



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 24 AUGUST 2015
COMMENCING AT 5.14pm
IN THE LESSER HALL,
YORK TOWN HALL, YORK**

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL
HELD ON MONDAY, 24TH AUGUST, 2015, COMMENCING
AT 5.14PM 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

Cr Matthew Reid, Shire President, declared the meeting open at 5.14pm.

I would like to acknowledge the Balladong People, the Traditional Owners of the land on which we are gathered and pay my respects to their Elders both past and present.

1.2 Disclaimer

The Shire President advised the following:

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

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

1.3 Standing Orders

Clause 3.2 – Order of Business

Motion not put

1.4 Announcement of Visitors

Mr Paul Bashall, Town Planner Planwest; Mr Joe Tilli & Mr Peter Tilli of York Land Holdings Pty Ltd

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interests

Graeme Simpson, A/CEO; Item 9.2.1 – Recommencing Process to Employ a CEO – Associated with Lo-Go Appointments which is a potential applicant for the task

Disclosure of Interest that May Affect Impartiality

Cr David Wallace – Item 9.1.1 – Proposed Additional Two Outbuildings - Lot 95 (17) Cold Harbour Road, Mt Hardy – The applicant is known to me

Cr Matthew Reid – Item 9.1.1 – Proposed Additional Two Outbuildings – Lot 95 (17) Cold Harbour Road, Mt Hardy – The applicants wife is an employee of a company associated with me

Cr Denese Smythe – Item 9.5.1 – Daliak Outline Development Plan – Daughters father-in-law owns property within the plan

2. ATTENDANCE

2.1 Members

*Cr Matthew Reid, Shire President; Cr Denese Smythe, Deputy Shire President;
Cr David Wallace*

2.2 Mentoring/Monitoring Panel

Mr Andrew Borrett, Department of Local Government & Communities; Cr Karen Chappel, Shire President – Morawa; Mr Michael Parker, CEO Shire of Harvey

2.3 Staff

Graeme Simpson, Acting Chief Executive Officer; Allan Rourke, Manager Works & Services, Gail Maziuk, Compliance/Human Resources; Tabitha Bateman, Financial Controller; Colleen Thompson, GHD – Consultant Planner; Helen D'Arcy-Walker, Executive Support Officer

2.4 Apologies

Nil

2.5 Leave of Absence Previously Approved

Cr Pat Hooper

2.6 Number of People in Gallery at Commencement of Meeting

There were 22 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

Public Question Time – 27 July 2015

Mrs Roma Paton

Question 1:

Is Council aware Commissioner Best tabled for publication Appendix A, B C under Item 9.2.1 of the 6th July Council meeting with incorrect information in at least one document?

Response:

The information was corrected by the Commissioner prior to the meeting. He had made an error.

Question 2:

Will Council please rescind Resolution 080715 on the grounds that at least one document has incorrect information?

Response:

Section 9.54 of the Local Government Act states a document is not ineffective because of an error.

Question 3:

Why was the word sacked used?

Response:

The reason is not evident.

Ms Jane Ferro

Question 3:

Do the same Town Planning conditions apply for Laurelville and Faversham House seeing that both establishments are located in areas zoned residential?

Response:

The circumstances are not the same.

Laurelville is within a residential zone and Faversham is adjacent to residential. Their respective zonings have been established at different times.

Question 4:

Are all food and accommodation providers in town required to have wheelchair access?

Response:

No. The requirements are based on the date of approval.

Question 5:

Is wheelchair access provided at the York Palace Hotel?

Response:

No.

Question 8:

It was stated in the Minutes for the 6th July, 2015 Special Council Meeting – *The Commissioner welcomed guests as mentioned previously who are here today to provide advice to him.* What advice, if any, did they provide?

Response:

Advice was provided verbally.

Question 11:

When was the Avon Waste Development Proposal lodged with the Shire and put up on the website?

Response:

8th July 2015 Received.

10th July 2015 placed onto the Shire Website.

Question 12:

Who is the author of this document?

Response:

Avon Waste.

Question 13:

When and where was the proposal advertised?

Response:

Avon Valley Gazette – July 2015.

Question 14:

Have the neighbours been notified of Avon Waste's intention to turn the property known as Fairways into a transport depot? How and when were they notified?

Response:

Yes, by letter.

Ms Darlene Barratt

Question:

At the Ordinary Council Meeting on the 22nd June, 2015 is there a document to ban her from asking questions regarding her property at 4 Penny Street? Do you have documented proof that she cannot ask questions?

Response:

There was a proposal compiled but allowed to lay 'sine die'.

Ms Liz Christmas

Question 1(a):

How can a letter written on Shire letterhead be only a private matter between two individuals and not be a letter the Shire, in this case its senior Officer, is responsible for?

Response:

Formal commitment by the Shire can be made on blank paper or other letterheads (eg: real estate). The existence of a letterhead is only one element.

