



# SHIRE OF YORK

**MINUTES OF THE SPECIAL  
MEETING OF THE COUNCIL  
HELD ON 21 APRIL 2015  
COMMENCING AT 4.08PM  
AT THE YORK RECREATION &  
CONVENTION CENTRE**



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## SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL  
HELD ON TUESDAY, 21<sup>ST</sup> APRIL 2015, COMMENCING AT  
4.08PM AT THE YORK RECREATION & CONVENTION CENTRE

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

*Commissioner, James Best, declared the meeting open at 4.08pm.*

#### 1.2 Disclaimer

The Commissioner advised the following:

*"I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting today, can be revoked, pursuant to the Local Government Act 1995.*

*Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received. Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material."*

#### 1.3 Suspension of Standing Orders – Clause 3.2 – Order of Business

Commissioner declared Standing Orders will be suspended.

#### 1.4 Announcement of Visitors

*The Commissioner welcomed Councillors Smythe and Hooper.*

#### 1.5 Declarations of Interest that Might Cause a Conflict

##### **Financial Interests**

*Nil*

##### **Disclosure of Interest that May Affect Impartiality**

*Nil*

##### **Note Bene:**

*Jacky Jurmann, Contract Planner to the Shire of York –  
Item 9.1.1 SITA S.31 Amended Application –*

## 2. ATTENDANCE

2.1 Commissioner  
*James Best*

2.2 Staff  
*Graeme Simpson, Acting Chief Executive Officer; Jacky Jurmann, Contract Planner; Kira Strange, Town Planner; Gail Maziuk, Compliance/Human Resources; Helen D'Arcy-Walker, Executive Support Officer*

2.3 Apologies  
*Mr John Oliver*

2.4 Leave of Absence Previously Approved  
*Nil*

2.5 Number of People in Gallery at Commencement of Meeting  
*There were 24 people in the Gallery at the commencement of the meeting.*

## 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice  
*Nil*

## 4. PUBLIC QUESTION TIME

*The Commissioner provided the following statement at the commencement of Public Question Time:*

### **Statement by the Presiding Member at the Opening of Public Question Time at Ordinary and Special Council Meetings**

"Public Question Time is provided for under the provisions of Section 5.24 of the Local Government Act and the Local Government (Administration) Regulations 1996.

To provide equal opportunity for people to ask questions a limit of two (2) questions per person per time will be applied. If there is time available in Public Question Time people may be given the opportunity to ask a further two (2) questions at a time.

### **Procedures**

- Questions submitted in writing prior to the meeting will be dealt with initially.
- Questions from the floor will be taken in the order recorded in a register.
- Statements, opinions and attachments will not be recorded in the minutes.
- Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting.
- Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.
- The minutes may only record a summary of the question asked and the response given.

- Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.
- At Special Council Meetings questions must relate to the items on the Agenda.
- Shire of York guidelines for Public Question Time are included on the meeting agenda.”

## **PRESIDING OFFICER**

21 October 2013

### **4.1 Public Question Time – Written Questions – Current Agenda**

*Public Question Time was taken prior to the commencement of each Agenda Item.*

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

*Nil*

### **6. PETITIONS / PRESENTATIONS / DEPUTATIONS**

*Nil*

### **7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING & TABLING OF NOTES OF THE BRIEFING INFORMATION SESSION**

*Nil*

### **8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

*Nil*

### **9. OFFICER'S REPORTS**

Kira Strange, Town Planner gave the following overview of Item 9.1.1 – SITA S.31 Amended Application

The Shire of York has been requested to advertise an amended development proposal for the use of Allawuna Farm as a landfill site.

After the original application was refused by the Wheatbelt Joint Development Assessment Panel (JDAP), the applicant appealed the decision with the State Administrative Tribunal (SAT).

Following numerous SAT Mediation and Directions Hearings, the applicant submitted amendments to the original documentation in light of addressing a number of concerns with the original application.

Contrary to the Shire of York's position, SAT determined that the amendments proposed did not warrant a new development application and invited the Wheatbelt JDAP to reconsider its original decision to refuse the application in light of the new amendments received.

As part of this process, SAT has requested that the Shire of York publicly advertise the amendments, assess the technical information and consider any relevant submissions received prior to providing the Responsible Authority Report (RAR) for the Wheatbelts JDAP's reconsideration.

