three Sections of the Local Government 1995 apply:

- S5.36 contains the obligation to employ a Chief Executive Officer and not to employ a person in that role unless the Council believes the person is suitable qualified for the position and is satisfied with the provisions of the proposed employment contract.
- S5.39 contains provisions for the contract of the Chief Executive Officer
- S5.40 requires all employees to be selected in accordance with the principles of merit and equity.

The Local Government (Administration) Regulations 1996 apply:

Regulation 18A, 18B, 18C, 18E, 18F and 19A also deal with advertising, contracts, and the selection and appointment process.

Policy Implications:

Nil

Financial Implications:

Provision to meet the salary and other costs associated with the employment of the Chief Executive Officer has not been made in the budget and an adjustment of priorities will have to be made during the mid-year review.

Strategic Implications:

Employment of the Chief Executive Officer is of critical strategic importance to the future success of the Council and the organisation.

Voting Requirements:

Absolute Majority Required: An Absolute Majority is required for the approval of the proposed CEO employment contract

Site Inspection:

Site Inspection Undertaken: N/A

Triple bottom Line Assessment:

The employment of the Chief Executive Officer is a critical factor in ensuring the appropriate level of social, economic and environmental performance of the Shire.

Officer Comment:

Please refer to the Operational Guideline 10 attached to this report.

There are a number of steps that the Council must take in conducting this process:

1. Appoint a consultant. The Council has already decided to appoint a consultant to undertake the recruitment process. A separate report on this agenda addresses the responses to the Council's request for quotations. All of the shortlisted consultants have proposed a comprehensive process to assist the Council.

Most of the following steps will be taken with the appointed consultant's assistance.

2. Develop a profile of the preferred applicant (i.e. desired and essential, skills, abilities, knowledge and qualifications). The consultant will assist.
3. Approve an agreed salary package (set a suitable salary package that complies with the determination under Section 7A of the *Salaries and Allowances Act 1975*). The consultant will advise on the remuneration range that will be required to attract the best applicants for the role.
4. Review necessary documentation (contract of employment and position description). A useful starting point is the model contract prepared by WALGA.
5. Advertise the position seeking applications from suitably qualified applicants. The content of the advertisements is set out in Regulation 18(A)2 of the Local Government (Administration) Regulations 1996.
6. Decide on applicants to be shortlisted. The consultant will provide advice on the shortlisting. The Council may appoint a Panel or a Committee to work with the consultant on the shortlisting. The consultant will advise on the appropriate screening process for shortlisted candidates which will include comprehensive due diligence.
7. Conduct interviews. The interviews of the shortlisted candidates may be conducted by a Panel or Committee of the Council or by the full Council. The consultant will assist the Council in preparing the structure and content of the interview and will support the Council during the interview process.
8. Select the preferred applicant and recommend to Council to offer the position subject to contractual negotiations. The consultant has an important role in conducting or assisting the Council to conduct the negotiation with the preferred applicant.

9. Approve the formal and final appointment. This must be a decision of the Council that it:

- i) believes the person is suitably qualified for the position of CEO; and
- ii) is satisfied with the provisions of the proposed CEO employment contract.

The Council may appoint a Panel or Committee to conduct parts of the above process. The Panel or Committee (or the Shire President) cannot be authorised to make decisions in the process. Any action must be by recommendation to the Council. Appointing a Panel or Committee may streamline some parts of the process.

In the case of the Shire of York most members of the Council conducting the process will be new to the role. Given the critical nature of the decision to be taken it is the Council Officers view that all members of the Council should be involved at each step so they are fully informed and have the opportunity to participate.