Question 1(b):

How can the Shire and its representative imagine that a letter full of deep insults to a ratepayer would not shock the recipient and his family to the core, potentially causing deep harm to them and/or tending to dissuade others who know about it from dealing, free of fear of intimidation, with a CEO who might write such things to them?

Response:

The Acting Chief Executive Officer cannot make a judgement on this matter.

4. PUBLIC QUESTION TIME

The Presiding Member to read the following statement in full 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 Written Questions – Current Agenda

Public Question Time commenced at 5.20pm

Dr James Plumridge

Question 1: (Questions Received at 11.15am on 17 August, 2015)
Council would be aware of a potential claim against the Shire by Mr & Mrs Saint.

Response:

The Shire President read the following - Mr Saint has made a claim for compensation against the Shire. It is inappropriate for the Shire to make any public response to any matter or question concerning that claim.

Question 2:

No claim to be made

Response:

The Shire President stated he could not debate with Dr Plumridge.

Questions Received at 2.57pm on 17 August, 2015

“At the Special Electors Meeting held on 27 July 2015, I successfully moved:

‘That Council direct the Acting CEO to obtain without delay from an independent licensed land valuer a sworn valuation of Lots 800 and 801 South Street York [‘Chalkies’, or the Old Convent School] to be published on the Shire official website and otherwise made available for public scrutiny.’

The words ‘without delay’ are an important component of the motion.

I note with some dismay that the Acting CEO is now recommending that Council defer the motion for action by the newly elected Council, i.e. for at least two months and probably longer.

The Acting CEO advises that the motion will need to be supported by an absolute majority because it is unbudgeted.

I ask”:

Question 1

Has the Acting CEO made enquiries regarding the cost of a sworn valuation of the property in question?

Response:

Yes.

Question 2:

If so, what was the result of those enquiries?

Response:

A submission of information is needed for a quotation of cost to be prepared to compile a sworn valuation.

Question 3:

If not, why not?

Response:

There is no specific line item for sworn valuations to purchase land and buildings. This action was not contemplated at the time of budget preparation. It is an additional and unbudgeted cost

Question 4:

Does the Acting CEO expect us to believe that there is no appropriation in the budget that could cover the cost of a sworn valuation?

Response:

Line items that exist in a budget can be over expended but unanticipated projects cannot just be absorbed.

Question 5:

Must every specific item, however minor, be individually budgeted? If so, how does the Acting CEO account for recent payments to lawyers and consultants, including structural engineers to inspect the property that were not specifically approved at Council meetings but apparently met from existing appropriations?

Response:

Professional Engineer expenses are estimated as are lawyer fees and are for variable needs. They are specifically listed.

Question 6:

Is the Acting CEO's advice to Council on this matter based on a desire to defer scrutiny of his involvement in the purchase of the property in question until he has left the Shire's employment?

Response:

No

The newly elected Council can decide and make provision via the budget review.

Question 7:

Did the Acting CEO advise Commissioner James Best that it would be prudent to obtain a sworn valuation before going ahead with the purchase? If not, why not?

Response:

A sworn value is not required. Market appraisal was sufficient.

Question 8:

If he did not so advise Commissioner Best, will he apologise to the people of York and consider resigning?

Response:

No

Ms Jane Ferro**Question 1:**

At the 23 March OCM, I asked James Best whether he was a consultant - since he promoted himself as a very successful consultant at the Introductory Advisory Group Meeting on 12 March - or was he the interim Council for York. James Best advised he has been appointed as a Commissioner with the added skills of a Consultant that could help York move forward. Was James Best, in fact, being paid as a consultant – either directly or indirectly through Hames Sharley – at the same time he was being paid as Commissioner in York?

Response:

Yes

Question 2:

At the 22 June OCM, I asked James Best what he had been paid for his 6 months acting as York's Commissioner. My question was taken on notice. The reply sent to me on 23 July was \$63 933.72. Is there a consultancy payment or other amount included to arrive at this total? If so, what is the amount?

Response:

The visioning work was extra (\$39,600 incl gst).

Question 3:

By virtue of what legislative authority or resolution of Council was James Best employed as a consultant, his obvious role in running the visioning forums?

Response:

Council Resolution 041214 requested the Minister to approve a trainer / mentor

Question 4:

If James Best was employed as a consultant, what authority did he have to hire PPR, at a cost of over \$30 000 to ratepayers, when he himself should have possessed the skills to facilitate workshops and to write media releases, including "The Voice of York", articles in the Avon Gazette and other publications?

Response:

The Administration employed PPR.