The meeting of the Wheatbelt JDAP to reconsider its decision will be advertised by the DAP Secretariat. AS part of the SAT orders, the JDAP will have to reconvene before 15 July, 2015.

The purpose of this report is for the Commissioner to consider the Directions order and authorise the Acting CEO to advertise the amendments.

### How It Will Be Advertised:

An advert will be placed in this week's edition of the Avon Gazette and an advert will be placed in the next edition of Community Matters. Based on the timing of when this paper is released, the latter advert will be more of a reminder that the application is on advertising and remind when comments are due.

Notifications will be sent to surrounding neighbours as well as to all of those people who submitted comments on the first application. All relevant agencies will also be notified and requested to provide comments.

The documentation will be available for viewing at the Shire offices as well as on the Shire website for viewing or downloading. We are also working on getting a few CD's copied containing the documentation. We are currently finalising the best way to get these circulated.

The information sheet that was available tonight on the process so far and the process going forward will also be available online as well as a guide on making a submission.

### Public Question Time:

#### Robyn Davies

##### Question:

Who is doing the Responsible Authority Report (RAR)?

##### Response:

Jacky Jurmann, Contract Planner, will be doing the reports.

#### Denis Hill

##### Question 1:

Does Council consider that as nothing has substantially changed then the 211 submissions against the original application are still valid, the SoY Planning Officers report is still valid, the reasons for Council voting 6-0 against the proposal are still valid and the JDAP's reasons for upholding the Council's decision and refusing the application are still valid.

##### Question 2:

Will Council reject this application as incomplete because the environmental/hydrogeological reporting has been withheld despite it being a requirement for planning consent under the Town Planning Scheme 2 Part 8.1 (c, d) and Part 8.5 (i, l, m, w, z & zb).

##### Response to Question 1:

Commissioner Best stated yes to all. The only challenge is because it has come to SAT a second time. All submissions need to be resubmitted, otherwise the submission will not be accepted. A second submission must be made. The report will be available on the website, at the Shire office and a copy for loan will be made available for residents to borrow for one day only.

##### Response to Question 2:

The Shire will be responding to the new document because if we do not, the Shire will be viewed as having a closed mind on the issue.



**Darlene Barratt**

**Question 1:**

Can the Shire send information to the database so that everyone can know what is going on?

**Response:**

Town Planner stated that they will be advertising in the Avon Gazette and the York Community Matters. Notification will be sent to surrounding landowners. All previous submitters need to resubmit their submissions. Documents will be available at the Shire office and on the website. We will also distribute CD's, emails is something that we could consider.

**Question 2:**

What about calling a meeting at a reasonable hour so more people can attend?

**Response:**

Town Planner stated that this is in discussion.

Commissioner Best stated that he is foreshadowing that a third party recommend to SITA to host a meeting given this situation is not of the Shire's doing.

This process is being driven by SAT. The process is out of the Shires hands because of the urgency for preparing for the DAP meeting, this is why this meeting has been called as it is important to commence the advertising process. We are also calling for DAP members. Can I suggest that in your submissions to SAT you mention the tight timeframe for this process.

**Question 3:**

Can the Shire ask SAT to extend that time?

**Response:**

Contract Planner stated we have achieved this. At the Direction Hearing the invitation to the JDAP timeline proposed was two weeks shorter, the Shire had to give a good reason as to why we needed the extension.

**Keith Schekkerman**

**Question 1:**

Can we start calling for DAP members?

**Response:**

Town Planner stated that this is the second item on todays Agenda.

**Question 2:**

Can these submissions be put on the website?

**Response:**

Town Planner responded we can put a copy of the original RAR on the website.

**Question 3:**

Are these in addition to the original application?

**Response:**

Town Planner stated that it is a supplementary report plus a Bush Fire report.

Contractual Planner stated there is a supplementary report and amended plans as there is a decrease in the footprint. The original application plus the amended application is available so a comparison can be made.

**Roma Paton**

**Question:**

If we do not have any Councillors who will sit on JDAP?

**Response:**

Commissioner Best stated that this will be addressed in the next report. Commissioner Best stated he would be one representative and a community member as the second representative with two additional community members as stand ins if the first community member is unable to attend and this matter is heard before 7<sup>th</sup> July, 2015. After the 8<sup>th</sup> July, 2015 Councillors names will be submitted to JDAP as representatives.