In conducting the process professionally it is important that all participants understand their roles. If the Council accepts the officer recommendation that the full Council conduct the process then:

- i) The full Council acting collectively decides on the appointment of the consultant and each step that requires elected member involvement, direction or decision.
- ii) Individual Councillors must, **through the adopted process**, satisfy themselves that when the final decision is made the person being appointed is suitably qualified for the position of CEO and that they are satisfied with the provisions of the proposed CEO employment contract. Individual Councillors may not act independently of the process and cannot make their own enquiries about any of the applicants. Individual Councillors are absolutely obliged to maintain the privacy of applicants and may not disclose any details other than through the agreed process.
- iii) The consultant's role is to conduct the recruitment process in accordance with the terms of engagement.
- iv) The Acting Chief Executive Officer's role is to provide administrative support for the process to ensure that it proceeds in accordance with the agreed timetable and that all matters requiring a formal decision are referred to the Council.
- v) The applicants' role is to conduct themselves professionally through the consultant at all times. Any canvassing of elected members or other inappropriate contact will disqualify the applicant concerned.

ASB Comment

OFFICER RECOMMENDATION

“That Council:

- 1. Conduct the recruitment of the Chief Executive Officer in accordance with the provisions of the Local Government Act 1995, the Local Government (Administration) Regulations 1996 and Department of Local Government and Communities “Operational Guideline 10 – Appointing a CEO”***
- 2. That all matters related to the process requiring elected member involvement, direction or decision be conducted by the full Council.***
- 3. That the roles of the Council, individual Councillors, the consultant, the Acting Chief Executive Officer be conducted as set out in this report.***
- 4. Appoint the Consulting firm _____ to conduct the recruitment process to employ a Chief Executive Officer.”***

4. OFFICER'S REPORTS

4.2 ADMINISTRATION REPORTS

4.2.5 Appointment of Recruitment Consultant for the position of Chief Executive Officer

FILE NO:
COUNCIL DATE: 26 October 2015
REPORT DATE: 9 October 2015
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: LoGo Appointments supplies the services of the Acting Chief Executive Officer, Mr Graeme Simpson
WALGA Recruitment has previously placed the Governance Consultant, Mark Dacombe, in an Acting CEO position and he remains on their database

APPENDICES: Recruitment Fees
Consultants Spreadsheet
(Appendices are Confidential and for Councillors Only)

DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

At the Ordinary Council Meeting held on 24 August 2015 the Council resolved:

"That Council request the Chief Executive Officer to advertise for quotations for consulting agencies to undertake the task of recruiting a permanent Chief Executive Officer for consideration at the October 2015 Ordinary Council Meeting".

Background:

The position of Chief Executive Officer is currently vacant and the role is being undertaken by Mr Graeme Simpson as Acting Chief Executive Officer.

The Council had previously commenced a recruitment process, using LoGo Appointments, which was interrupted when the Council was suspended. The Council decided to recommence the process by inviting proposals to undertake the recruitment.

Submissions were received from six consulting firms:

- Beilby Consulting
- Lester Blades
- LO-GO Appointments
- Management Projects
- RMK Consulting Group
- WALGA Recruitment

Consultation:

This action is the result of a previous Council decision.

Statutory Environment:

Section 5.36 requires the Council to employ a person in the position of Chief Executive Officer.

Policy Implications:

Nil

Financial Implications:

The costs of the process that each consultant proposes are set out in their proposals. There is quite a significant variation in the range of costs proposed.

There has not been provision made in the 2015/16 budget for the recruitment process and funding will have to be arranged during the budget review process.

Strategic Implications:

The appointment of the Chief Executive Officer is arguably the most important governance decision that any Council makes. The process must be skilfully managed to ensure that the Council is able to make the best appointment possible.

Voting Requirements:

Absolute Majority Required (only for the adoption of the employment contract) to conform with Section 5.36(2)(b)

Site Inspection:

Site Inspection Undertaken: Not applicable

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

The appointment of a permanent Chief Executive Officer working closely with the elected Council can bring a clear focus to improving the economic prospects and performance of the Shire.

Social Implications:

The appointment of a permanent CEO by a newly elected Council should give a sense of stability and a new start.

Environmental Implications:

The appointment of a permanent Chief Executive Officer working closely with the elected Council can bring a clear focus to improving the economic and social prospects while enhancing environmental protection and respecting environmental limits.

