

9.2 Reports for Consideration

**RESOLUTION
060614**

Moved: Cr Hooper

Seconded: Cr Wallace

“That Council:

***Adopted en bloc Items 9.2.1; 9.2.2; 9.2.3; 9.2.4; 9.2.5; 9.2.6; 9.2.7; 9.2.8; 9.2.9; 9.2.10, and
9.2.11.”***

CARRIED: 5/0

9.2 Reports for consideration

9.2.5 York Racecourse

FILE NO:	CCP.10 & SP1.14270
COUNCIL DATE:	16 June 2014
REPORT DATE:	10 June 2014
LOCATION/ADDRESS:	N/A
APPLICANT:	N/A
SENIOR OFFICER:	Michael Keeble, CEO
AUTHOR:	Helen D'Arcy-Walker, ESO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	File Note
DOCUMENTS TABLED:	Nil

REPORT APPROVED BY THE CEO: *Michael Keeble*

Summary:

The York Racecourse File Note is provided for Council and Community information.

Background:

Not Applicable

Consultation:

Not Applicable

Statutory Environment:

Not Applicable

Policy Implications:

Not Applicable

Financial Implications:

Nil

Strategic Implications:

Not Applicable

Voting Requirements:

Simple Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not Applicable

OFFICER RECOMMENDATION

"That Council:

Considers the York Racecourse File Note."

Item 9.2.5 Appendices



SHIRE OF YORK

FILE NOTE

TO : MICHAEL KEEBLE
FROM :
SUBJECT : YORK RACECOURSE
FILE NO : CCP.10 & SP1.14270
DATE : 6 JUNE 2014

Michael

This has been ongoing since 2009 to present.

Attached is a small summary on what has been happening with regards to Council Resolutions etc

At present the rates are still outstanding and the Title Deeds have not been changed.

The Council has held off having joint ownership registered on the titles at this stage as it will change the processes for building tenders and other matters as soon as the Shire of York is registered on the titles.

The rate arrears and current rates cannot be written off until the Shire of York is registered on the land titles in accordance with the Council resolution and agreement entered into through the Minister for Regional Development and Lands. (refer to Shire of York letter dated 18 July 2013 sent to York Racing Inc).

Pam Law is dealing with this and the Title Deeds were due to be processed for release by April 2014. Once received they will be actioned.

Current Rates Outstanding is \$131,326.26

Special Council Meeting 24 March 2009

OFFICER RECOMMENDATION

RESOLUTION
210309

MOVED: Cr Boyle **SECONDED: Cr Lawrance**

"That Council:

Not accede to the request for the write-off of outstanding rate interest nor agree to the requests for the land not to be rated prior to the 30th November, 2010 and to treat the outstanding rate debt as an interest free loan."

CARRIED (6/0)

OFFICER RECOMMENDATION

RESOLUTION
220309

MOVED: Cr Hooper **SECONDED: Cr Boyle**

"That Council:

Agree to the write-off of rates, service charges and interest fees for the land and buildings owned by the York Beverley Turf Club (currently \$53,731.10) when a grant to restore the racetrack to an approved race surface, as defined by Racing & Wagering WA, is received subject to the following matters being agreed and entered into:

- a. The land titles being transferred to the Shire of York with the current land conditions remaining in place; and***
- b. The York Turf Club and the Shire of York entering into an agreement for the management and operations of all activities and facilities used for racing."***

CARRIED (5/1)

Cr Walters was recorded as voting against the motion.

Special Council Meeting 29 November 2010

Comment:

Negotiations on funding, rating and associated matters have reached the critical stage and endorsement by the relevant parties is required to effect joint ownership as tenants in common with equal shares in the land and buildings.

The purpose of having the Shire of York as a tenant in common is for the protection of the community in the event that racing is withdrawn from York for any reason. The Minister for Lands would be able to provide a management order to allow other activities to racing to be conducted at the site rather than have it revert to Crown Land for sale or disposal.

The options for additional use to racing are many and varied e.g. the very successful 2010 York Show, 2008 Inland Regatta, previous York Jazz Festivals, etc. All of these will raise the profile and the viability factor of York Racing Inc.

The cost for Council to obtain a half share land title right to the land is the value of rates outstanding at this time and agreement either not to levy future land rates or for the Shire of York to pay these rates to keep track of the ongoing financial contribution on behalf of the York community.

It must be noted that the addition of the Shire name to the title does not change the control conditions/restrictions in place and neither party can sell or dispose of land/buildings without the other parties consent and all proceeds must be used for racecourse/racing purposes.

York Racing Inc will hold a Special Meeting on the 28th November, 2010 to deal with their part in the process.

While this matter has been drawn out it is important that due processes are followed for the protection and benefit of all parties.

The previous resolution No. 220309 relates to the land titles being transferred to the Shire of York and this resolution needs to be rescinded and be replaced as per the officer recommendation below.

In the event of the demise of York Racing Inc for whatever reason the constitution of this organisation should include a clause transferring its equal share of the tenancy in common to the Shire of York for community use and benefit purposes e.g. recreation, equine facility.

Item was declared Null In Void due to three Councillors being on the Committee of the Racecourse.

Mr Ray Hooper, CEO declared an Interest Affecting Impartiality to this item and left the room at 3.08pm.