**Robyn Davies**

**Question:**

With regards to advertising on the Shires website, a large percentage of residents do not use computers, can they go to the Shire to view the report also can the reports be distributed to community members.

**Response:**

Commissioner Best stated that reports will be available for lending. The report will also be available on CD, community groups such as the CWA, CRC, The York Society will be advised the report is available to read.

All costs are being born by the applicant not the Shire. The Shire is running the process, the Shire is the messenger in this issue. However, it would be good to have SITA provide an information update/presentation.

**Denese Smythe**

**Question:**

Could we not advertise in the Western Australian newspaper as this paper is available to others outside of the Shire of York?

**Response:**

Commissioner Best stated that we will investigate this, however the advertisement in the Western Australian would be a small advert at the back of the paper.

Town Planner stated that Shire is to bear the cost of advertising. The only costs that can be recovered is for advertising and we were required to give a quote and advertising in the Western Australian was not included. If we were to advertise in the Western Australian the Shire would be required to for this.

The Commissioner stated he would contact the Manager of SITA to see if an advertisement could be placed in the Western Australian newspaper.

**Kaye Davies**

**Question:**

If we cannot advertise, can we at least have a community meeting before the 25<sup>th</sup> May, 2015?

**Response:**

Commissioner Best stated that it would be confusing if the Shire is involved with calling the community meeting and not SITA. AVRA could possibly call the community meeting.

**Jane Ferro**

**Question:**

Good idea not to involve SITA. AVRA can put banners around the town.

**Response:**

Commissioner Best asked if AVRA would be happy to call the meeting.

**Keith Schekkerman**

Asked – what has changed? Is there any reason to call a meeting if nothing has changed?

Commissioner Best stated the meeting would be to walk people through the process.

**Darlene Barratt**

**Question:**

What is happening with JDAP and your leaving in July?

**Response:**

Commissioner Best stated that this would be addressed in the next report. The Minister is required to make appointments by Tuesday next week. If JDAP happens after 8<sup>th</sup> July, 2015 there is a Plan B.

**Denese Smythe**

**Question:**

Are Councillors who are suspended allowed to apply as a community member?

**Response:**

Commissioner Best stated it would be best if community members apply during the current suspension. Councillors will be able to apply after 8<sup>th</sup> July, 2015.

**Roma Paton**

**Question:**

A bit rude to get AVRA to call the meeting.

**Response:**

Commissioner Best apologised, Kaye & Robyn Davies are able to call the meeting.

**Peter Green**

**Question:**

Is the Shire happy to put an advertisement on York FM?

**Response:**

Commissioner Best stated that would be a good idea, please go ahead.

## 9.1 Development Services

### 9. OFFICER'S REPORTS

#### 9.1 DEVELOPMENT REPORTS

##### 9.1.1 SITA S.31 Amended Application

*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: Gr2.290  
COUNCIL DATE: 21 April 2015  
REPORT DATE: 14 April 2015  
LOCATION/ADDRESS: Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, St Ronans  
APPLICANT: SITA Australia Pty Ltd  
SENIOR OFFICER: G Simpson, A/CEO  
REPORTING OFFICER: J Jurmann (Contract Planner)  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: 1 – SAT Order  
2 – Amended Plans  
DOCUMENTS TABLED: Supplementary Report & Amended Plans  
REPORT APPROVED BY THE A/CEO: Graeme Simpson

#### Summary:

The Wheatbelt Joint Development Assessment Panel have accepted an invitation to reconsider its decision under Section 31 of the State Administrative Tribunal Act 2004.

The Shire of York is now required to repeat its advertising processes for the amended application and submit a further Responsible Authority Report to the Wheatbelt Joint Development Assessment Panel for its consideration.

The purpose of this Report is for the Commissioner to consider appropriate procedures and timelines in regard to this matter.

#### Background:

The Wheatbelt Joint Development Assessment Panel (JDAP) voted to refuse the planning application to use Allawuna Farm for the purposes of a landfill on 17 March 2014.

SITA Australia Pty Ltd lodged an appeal against the decision with the State Administrative Tribunal on 24 April 2014.

The Development Assessment Panel Secretariat advised the Shire of York by email on 30 April 2014 of the appeal lodgement and the date of the first Directions Hearing held on 2 May 2014.

McLeods Barristers and Solicitors were appointed to represent the Shire of York on this matter.