Officer Comment:

The advertisement drew a good response from several applicants possessing the skills, experience and knowledge to undertake the role.

Two respondents did not demonstrate a track record in local government sector recruitment. One of the respondents (*RMK Consulting Group*) did not detail any specific recruiting assignments. The other (*Management Projects*) detailed senior State Government appointments but no recent local government experience. It is recommended that these respondents not be considered further.

Four respondents have experience in local government Chief Executive Officer appointments. All propose similar methodologies incorporating a three pronged approach:

- Advertising in print media and on internet job sites
- Searching their own data bases for suitable candidates who may have registered with them as looking for a position, and
- "Executive search" which involves approaching potential candidates highly reputed to have the right skills for the position, testing them out and encouraging them to apply.

The Council could select a consultant from the shortlist or it may be preferred to invite two or more from the shortlist to make a presentation to the Council after which a selection would be made.

OFFICER RECOMMENDATION

“That Council:

1. Receive the information, and

EITHER

2. Select a recruitment consultant from the shortlist contained in the report

OR

3. Select two or more consultants from the shortlist and invite them to make presentations to the Council from which an appointment will be made.”

Works Reports

Nil

Financial Reports

4. OFFICER'S REPORTS

4.4 FINANCE REPORTS

4.4.1 Monthly Financial Reports – September 2015

FILE NO: FI.FRP
COUNCIL DATE: 26 October 2015
REPORT DATE: 9 October 2015
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Graeme Simpson, Acting CEO
REPORTING OFFICER: Tabitha Bateman, Financial Controller
DISCLOSURE OF INTEREST: Nil
APPENDICES: Yes – Appendix A as detailed in Summary
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

The Financial Report for the period ending 30 September 2015 is presented for consideration.

Appendix A includes the following:

- Monthly Statements for the period ended 30 September 2015
- List of Creditors Payments
- Corporate Credit Card Transaction Listing

Statutory Environment:

Local Government Act 1995 (As Amended).

Local Government (Financial Management) Regulations 1996 (As Amended).

Australian Accounting Standards.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 30 September 2015;

Outstanding Rates and Services

Total outstanding rates as at 30 September 2015 are \$2,598,816 compared to \$3,180,144 as at 31 August.

3 Years & over	\$ 179,740	6.92% of rates outstanding
2 Years & over	\$ 78,061	3.00% of rates outstanding
1 Years & over	<u>\$ 201,355</u>	7.75% of rates outstanding
<i>Total Prior Years</i>	<i>\$ 459,155</i>	<i>17.67% of rates outstanding</i>

Current rates \$ 2,139,660 82.33% of rates outstanding

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 30 September 2015 are \$376,644 compared to \$394,437 as at 31 August 2015.

90 days & over	\$281,223	74.67% of sundry debtors outstanding
60 days & over	\$ 59,186	15.71% of sundry debtors outstanding
30 days & over	\$ 6,603	1.75% of sundry debtors outstanding
Current	\$ 29,632	7.87% of sundry debtors outstanding

Strategic Implications:

Nil

Voting Requirements:

Simple Majority required – Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

A zero balance or surplus end of year financial position will increase community confidence and cohesion and provide an opportunity for improved community benefits in future years.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

It should be noted that some figures reflected in the following reports are an estimate of the end of year position only and are subject to year end adjustments.

ASB Comment:

OFFICER RECOMMENDATION

“That Council:

Receive the Monthly Financial Report for September and the list of payments drawn from the Municipal and Trust accounts for the period ending 30 September 2015 as summarised below:

	<u>AMOUNT</u>
<u>MUNICIPAL FUND</u>	
<i>Cheque Payments</i>	\$ 19288.14
<i>Electronic Funds Payments</i>	\$ 606,504.64
<i>Direct Debits Payroll</i>	\$ 164,193.91
<i>Bank Fees</i>	\$ 4,379.36
<i>Corporate Cards</i>	\$ 308.80
<i>Fire Messaging Service</i>	\$ 82.50
TOTAL	<u>\$ 794,769.85</u>
<u>TRUST FUND</u>	
<i>Cheque Payments</i>	\$ 0.00
<i>Electronic Funds Payments</i>	\$ 6,466.57
<i>Direct Debits Licensing</i>	\$ 99,213.75
TOTAL	<u>\$ 105,680.32</u>
TOTAL DISBURSEMENTS	<u>\$ 900,450.17”</u>