RESOLUTION
011110

Moved: Cr Randell

Seconded: Cr Lawrance

"That Council:

1. Rescind Resolution 220309

OFFICER RECOMMENDATION

RESOLUTION
220309

MOVED: Cr Hooper **SECONDED:** Cr Boyle

"That Council:

Agree to the write-off of rates, service charges and interest fees for the land and buildings owned by the York Beverley Turf Club (currently \$53,731.10) when a grant to restore the racetrack to an approved race surface, as defined by Racing & Wagering WA, is received subject to the following matters being agreed and entered into:

- a. The land titles being transferred to the Shire of York with the current land conditions remaining in place; and*
- b. The York Turf Club and the Shire of York entering into an agreement for the management and operations of all activities and facilities used for racing."*

CARRIED (5/1)

Cr Walters was recorded as voting against the motion.

2. Approve the transfer of the title for the land and buildings registered in the names of the York Beverley Turf Club Inc (now York Racing Inc) and the Shire of York as tenancy in

common in equal shares of the land and improvements with the current Crown Grant in Trust conditions remaining in place.

3. *Following the issue of a new title:*

- (a) *authorise the write-off of the existing debt relating to rates and interest*
- (b) *authorise the Shire of York to meet the cost of future rates as an ongoing contribution to the operations of the racecourse land and facilities.*

Advice Note:

- *York Racing Inc will manage and operate the racecourse and facilities in the interests of thorough bred racing for as long as the racecourse is accredited by Racing & Wagering WA as an official race track.*
- *Land and improvements cannot be sold or leased without the approval of both parties and the consent of the Minister for Lands and all proceeds must be used for racecourse facilities."*

CARRIED: 5/1

Cr Walters was recorded as voting against this motion.

Mr Ray Hooper, CEO returned to the room at 3.20pm.

Council Meeting 18 July 2011

Comment:

The completion of the land transfer to include the Shire of York on land titles will provide long term protection for the site for use for community purposes and benefit for the equine industry.

Under the conditions of the title if any land surplus to racecourse requirements is sold or leased the income must and can only be used for development and facilities on the site.

Cr Boyle declared an Interest Affecting Impartiality and left the room at 4.21pm

RESOLUTION
130711

Moved: Cr Lawrance

Seconded: Cr Scott

"That Council:

Authorise the signing under seal of the Land Transfer Document and the completion of the Stamp Duty Statement subject to the following:

- (a) *The Shire of York does not accept any liability or responsibility for the trading or financial position of York Racing Inc.*
- (b) *The public is advised that the Shire of York is not and has not been a party to the financial and management decisions made by York Racing Inc as an independent corporate entity.*
- (c) *As part of the Shire of York being included on the title the Shire of York and York Racing Inc are to enter into a binding operation and management agreement."*

CARRIED: 4/0

Tyhscha Cochrane, Deputy Chief Executive Officer returned to the room 4.27pm

Cr Boyle returned to the room 4.29pm

Council Meeting 18 July 2011

Summary:

York Racing Inc requests the Shire of York to agree to be a co-signatory for the mortgage held by Westpac Banking Corporation to provide an overdraft facility to York Racing Inc when the title deeds are amended to include the Shire of York as joint owners of the land.

Background:

Previous funding arrangements for the upgrading of York Racecourse stipulated that the Shire of York must be registered on the title as joint owners to ensure that the land was retained in community ownership in the event of the demise of racing in York.

The title deed process is nearing finalisation.

Officers Comment:

The State Government and RWWA are providing strong financial support (\$900,000) to the redevelopment of racecourse facilities in addition to previous funds for race track upgrading and the construction of trotting training facilities subject to a contribution commitment of \$100,000 by York Racing Inc which may require a draw down of all or part of the overdraft facility.

Cr Boyle declared a Financial Interest to this item and left the room at 3.44pm.

Cr Scott took the Chair.

**RESOLUTION
160912**

Moved: Cr Hooper

Seconded: Cr Lawrence

"That Council:

Authorise the signing under seal of the relevant mortgage documents with the Westpac Banking Corporation to facilitate joint ownership with York Racing Inc on the land titles."

CARRIED: 5/0

Cr Boyle returned to the room at 3.45pm and resumed the Chair.

Our Ref: O115653, CCP.10

Enquiries: Ray Hooper

18 July 2013

The Secretary
York Racing Inc
P O Box 162
YORK WA 6302

Dear Rob

LAND TITLES - YORK RACECOURSE

The York Shire Council advises that a set timeframe for action is required on the construction of new facilities at York Racecourse for the following reasons:

Rating

The rate arrears and current rates cannot and will not be written off until and unless the Shire of York is registered on the land titles in accordance with the Council resolution and agreement entered into through the Minister for Regional Development & Lands.

Land Titles & the Local Government Act

The Shire of York has held off having our joint ownership registered on the titles to this stage as it will change the processes for building tenders and other matters as York Racing Inc will have to comply with all Local Government legislation as soon as the Shire of York is registered on the titles.

With the potential for an amalgamation of the Shires of York, Quairading, Cunderdin and Tammin it is imperative that issues such as land titles are finalised in a specific timeframe so that all assets are identified.

Further to the above the Shire of York requests York Racing Inc, RWWA and other entities to have all contractual requirements for the construction of the new facilities finalised by the 30th September, 2013 as the Shire will act to have the land titles amended in October 2013.

Council recognises the constraints involved to date in finalising the process for construction and connection of services to meet Government Department standards however Council also has a responsibility to protect the community and the Ministers by ensuring that the Shire of York is registered on all of the land titles.

If further information is required please contact Ray Hooper on 9641 2233.

Thank you for your attention to this matter.

Yours faithfully

RAY HOOPER
CHIEF EXECUTIVE OFFICER
Cc: All Councillors, Tyhscha, Pat Flynn