Mr Simon Saint

Questions:

- (a) Does Councils response to question 1 refer to the Shires Briefing Note 17 April 2015, in which it stated: "*On 02 April 2014 Former CEO Hooper wrote to Mr Saint a defamatory letter headed smear and innuendo campaign*"?
- (b) Councils response to question 2 that "*the letter is what it is, a personal expression*", is both supercilious and flawed, if Council refers to CEO Hooper's memo 11 April 2014, paragraph two, you will notice that in regard to his letter 2 April 2014, Hooper stated that: *My position on any matters relating to Mr Saint is not and never has been at the personal level as his petty actions are considered immaterial at the personal level. If these were concerns they would be dealt with me as a citizen and not in my role at the Shire of York*". CEO Hooper goes on to state: "*Quite literally I could not care if Mr Saint lives or dies at the personal level, as I do not and will not engage with him outside of my workplace*". CEO Hooper made it abundantly clear that the letter was not a personal one, yet Council continues to insist that the letter was simply a 'personal expression'. Please explain why the letter which Council has already conceded is "defamatory", is a now, in Councils opinion nothing more than 'personal expression'?
- (c) Presumably in the context of Councils answer to question 3, "charged" means to formally accuse. In which case I would like to remind Council that on 4 April 2014, I lodged a formal complaint with the Shire of York 'accusing' CEO Hooper of breaching certain sections of the Shire of York Code of Conduct. The former CEO was given a right of reply which he did with gusto in his memo dated 11 April 2014. What is Council talking about when it stated; 'there is no charge as such or the right of reply'?
- (d) Does Council realise that its response to question 4, directly contradicts the response it provide to Ms Christmas some 5 minutes earlier which related to exactly the same matter?
- (e) In a recent letter, the CEO has confirmed he has no "corporate knowledge" this being the case, who exactly is researching the questions and providing responses?

Response:

In respect to items a, b, c, d and e you are advised that a claim for compensation has been made against the Shire. It is inappropriate for the Shire to make any public response to any question concerning that claim.

Mrs Roma Paton

Question 1:

Will Council release the results of the community survey carried out while Commissioner Best was in office?

Response:

The survey information is still being considered by the working party members.

Question 2:

When finalised will the unedited survey results be placed on the website?

Response:

No

Question 3:

Has PPR ever authored or contributed to the Voice of York?

Response:

Yes

Question:

Will Council provide me with copies of invoices submitted by PPR?

Response:

No. The information is commercially sensitive and does not fall within Section 5.94 of the Local Government Act.

Question 4:

Which staff member compiled the original Appendix A showing Staff had been sacked?

Response:

Commissioner Best compiled the document and included it as an appended item for the meeting agenda. It was not an administrative document.

4.2 Public Question Time

- *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.*

Ms Tricia Walters

Question 1:

With regards to the Late Report 9.5.2 – why were the residents of Henrietta Street and the local B&B's not included in the consultation process? I have written to the Shire on several occasions requesting a footpath on the side of the road in front of the residences and under the street lights as the verge is unsafe and unstable being a combination of gravel and clay which forces pedestrians to walk on the road with their backs to the heavy duty traffic using the road.

Response:

The Shire President requested the Works Manager to respond. The Works Manager stated that the grant received for the project was for the location stated on the grant. It was found that we could not put the footpath in this location. We are unable to change the location of the footpath as stated in the grant application and we are unable to use the grant money anywhere else. With regards to footpaths within the York town site we are currently going through the footpath hierarchy and will recommend to Council this year the footpaths to be completed.

Question 2:

Why is the Shire not providing an Income and Expenditure and Profit and Loss Report for the YRCC on a monthly basis?

Response:

The Acting CEO stated that the financial statements that we prepared and put out to the public are a statutory requirement, what you are asking for is an internal document.

Question 3:

In May and July 2015 the Shire paid a total of \$54,016.45 for Legal Expenses – Admin. What happened in admin that necessitated expenditure of this kind? For the period ending 31 May \$46,885.32.

Response:

Taken on Notice

Question 4:

Why have the Doctors at IPN been receiving a vehicle allowance when the Doctors cancelled their contract to provide services to the Hospital for which a housing and vehicle allowance was paid?

Response:

The Financial Controller stated that this was an outstanding invoice from 2012.

Ms Jane Ferro**Question 1:**

How does the administration respond to genuine hardship experienced by those ratepayers who are therefore unable to pay rates in full and/or on time?

Response:

The Acting CEO stated there is statutory requirement that needs to be followed. If someone is experiencing hardship they need to come into administration and we can implement a regular payment arrangement.

Question 2:

Does the Shire of York have a duty of care toward their ratepayers in genuine financial straits regarding paying their rates?

Response:

Taken on Notice

Ms Rebecca Hameister

Question:

When will the decision regarding Avon Waste's development proposal for Lot 5113 (3933) Great Southern Highway for a truck depot be (a) made (b) communicated to residents?

Response:

The Consultant Planner replied that the application is still being assessed and will be put before the next available Council Meeting once the application assessment is completed.

Mr Simon Saint

Question 1:

Who advised the Acting CEO not to respond to the questions a, b, c, d & e? They are not related to LGIS or DLA Piper.