4. OFFICER'S REPORTS
4.4 FINANCE REPORTS
4.4.2 Investments – September 2015

FILE NO: FI.FRP
COUNCIL DATE: 26 October 2015
REPORT DATE: 9 October 2015
SENIOR OFFICER: Graeme Simpson, Acting CEO
AUTHOR: Tabitha Bateman, Financial Controller
APPENDICES: Shire of York Investment Portfolio

REPORT APPROVED BY THE CEO: *Graeme Simpson*

Summary:

That Council consider the investment portfolio as attached.

Background:

The investment policy requires Council to review the performance of its investments on a monthly basis.

Consultation:

Auditors

Statutory Environment:

Local Government Act 1995 (As Amended) 6.10(a), 6.14(1)

6.10. Financial management regulations

Regulations may provide for —

(a) the security and banking of money received by a local government

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.

Policy Implications:

In accordance with the Financial Management Investment Policy.

Financial Implications:

Credit Ratings

Voting Requirements:

Simple Majority Required: Yes

Comment:

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 as at 30 September 2015.

The Shire of York Investment Portfolio identifies Council's investment type, term to maturity and investment value.

ASB Comment:

OFFICER RECOMMENDATION

“That Council receive the Shire of York Investment Portfolio as attached to this report.”

4. OFFICER'S REPORTS
4.4 FINANCE REPORTS
4.4.3 Sponsorship – Kiara Simons

FILE NO: FI.DON
COUNCIL DATE: 26 October 2015
REPORT DATE: 12 October 2015
LOCATION/ADDRESS: N/A
APPLICANT: Kiara Simons
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: T Bateman, FC
DISCLOSURE OF INTEREST: Nil
APPENDICES: Letter Requesting Financial Support
Selection Letter (School Sport WA)
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

Kiara Simons has been selected to represent Western Australia in the WA Schools Swimming Team at the International Schools Championships, to be held in Adelaide 20-27 November 2015. This international event is a great opportunity for Kiara to represent her community however, she requires funding for accommodation, flights, levies, uniform, and other associated costs and requests that Council consider making a contribution towards the cost of competing.

Background:

Commencing with the York Swimming Club, Kiara Simons has been a competitive swimmer for the past 3 years and as a result of her commitment to the sport Kiara has been selected in the WA Schools Swimming Team to compete in Adelaide at the International Schools Championships.

Unfortunately, as government funding is no longer available for the Pacific School Games, costs including a Host State Event Levy and Administration fees of \$650.00 and a Compulsory State Uniform cost of \$300.00 are borne by the individual competitor.

Consultation:

Kiara Simons

Statutory Environment:

Local Government Act 1995

Policy Implications:

Not Applicable

Financial Implications:

The Shire of York's 2015/16 Annual Budget provides for sports-related sponsorships and donations and currently has a balance of \$10,000. If Council accepts the recommendation expenditure of \$300.00 will be taken from GL 113167.

Strategic Implications:

Not Applicable

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

Build and strengthen community, culture, vibrancy and energy.

Environmental Implications:

Not Applicable

Officer Comment:

It is important that Council are seen to be supportive of our youth by recognising their efforts and encouraging health and wellbeing in the community. It is recommended that Council approves the donation to assist Kiara Simons to compete at the International Pacific School Games 2015.

ASB Comment:

OFFICER RECOMMENDATION

"That Council:

Approves funding of \$300.00 to Kiara Simons towards the cost of competing in Adelaide at the International Pacific School Games to be held 20-27 November 2015."

Late Reports

Nil

Confidential Reports

Nil

5. CLOSURE