Numerous Directions Hearings and Mediation Sessions have been held over the past 12 months.

The Applicant proposed at a mediation session on 24 February 2015 to amend the development application, and an amended application was presented for consideration of the parties. The JDAP did not oppose the amendment, but the Shire, the Avon Valley Residents Association, and Ms Kay and Ms Robyn Davies, all as potential Interveners, opposed the amendment.

The Application to Amend was heard on 27 March 2015 and submissions against the amendment were made on behalf of the Shire, AVRA, and Ms Kay and Ms Robyn Davies.

On 10 April 2015, Senior Member McNab sitting as the SAT, delivered his determination allowing SITA to amend its planning application. In simple terms, he did not consider that the changes involved any application to amend resulted in the application being in essence a different application. That is the test normally applied in applications of that kind.

Following that decision, and with the consent of SITA and the JDAP, an invitation under section 31 of the *State Administrative Tribunal Act 2004* was issued by the SAT to the JDAP to reconsider its decision in the context of the amended application.

There was further dispute before the Tribunal as to the amount of time that should be allowed for advertising and the development of the Responsible Authority Report (RAR) to the JDAP. Ultimately, the Tribunal accepted the submission made on behalf of the Shire which was to allow an extra seven days to organise advertising and a further seven days following advertising to consider relevant submissions and responses.

The State Administrative Tribunal's Orders require the JDAP to make a determination by 15 July 2015.

**Consultation:**

As part of its reconsideration process the amended application needs to be re-advertised in accordance, as far as practicable, with the timeline submitted to the State Administrative Tribunal by the State Solicitor's Office on behalf of the JDAP, and in accordance with the provisions of the York Town Planning Scheme No. 2.

It is proposed to advertise the application for a period of 28 days by placing advertisements in locally circulating newspapers (i.e. Avon Valley Gazette and York Community Matters) and on Council's website. Letters will also be sent directly to nearby affected landowners and to persons who previously made submissions.

Referrals will also be sent to the State government agencies who were previously invited to comment on the original application inviting them to comment on the amended application.

**Statutory Environment:**

State Administrative Tribunals Act 2004 (WA)

Section 31 of the Act allows the SAT to invite decision-makers to reconsider their decision as part of the appeal proceedings.

Planning and Development Act 2005 (WA)

The Act provides appeal provisions for Applicants who are dissatisfied with the decision of a responsible authority. In this case, the Applicant was dissatisfied with the decision to refuse the application and lodged an appeal in accordance with the provisions of the Act.

Planning and Development (Development Assessment Panel) Regulations 2011

The Wheatbelt JDAP is the decision-maker for the subject planning application under the provisions of the Regulations.

York Town Planning Scheme No. 2

The Responsible Authority Report to consider the amended application must be assessed taking into consideration the provisions of TPS2.

### Shire of York Delegations

The adopted delegations to the Chief Executive Officer and the Planning Officer do not specifically provide delegated authority to comply with the State Administrative Tribunal Orders or to submit the Responsible Authority Report directly to the JDAP. Therefore, Council resolution is required for both matters.

### **Policy Implications:**

The original planning assessment concluded that the proposed use of rural land for the purposes of a landfill was inconsistent with the objectives of the General Agriculture zone and the York Town Planning Scheme No. 2. In addition, it was considered that the proposed use was also inconsistent with relevant State Planning Policies.

### **Financial Implications:**

There are obvious financial implications associated with the advertising processes required to comprehensively advertise the amended planning application to the community.

There have also been ongoing financial implications for the Shire and community associated with the costs of employing legal representation and a planning consultant throughout the appeal process.

A claim for the costs associated with advertising has been submitted to the Applicant's legal representation.

### **Strategic Implications:**

The original planning assessment concluded that the development proposal was not consistent with the goals of the York Community Strategic Plan.

### **Voting Requirements:**

Commissioner's Voting Support

### **Site Inspection:**

**Site Inspection Undertaken:** Yes (previously)

### **Triple bottom Line Assessment:**

#### **Economic Implications:**

The original planning assessment concluded that there were no quantified economic benefits for the community associated with this proposal. There have, however, been considerable economic implications associated with the appeal process to date.

#### **Social Implications:**

The original planning assessment concluded that the development proposal could result in unacceptable social implications for the York community.