Response:

The Shire President stated that currently it is the administration view that the questions raised in relation to correspondence to CEO Hooper and yourself are intertwined with the claim.

Mr Saint stated that in his opinion Council is responsible to resolve his complaint.

The Shire President asked if Mr Saint would consider meeting with Council, the Acting CEO and Jenni Law from the Department of Local Government when Jenni Law returns on the 1st September, 2015?

Question 2:

I have written to the administration department twice now requesting where I might be able to view the Shires 'record keeping plan' and whether it can be found on the Shires website. I have had no acknowledgment or response to my enquiry.

Response:

Taken on Notice

Question 3:

Could the Shire please provide me with a copy of the 'record keeping plan' before Friday?

Response:

The Shire President stated Mr Saint could view the record keeping plan only not to be given a copy.

Question 4:

At the last Ordinary Council Meeting I asked Council if it could provide me with a copy of a declared interest from the register, Councils response was yes. I have written to the administration department on two occasions since the meeting requesting copies of the documents. I have received no acknowledgement or response.

Response:

The Acting CEO has received the applications from Mr Saint, but stated that the documents requested are not current.

Question 5:

If not a Council role to mediate why was James Best involved?

Response:

The Acting CEO stated James Best was the Commissioner.

Question 6:

James Best was Council.

Response:

The Insurance Company have informed the Acting CEO that the Shire has no part of it once a claim has been lodged.

Ms Darlene Barratt**Question 1:**

When will I receive a reply to my questions I submitted on the 22nd June, 2015?

Response:

The Acting CEO replied he would look into it.

Question 2:

How come we cannot have a resolution on the payment to James Best as Commissioner as well as a Consultant and paid out by the Admin staff without being budgeted, however a sworn valuation needs to be budgeted for?

Response:

The Minister wrote to the Shire and stated the Commissioner was to have a dual role. As a result of discussion between the Commissioner and the Administration the Minister later clarified it was not to be a dual role but the programme was well in progress.

Question 3:

Can we have a copy of the letter?

Response:

The Acting CEO stated he will pass it by the Ministers office.

Mr Mike Gill**Question 1:**

Has the Shire conducted the risk assessment of the road network that was recommended by the Works Committee?

Response:

Taken on Notice

Question 2:

Has the Shire prepared a 5 year Works Programme that will address the risks identified by the Risk Assessment.

Response:

Taken on Notice

Ms Rene Reece

Question:

Given the importance of the Council Elections coming up in October is it possible for the Council to sponsor a Meet the Candidates meeting?

Response:

The Shire President replied we would have sufficient funds to do this and will move this latter in the meeting.

Dr James Plumridge

Question:

Does Council know if it is true that James Best as Commissioner is being investigated? If so, will the results be published?

Response:

The Shire President replied that it is an internal matter for the Department of Local Government.

Ms Tricia Walters

Question 6:

In June Ampac Debt Recovery was paid \$21,015.82. What return on that expenditure did the Shire receive?

Response:

The Acting CEO stated that 100% costs are recovered plus the Rates. If people cannot pay the rates we can take the land and sell it, however this is an undesirable situation.

Question 7:

Why has the Shire outsourced the payroll at \$9,449.00 a quarter giving an approximate total of \$38,000 per annum?

Response:

The Financial Controller stated that the costs of the initial set up and the regular fee are included in this amount. It is a cost effective method of doing the payroll and is a saving. The agreed costs are \$20,000 per annum.

Ms Jane Ferro

Question 3:

Whose decision is it to set Shire rates? Is the administration involved or just the Council?

Response:

The Shire President stated that the administration make a recommendation and Council adopts it.

Question 4:

If it was not the Shire President's unilateral decision to raise rates in the previous financial year, why is at least one of the Shire of York staff telling ratepayers it was President Reid's fault and all blame should be put on him?

Response:

The Shire President stated he was not aware of this. Administration recommend to Council and Council adopt it. Council set the strategy and the administration work within this.

Ms Darlene Barratt

Question 5:

While Mr James Best was Commissioner and Consultant, did he declare a financial interest.

Response:

The Acting CEO replied a letter from the Minister states that the Local Government pays the Commissioner.

Question 6:

Including BBC Consulting?

Response:

The Acting CEO replied – yes.

Question 7:

This will be in the letter from the Minister?

Response:

Yes

Public Question Time concluded at 6.17pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Paul Bashall, Town Planner Planwest presented an outline on the Daliak Development Plan.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS & NOTES OF THE AGENDA SETTLEMENT BRIEFING

7.1 Minutes of the Ordinary Council Meeting held July 27, 2015

Corrections – Public Question Time

Ms Liz Christmas – Question 1(a) – How can a letter written on Shire letterhead be only a private matter between two individuals and not be a letter the Shire, in this case its senior Officer, is responsible for?

Response – Correspondence on Shire letterhead is official correspondence.