#### **Environmental Implications:**

The original planning assessment concluded that the development proposal could result in unacceptable environmental implications.

During the appeal process, the Applicant withdrew its Works Approval Application submitted to the Department of Environment Regulation (DER) as recommended by the DER.

Substantial additional environmental investigations have been conducted by the Applicant's environmental consultants during the appeal period, which have directly resulted in the amendments now proposed.

A new Works Approval Application was submitted by the Applicant to the DER on 2 April 2015.

**Officer Comment:**

The purpose of this Report is to obtain authority to advertise the amended application. A further Report and delegation will be required following the close of the submission period and preparation of the Responsible Authority Report (RAR) prior to submission of the RAR to the Wheatbelt JDAP.

Throughout the appeal process, the Applicant has been carrying out significant additional environmental investigations to enable the development proposal to meet the requirements of the DER to obtain a Works Approval. They have also prepared a Fire Management Plan and had discussions with local businesses.

The Applicant in its Supplementary Report describes the amendments to the planning application as follows:

“The modifications to the landfill:

- Do not change the position of the Landfill within the Allawuna Farm;
- Do not change the composite liner system designed to protect the surrounding environment from the potential impacts of leachate and Landfill gas migration;
- Do not change the type or forecast annual tonnages of waste that will be accepted;
- Do not change the facility operating hours;
- Do not change the traffic movements;
- Reduce the area of the Landfill footprint by approximately 31% from 52ha to 36ha;
- Reduce the maximum height of waste deposited from 355m to 350.5m;
- Reduce the overall volume of waste placed by approximately 46% from approximately 11.1 million cubic metres of waste (10.1 million tonnes) to 5.1 million cubic metres (4.6 million tonnes);
- As a consequence of the reduction in the volume of the waste, reduce the nominal life of the Landfill from 37 years to approximately 20 years, based on forecast annual tonnages of between 150,000 and 250,000 tonnes of waste per annum;
- Raise the floor of the Landfill to ensure a minimum clearance of at least 2m between the base of the Landfill and the maximum estimated winter groundwater level;
- Require, as a consequence of the reduction in material excavated from the raised Landfill, sequential development of three borrow areas comprising a total of approximately 20 ha commencing from approximately year 10 onwards; and
- Reduce the size and extent of the leachate ponds and stormwater dam required.”

At the Directions Hearing held on 27 March 2015, Council's legal representation argued that the significance of the proposed amendments was:

1. “Numerous and significant.
2. The sum total of the amendments compels the conclusion that the waste disposal operation now proposed is different in substance from what was originally proposed. There is no doubt that waste disposal is still involved, but it is in essence a different proposal.
3. The fact that the [JDAP] considered that the amended proposal ought to be advertised for public submissions does not ameliorate the effect of the amendments, but rather tends to emphasise the fact that the Respondent regards the amendments as involving a proposal which is so significantly different that it ought to be advertised again for public submissions.
4. The amended proposal clearly required to be advertised for public submissions, and responses should be sought from affected agencies. For the proposal to be advertised as an amendment of the original proposal would be to minimise the very significant changes. This was clearly a case for a fresh application to be made, so that it could be presented as such so as to command the closer and more careful attention by the public and the affected agencies appropriate to a fresh application, as opposed to a proposal presented as an amendment to the original plan.”



## OFFICER RECOMMENDATION

*“That the Commissioner:*

- 1. Authorise the Chief Executive Officer to advertise the amended planning application for the proposed Allawuna Farm Landfill at Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, St Ronans, which is part of processes required for the Wheatbelt Joint Development Assessment Panel to reconsider its decision under the provisions of Section 31 of the State Administrative Tribunal Act 2004 in accordance with the State Administrative Tribunal's Order dated 10 April 2015 and accompanying timeline for a minimum period of 28 days and in accordance with the provisions of the York Town Planning Scheme No. 2.*
- 2. Advise the community separately that the Shire of York's position on this matter has not changed, but the Commissioner will reconsider in light of submissions and comments received as a result of the advertising.”*

***The Commissioner Moved the Officer Recommendation:***

***Motion to Amend:***

***Point 3 be added to the Officer's Recommendation:***

- 3. Invite SITA to host a community meeting at a place and time of their choosing.***

## RESOLUTION

010415

***That the Commissioner:***

- 1. Authorise the Chief Executive Officer to advertise the amended planning application for the proposed Allawuna Farm Landfill at Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, St Ronans, which is part of processes required for the Wheatbelt Joint Development Assessment Panel to reconsider its decision under the provisions of Section 31 of the State Administrative Tribunal Act 2004 in accordance with the State Administrative Tribunal's Order dated 10 April 2015 and accompanying timeline for a minimum period of 28 days and in accordance with the provisions of the York Town Planning Scheme No. 2.***
- 2. Advise the community separately that the Shire of York's position on this matter has not changed, but the Commissioner will reconsider in light of submissions and comments received as a result of the advertising.***
- 3. Invite SITA to host a community meeting at a place and time of their choosing.”***

***The Commissioner Declared the Motion Carried***

*In response to a request from members of the public Point 3 was added to the Officer Recommendation.*

## Appendices Attached



Kira Strange, Town Planner gave the following overview of Item 9.1.2 - DAP Nominations

Commissioner Best commended the Town Planner and Contractual Planner for put this together so quickly.

The existing JDAP nominees will expire on 26<sup>th</sup> April, 2015 so the Shire is required to renominate candidates for the panel. The DAP is made up of five people – 3 experts and 2 local representatives, generally Local Government Councillors.

Due to the Council's current suspension, we cannot at this time renominate any of them. We have therefore put forward a nomination in February of this year for James Best to be on the Panel which renders one position vacant. In light of the recent events with the SAT, it has become a matter of urgency to fill this space and ensure that the community of York is represented at the meeting for reconsideration of SITA amendments.

Given the timing of the meeting has not been confirmed, we cannot guarantee that there will be enough time to renominate Councillors should they return prior to the JDAP reconvening to consider the SITA application.

Therefore, we need to ensure that regardless of whether Council or Commissioner are here at the time of the JDAP meeting, there needs to be suitable representation for the community. The Shire needs to nominate at least two but no more than three other suitably qualified community members as representatives on the JDAP.

The only problem with this is that the Minister will be looking at the nominations next week so we need to have the nominations to the DAP's Secretariat by this Friday, 24<sup>th</sup> April, 2015.

It is not an ideal timeframe but the risk of not getting nominations to the Minister is that the community may not be represented at the JDAP meeting.

I have therefore recommended nominations by submitted strictly no later than 9.00am this Friday, 24<sup>th</sup> April, 2015. This is where it is really important for the Commissioner and the community present at this meeting, to spread the work to people to nominate. The nominations have to include a current curriculum vitae detailing relevant experience and any qualifications.

## **Public Question Time Continued**

Commissioner Best stated the Shire is calling for DAP nominations to cover the period April, May, June and early July. Elected Members then to nominate in July, 2015.

Contract Planner stated DAP can convene a meeting without community members.

Denese Smythe stated the Shire nominees have to be seen not to be prejudice against this proposal.

Acting CEO need to be careful in prioritising the applications because the Minister will reject someone who has a conflict of interest.

### **Darlene Barratt**

#### **Question:**

Cr Reid and Cr Smythe are currently representing us, why can't they stay as DAP members?

#### **Response:**

Commissioner Best stated that in a perfect world that would be good, however after the 28<sup>th</sup> April, 2015 their time has expired. The Minister has made it clear Councillors are not to do any work as elected members until their return in early July. Commissioner Best will be a DAP representative for 3 months only.

### **Roma Paton**

#### **Question 1:**

When calling for nominations need to make it clear that if anyone has put in a submission they do not apply to be a DAP member.

#### **Response:**

Commissioner Best this is in the preamble on the website.

### **Robyn Davies**

Stated she has two people who could be DAP members, a Barrister and a retired High Court Judge.

Who gets to vet the nominations?

#### **Response:**

Commissioner Best stated the Acting CEO will look at them first.

Town Planner will ask DAP secretariat the question that if you have made a submission will you be automatically rejected.

### **Jane Ferro**

Cannot understand why it would matter.

Commissioner Best stated current DAP members will expire at the end of April 2015.

**Ian McColl**

Need a precise timeline as to when everything needs to be done by.

Commissioner Best stated a timeline will be placed on the website.

**Kerry Oliver**

The Application Form does not say you need a CV.

Town Planner stated that this will be mentioned on the website.

**Darlene Barratt**

**Question:**

If a High Court Judge gets in will they go through to July?