Mr Simon Saint – Question 4 – At the same OCM, 15 April 2013, Council refused to accept questions from my wife and I regarding agenda item 9.6.1 Saints Diner, Shire President Boyle stated: “you have no forum here.” Considering we were on the agenda for that meeting - Does Council consider that it afforded natural justice (procedural fairness) in not allowing my wife and I to ask questions regarding the above agenda item which directly affected us?

Response – The Shire President stated it is not appropriate for the current Council to pass comment or make a judgement on past decisions that occurred in 2013.

Mr Simon Saint – Question 2 – Did he, and does the present Council, regard Mr Hooper's letter to me as evidence of misconduct?

Question 3 – When, and by what process, was former CEO Hooper cleared of misconduct with regard to my code of conduct complaint?

Question 4 – Does Council accept that the letter was an official communication for which the Shire of York is responsible?

Question 5 – It is now some 15 months since I submitted my complaint. Why has the Shire so far failed to deal with it, and does it intend ever to do so?

Response to Questions 2, 3, 4, 5 – The Shire President responded that Council has requested the Acting CEO to provide a detailed report on this matter and until this report is received and considered by Council, Council is not in a position to respond to these questions.

Confirmation

"That subject to the above amendments, the Minutes of the Ordinary Council Meeting held July 27, 2015 be confirmed as a correct record of proceedings."

- 7.2 Minutes of the Special Electors Meeting held July 27, 2015

Corrections

Confirmation

"That the minutes of the Special Electors Meeting held July 27, 2015 be received by Council."

- 7.3 Minutes of the Special Council Meeting held August 10, 2015

Corrections

Confirmation

"That the minutes of the Special Council Meeting held August 10, 2015 be confirmed as a correct record of proceedings."

- 7.4 Notes of the Agenda Settlement Briefing – August 17, 2015

Councillors reviewed reports to be considered at the August Ordinary Council Meeting at the Agenda Settlement Briefing held on August 17, 2015.

Recommendation:

"That the notes of the Agenda Settlement Briefing held on August 17, 2015 be noted."

**RESOLUTION
050815**

Moved: Cr Smythe

Seconded: Cr Wallace

"That the minutes of the Ordinary Council meeting held July 27, 2015 and the Special Council Meeting held on August 10, 2015 be confirmed en bloc as a correct record of proceedings with the above amendments, the Special Electors Meeting held on July 27, 2015 be received and the Notes of the Agenda Settlement Briefing held August 17, 2015 be noted."

CARRIED: 3/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

9. OFFICER'S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS 9.1 DEVELOPMENT REPORTS

Disclosure of Interest: Cr Matthew Reid – Impartiality Interest –

The Shire President, Cr Matthew Reid advised he had an Impartiality Interest to this item due to the fact that the applicants wife is an employee of an associated entity

Cr David Wallace – Impartiality Interest – Cr David Wallace advised that the applicant is known to him.

9.1.1 Proposed additional 2 Outbuildings – Lot 95 (17) Cold Harbour Road, Mount Hardey

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:	P987, Co1.3590
COUNCIL DATE:	24 August 2015
REPORT DATE:	31 July 2015
LOCATION/ADDRESS:	Lot 95 (17) Cold Harbour Road, Mount Hardey
APPLICANT:	Murray Fleay
SENIOR OFFICER:	Graeme Simpson (Acting CEO)
REPORTING OFFICER:	Keith Burgemeister (PO)
DISCLOSURE OF INTEREST:	Cr Matthew Reid – Impartial Cr David Wallace - Impartial
APPENDICES:	1 – Aerial Photo 2 – Site Photos 3 -- Site Plan 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 lean-to enclosed on three sides, wall height 3.3m in lieu of 3.0m required, to screen a sea container attached to an existing shed of 288m² and a garage next to an existing dwelling at Lot 95 (17) Cold Harbour Road corner Top Beverley York Road, Mount Hardey. The application will be adding 136.15m² to 378m² of floor space already existing. The second outbuilding (garage) will have a setback of 6.5m in lieu of 10m required.

The application was advertised in accordance with the provisions of the York Town Planning Scheme No. 2 and one submission was received regarding the proposal. The ratepayer who had come in to view the plans had no objection to the 2 additional outbuildings.

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 30 June 2015 proposing to construct a lean-to enclosed on three sides attached to an existing shed and a garage next to an existing dwelling at Lot 95 (17) Cold Harbour Road, Mount Hardey. The combined area of all outbuildings under this application is 514.15m² excluding the shed in the south west corner where the area of the outbuilding is unknown.

The property is zoned Rural Residential with a site area of 3.6ha and is located south south-east of town in an area not affected by flood plain.

Notification of the proposal was given to surrounding neighbours and one submission was received that did not object to the proposal. Originally, the application showed the garage 18m from the house to the battle-axe leg inside the neighbouring property on the southern boundary. The plans were amended on the 30th July 2015 deleting the battle-axe width giving a setback of 6.5m in lieu of 10m.