**Response:**

All DAP members will go through until the Elected Members return in early July.



**9. OFFICER'S REPORTS**  
**9.1 DEVELOPMENT REPORTS**  
**9.1.2 DAP Nominations**

*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:** PS.GEN.3  
**COUNCIL DATE:** 21 April 2015  
**REPORT DATE:** 21 April 2015  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** N/A  
**SENIOR OFFICER:** G Simpson, CEO  
**REPORTING OFFICER:** K Strange, TP  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Appendix 1 – DAP Nomination Form  
**DOCUMENTS TABLED:** Nil

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

**Summary:**

The Wheatbelt Joint Development Assessment Panel have accepted an invitation to reconsider its decision under Section 31 of the State Administrative Tribunal Act 2004.

The Shire of York is now required to repeat its advertising processes for the amended application and submit a further Responsible Authority Report to the Wheatbelt Joint Development Assessment Panel (JDAP) for its consideration.

The purpose of this Report is for the Commissioner to consider his appointment to JDAP panel as well as nominate at least two (up to three) other community members for the Minister for Planning's consideration.

**Background:**

The Wheatbelt Joint Development Assessment Panel (JDAP) voted to refuse the planning application to use Allawuna Farm for the purposes of a landfill on 17 March 2014.

SITA Australia Pty Ltd lodged an appeal against the decision with the State Administrative Tribunal on 24 April 2014.

Following a number of SAT Mediation and Directions Hearings, the State Administrative Tribunal's (SAT) Orders will require the Wheatbelt JDAP to make a determination by 15 July 2015.

There is a risk here that if the meeting is held after Council could return, then it renders James Best's position on the JDAP void and therefore leaving the York community without representation as it is likely that there will not be enough time to reappoint the Councillors to their DAP positions.

Currently, the local representatives for the JDAP are Cr Matthew Reid and Cr Denese Smythe however with the Council's current suspension, their position and role on the JDAP is also suspended. Additionally, these positions are due to expire in mid-April and therefore renomination is required. Due to their suspension, the renomination of Councillors in this role is not permitted at the present time.

Currently, Mr James Best has been nominated to represent the Shire of York on this panel however that still leaves one panel position and a further two reserve positional available. In accordance with regulation 26 of the *DAP Regulations 2011* the Minister for Planning may include on the register as a representative of the local government, a person who;

- a) *is an eligible voter of the district of the local government; and*
- b) *the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.*

Further advice has been received from the Development Assessment Panels Secretariat regarding the appointment of currently suspended Councillors to represent the Shire on the JDAP in their capacity as significant members of community however it was advised that this was not appropriate.

Therefore, to ensure that the York community is suitably represented at the JDAP, specifically the reconsideration of the SITA application, the Shire needs to nominate at least two (up to three) other suitably qualified community members as representatives on the JDAP. If these nominations are accepted, regardless of the timing of the JDAP meeting and the presence of either Council or Commissioner, the York community will be represented on the Panel.

Upon return of the Council, there will be an opportunity to go through a re-nomination process.

Attention is drawn to the urgency of this matter, considering that the nominations are due to be put forward to the Minister next week so this is a matter of great urgency.

**Consultation:**

As part of the nomination process, the Development Assessment Panels Secretariat require nominations to include a curriculum vitae detailing relevant experience and any qualification as well as name, address, home phone, mobile, email, date of birth, employer/s name, and occupation, as per the nomination form in Appendix 1.

Given the urgency of the matter, it is recommended that nominations be called for interested community members to put forward their nomination including the above mentioned details.

Due to the very tight timeline, it is recommended that nominations be received strictly no later than 9 am this Friday, 24 April 2015. This is a far from ideal circumstance however representation on the JDAP is essential to represent the views of the York community, especially in the reconsideration of the amended landfill application.

It is also recommended that the Commissioner contact any community members directly that may be considered suitable as DAP representatives.

Following the close of submissions, the Acting Chief Executive Officer, together with the relevant staff complete an amended DAP nomination form that includes Mr James Best together with a minimum of two but preferably three community members for nomination to the JDAP.

**Statutory Environment:**

[Planning and Development \(Development Assessment Panel\) Regulations 2011](#)

The Wheatbelt JDAP is the decision-maker for applicable development applications under the provisions of the Regulations.

**Policy Implications:**

Nil

**Financial Implications:**

Nil.



**Strategic Implications:**

There is a risk not having any local representation on the JDAP should any applicable application be received.

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** N/a

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

Nil.

**Social Implications:**

The risk of not having suitable representation on the JDAP would have undesirable social implications on the community of York.

**Environmental Implications:**

Nil.

**Officer Comment:**

Whilst the timeframe for calling for nominations is far from ideal, there is a risk of not having nominations for JDAP members submitted to the DAPs Secretariat by this Friday 24 April 2015.

If the Minister is unable to consider our nominations next week, it may be some time before they can reconvene for consideration of members at a later date.

## OFFICER RECOMMENDATION

*"That the Commissioner:*

- 1. Call for nominations, to be due 9am Friday 24 April 2015, for suitably qualified and/or experienced community members to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel.*
- 2. Authorise the Acting Chief Executive Officer, along with any relevant staff, to assess the nominations provided and submit an amended nomination form to the Development Assessment Panels Secretariat, to include the Commissioner, along with at least two, but no more than three, candidates to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel.*
- 3. Request the Minister for Planning to appoint the Commissioner and a suitably qualified and experienced community person to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel."*

***The Commissioner Moved the Officer Recommendation:***

***Motion to Amend:***

***Amendment to point 2 delete 'but no more than three' and insert 'but no more than six'***

## RESOLUTION 020415

*"That the Commissioner:*

- 1. Call for nominations, to be due 9am Friday 24 April 2015, for suitably qualified and/or experienced community members to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel.***
- 2. Authorise the Acting Chief Executive Officer, along with any relevant staff, to assess the nominations provided and submit an amended nomination form to the Development Assessment Panels Secretariat, to include the Commissioner, along with at least two, but no more than six, candidates to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel.***
- 3. Request the Minister for Planning to appoint the Commissioner and a suitably qualified and experienced community person to represent the Shire of York on the Wheatbelt Joint Development Assessment Panel."***

***The Commissioner Declared the Motion Carried***

*Additional nominees added to Point 2 because of the uncertainty of the return to office of Elected Members.*

**Appendices Attached**  
**APPENDIX 1 – DAP NOMINATION FORM**

**Local Government DAP Member Nomination Form**

<b>Local Government</b>	[insert LG]
<b>DAP Name</b>	[insert DAP name]

<b>DAP Member 1</b>		<b>DAP Member 2</b>	
Name	[insert name]	Name	[insert name]
Address	[insert address]	Address	[insert address]
Home Phone	[insert number]	Home Phone	[insert number]
Mobile	[insert number]	Mobile	[insert number]
Email	[insert email]	Email	[insert email]
Date of Birth	[insert DOB]	Date of Birth	[insert DOB]
Employer name/s	[insert name/company]	Employer name/s	[insert name/company]
Occupation	[insert position details]	Occupation	[insert position details]

<b>Alternate DAP Member 1</b>		<b>Alternate DAP Member 2</b>	
Name	[insert name]	Name	[insert name]
Address	[insert address]	Address	[insert address]
Home Phone	[insert number]	Home Phone	[insert number]
Mobile	[insert number]	Mobile	[insert number]
Email	[insert email]	Email	[insert email]
Date of Birth	[insert DOB]	Date of Birth	[insert DOB]
Employer name/s	[insert name/company]	Employer name/s	[insert name/company]
Occupation	[insert position details]	Occupation	[insert position details]

*Note: Employment details are required for Cabinet submissions and to determine if nominees are entitled to fees in accordance with the Premiers Circular 2010/02.*

Name and contact details of local government minute taker and/or DAP meeting contact:

Name: [insert name]                      Phone: [insert number]                      Email: [insert email]

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**DAP Secretariat use only** - Date Received: [insert date]    Date Registered: [insert date]



## **Public Question Time Continued:**

**Ian McColl**

**Question:**

If JDAP reject can it go to SAT?

**Response:**

The Contract Planner stated SAT process has been put on hold. If SITA unhappy they can continue with SAT.

The Shire cannot re-apply to SAT.

Commissioner Best stated he appreciated people turning up tonight as the time was not ideal. He looks forward to community members submitting their submissions. He asked community members to talk to 12 people and get them to talk to 12 people to spread the word.

## **10. CLOSURE**

*Commissioner James Best thanked everyone for their attendance and declared the meeting closed at 5.07pm.*