Previously, an application was received for the construction of a 288m² general purpose private steel shed with a wall height of 4.4m on 27 November 2006. As the application exceeded the 200m² floor area limit and the maximum wall height of 4.2m the application was considered by Council on the 19 February 2007. Approval for the oversized shed was issued on the 23 February 2007. Retrospective approval of the 40' sea container followed on the 7 November 2011.

This application proposes a lean-to extension to an existing shed to screen the sea container comprising a floor area of 16m by 6.4m (102.4m²) and a wall height of 3.3m. The additional floor area will be for personal storage. The lean-to will be built out of colourbond classic cream with concrete floor to blend in with the existing 288m² shed being used for storage of caravan, tractor, two utes, three cars and various other items. The second shed located by the existing dwelling will be 7.5m long by 4.5m wide (area 33.75m²) including a wall height at 2.4m and total ridge height of 3.2m, 6.5m from the southern boundary. Approval is therefore being sought from Council to construct the 2 additional outbuildings in the locations shown.

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 8.8, 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 and lean-to)

Provision	Requirement	Proposed	Comment
4.13.3 TPS No. 2	Front: 20m Side: 10m Rear 10m	Front: >35m Side: 6.5m Rear: >100m	The setback to the garage on the south side of the house is 6.5m. The internal track winds around the same side as the proposed garage. On the plan the dwelling is parallel with the southern boundary but in reality the corner of the house angles away from the boundary making the proposal acceptable.
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 6.5m from side	Generally complies except for the side setback of the garage on south 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	Proposed lean-to: 16m x 6.4m = 102.4m ² Garage: 7.5 x 4.5m = 33.75 Total area of outbuildings = 136.15m ² Combined area of existing with proposed 378m ² + 136.15m ² = 514.15m ² OR Site area = 3.6ha x 10% = 3600m ² .	Lesser floor area applies (i.e. <200m ²). However, precedent for total area of outbuildings exceeding 200m ² was set for Lot 95 (17) Cold Harbour Road, York when an approval was given for a 288m ² shed in 2007. Given the additions are <200m ² such an application 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 endorsed in writing on plans by affected adjoining landowner(s) indicating that there is no objection to additional 2 new outbuildings. 210m ²	+304.14m ²	The approval of 2 additional outbuildings 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 2.4m garage = 3.3m lean-to Proposed Ridge Height = 3.2m garage/ 3.3m lean-to	The smaller garage but not the lean-to complies. The lean-to starts at 2.8m and rises to 3.3m to reduce the impact against the 4.4m wall height of the adjoining larger shed which is acceptable.

Whilst the proposed development does not comply with the 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 2 additional outbuildings 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 outside the town boundary on a rural residential lot with added windbreaks of natural vegetation. No significant vegetation will require removal to facilitate this development.

- (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 lean-to shed is in the same building alignment as the existing shed 70m from Top Beverley Road. The garage south of the existing dwelling, where the access lies, forms a cluster of buildings in the south east corner of the property 30.5m from Top Beverley 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 Top Beverley Road. The garage on the south side of the house is for the parking of cars in roughly the same alignment as the access track onto the property whereas two access and exit points are available to the 288m² shed and the lean-to.

- (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. The significant natural vegetation on this property will not be affected by the development.

Officers Comment:

The proposed shed requires a relaxation of the floor area to allow for a combined total floor area of 514.15m², lean-to wall height of 3.3m in lieu of 3m and side setback (garage) of 6.5m in lieu of 10m required under the Local Planning Policy *Outbuildings in Residential Zones*. The applicant has sufficiently justified the need for a lean-to shed to screen a sea container attached to existing shed, approved over the 200m² floor area limit and a garage addition on the south side of the existing dwelling where the garage is hidden down the side largely out of view from Top Beverley Road.

The matters for consideration have been carefully addressed and it can be concluded that based on the proposed location of the 2 additional outbuildings within a 3.6ha lot, the variations requested above 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

No questions were raised regarding this item.

RESOLUTION
060815

Moved: Cr Wallace

Seconded: Cr Smythe

"That Council:

APPROVE the construction of an additional 2 outbuildings at Lot 95 (17) corner Cold Harbour and Top Beverley Roads, 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."*

CARRIED: 3/0

9.2 Administration Reports

9. OFFICER'S REPORTS 9.2 ADMINISTRATION REPORTS

Disclosure of Interest: *Mr Graeme Simpson, A/CEO – Financial Interest*

The Acting Chief Executive Officer advised he had a financial interest as he is associated with Lo-Go Appointments who is a potential applicant for the employment of the new CEO.

9.2.1 Recommencing the Process to Employ a CEO

FILE NO:

COUNCIL DATE:	24 August 2015
REPORT DATE:	13 August 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:	G K Simpson – Pecuniary Interest
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

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

Summary: Council

The current situation on the process to select a permanent Chief Executive Officer is that Council may continue with the current programme or recommence the process now or after the 17 October Election.

Background:

Late in 2014 Lo-Go Appointments arranged for the recruiting process to appoint a new Chief Executive Officer but the event was interrupted by the Minister for Local Government suspending Council. Lo-Go was paid for the work undertaken.

Consultation:

Lo-Go Appointments (Ms Melissa Hanson)
Shire President
Deputy President
Cr Wallace
Members Mentors Karen Chappel and Andrew Borrett

Statutory Environment:

Local Government Act – Section 5.36

Policy Implications:

Nil

Financial Implications:

Expressions of Interest will require quotes for the service to be supplied, costs are unknown.

There has been provision made in the 2015/16 budget for the recruitment process.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required (only for Contract adoption) to conform with Section 5.36(2)(b)

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

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:

Nil

Officer Comment:

The previous time schedule was developed on the basis of the newly elected Council being able to conduct interviews in November and make an appointment at the November Council meeting.

Deferral of the process may mean advertising would conclude in November, interviews in December and appointment if possible prior to Christmas.

Depending on current employment arrangements a successful candidate may have to give up to 3 months notice.

ASB Comment

The Shire President requested the Officer Recommendation be amended for clarification. The amended Officer Recommendation only will be placed in the Ordinary Council Meeting Agenda.

RESOLUTION

070815

Moved: Cr Smythe

Seconded: Cr Wallace

"That Council:

Request the Chief Executive Officer to re-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."

CARRIED: 3/0

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Special Electors Meeting Motions

FILE NO:

COUNCIL DATE: 24 August 2015
REPORT DATE: 13 August 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: Motions
DOCUMENTS TABLED: Nil

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

Summary: Council

The Special Electors Meeting held on 27 July 2015 passed six (6) motions. Section 5.33 of the Local Government Act requires that all decisions be considered by Council and if Council makes a decision in response these are to be recorded in the Minutes.

Background:

The Special Electors Meeting was called for the following purposes:

1. The Shire of York Annual Budget 2015/16
2. Purchase of Lots 800 & 801 South Street, York
3. Borrowing \$625,000 to fund the purchase of Lots 800 & 801 South Street, York

Consultation:

Not applicable

Statutory Environment:

Local Government Act
Local Government (Financial Management) Regulations

Policy Implications:

Nil

Financial Implications:

Proposed expenditure is unbudgeted

Strategic Implications:

The effect of some of the motions could affect the manner in which the Shire compiles its budget.

Voting Requirements:

Simple Majority Only Available

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

No current implications, although a future Council may decide how it deals with suggestions put forward.

Environmental Implications:

Not Applicable

Officer Comment:

The six motions have been divided into those for a future Council to consider and those that are immediately actionable.

ASB Comment

Cr Smythe asked if there would be any cost with regards to Motion 6.

The Acting CEO stated he will refer the comments made at the meeting to McDowell Affleck Engineers for comment.

RESOLUTION

080815

Moved: Cr Smythe

Seconded: Cr Wallace

“That Council:

1. ***Defer motions numbered 1 and 2 to the newly elected Council to consider as these could be adopted as future policy.***
2. ***Motions numbers 3 and 5 be combined and actioned immediately.***
3. ***Motion number 4 will need to be supported by an Absolute Majority as it is unbudgeted therefore it be deferred to the newly elected Council.***
4. ***Motion number 6 be referred to the Consulting Engineering Firm McDowell Affleck for their comment.”***

CARRIED: 3/0

9.3 Works Reports

9. OFFICER'S REPORTS

9.3 WORKS REPORTS

9.3.1 Upgrade of Shire Roads to RAV 4

FILE NO: TR. RDT.1
COUNCIL DATE: 24 August 2015
REPORT DATE: 30 July 2015
LOCATION/ADDRESS: Whole of Shire
APPLICANT: Not applicable
SENIOR OFFICER: Graeme Simpson (ACEO)
REPORTING OFFICER: Allan Rourke (MWS)
DISCLOSURE OF INTEREST: Nil
APPENDICES: RAV 4 Route Assessment
Prime Mover, Trailer Combinations
DOCUMENTS TABLED: Nil

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

Summary:

A list of Shire roads was given to Main Roads Western Australia (MRWA) Heavy Vehicle Services requesting the roads be assessed for Restricted Access Vehicle (RAV) 4 and added to the RAV Network.

This request has been completed.

Background:

At the Ordinary Council meeting on 23 July 2014 a resolution was passed as set below,

RESOLUTION
140714

Moved: Cr Boyle

Seconded: Cr Hooper

"That Council:

Resolves to accept the Works Committee Recommendation."

CARRIED: 6/0

WORKS COMMITTEE RECOMMENDATION

Moved: Mr Gill

Seconded: Mr Mackay

"That the Works Committee Recommend to Council that it:

1. *Endorse the following roads for RAV 4 network access and request Main Roads WA assess them and include them on the RAV network*
 - Knotts Road
 - Talbot Road (from Qualen Rd)to Location No.839 Talbot Rd
 - Quellington Road from Northam – Cranbrook Road to Mannavale Road
 - Cameron Road
 - Warding Road to the Cunderdin Shire
 - Mannavale Road from Flea Pool Rd to the Cunderdin Shire

- *Doodenanning Rd*
- *Penny Drive*
- *Gwambygine East Road, west of Top Beverley Rd to the Northam – Cranbrook Rd to travel east only*
- *Greenhills South Road*
- *Flea Pool Road*
- *Sees Road*
- *Cameron Road*
- *Piccadilly Road*
- *Buckingham Road – Bitumen Only*
- *Northbourne Road*
- *West Talbot Road to Great Southern Highway*
- *Wambyn Road*
- *Ashworth Road*
- *Wilberforce Road*
- *Karabine Road*
- *Taylor Road*
- *Badgin Road*
- *Berry Brow Road*
- *Burges Road*
- *Corner Wells Road*
- *Cubbine Road*
- *Goldfields Road*
- *Greenhills Road*
- *Hardy Road*
- *Keebles Road*
- *Leeming Road*
- *Lennard Road*
- *Mackie Road*
- *Marwick Road*
- *Mokane Road*
- *Moore Road*
- *Ovens Road*
- *Qualen West Road*
- *Quonamining Road*
- *Spencers Brook Road (Shire of York)*
- *Talbot West Road*
- *Top Beverley Road*
- *Ulster Road*
- *Wallaby Road*
- *Talbot Road*
- *Cut Hill Road*
- *Talbot Hall Road*
- *McDougal Road*
- *Boyercutty Road*
- *Williams Road*
- *Hamersley Siding Road*
- *Chester Road*
- *Allen Road*
- *Boyle Road*
- *Mt Hardey Road*
- *Wrights Road*
- *Station Rd*
- *Wyborn Street*

- *Forrest Street*
 - *Maxwell Street*
 - *Wheeler Street*
 - *Fisher Street*
 - *Maincamp Road to Fisher St.*"
2. Request Main Roads WA review the school bus curfew condition on all routes to find a more flexible arrangement.

Carried 8-0

Comment:

Throughout the Shire of York there are only a certain amount of roads that have been assessed by Main Roads for the RAV3 Network.

RAV3 Network category consists of a 27.5m pocket road train with a maximum permitted mass of 84 tonnes and a height 4.6m with approval, in which 95% of the transport companies are using currently.

RAV4 Network category consists of a 27.5m pocket road train with a maximum permitted mass of 87.5 tonnes and a maximum height of 4.6 m with approval, in which 95% of transport companies and farmers are moving to.

As these payloads can currently carry 16.5t on a set of bogey axles (RAV3) the pay load can only increase in a (RAV4 TRI AXLE CONFIGURATION) to 20t off farm. Payloads can be up to 21.5t (RAV4) from a certified weighbridge hence reducing the amount of vehicles on the road and the number of trips

As roads are assessed by MRWA, conditions may apply for the use of certain roads

Roads that have be assessed by MRWA and recommended for the RAV4 Network are as follows:

RURAL ROADS

- Mannavale Road from Goldfields Rd to Flea Pool Rd
- Penny Drive
- Greenhills South Road
- Flea Pool Road
- Sees Road
- Piccadilly Road
- Buckingham Road – Bitumen Only
- Burges Siding Road
- Corner Well Road
- Cubbine Road
- Goldfields Road
- Keebles Road
- Lennard Road
- Mackie Road
- Marwick Road
- Moore Road
- Qualen West Road
- Quonamining Road
- Spencers Brook Road (Shire of York)
- Talbot West Road
- Wallaby Road

- Hamersley Siding Road
- Chester Road
- Allen Road

Consultation:

Main Roads Western Australia (MRWA)

Statutory Environment:

NA

Policy Implications:

NA

Financial Implications:

There will be minor adjustments to road maintenance only due to the natural expansion of transport industry.

Strategic Implications:

NA

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

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

Roads are the backbone of the economy.

Social Implications:

Roads are essential to the community and society.

Roads are assessed taking in information regarding the class of traffic using the road, School Bus routes, safety in the movement of traffic and the physical nature of the road.

Environmental Implications:

Roadside vegetation is important for biodiversity and the environment. Construction, use and maintenance of roads have adverse environmental impacts.

Officer Comment:

From the list of roads presented to MRWA to be assessed for elevation to the RAV 4 Network, 23 roads have been recommended to be lifted to a RAV 4 status.

The remaining roads will have to reassessed to a lower RAV network for reasons that they had no RAV status, there was construction in progress, connectivity on the network and work will need to be carried out to upgrade areas that have been noted in the MRWA's assessment report.

ASB Comment

Amendments to the Officer Recommendation were requested for clarification. The amended Officer Recommendation only will be placed in the Ordinary Council Meeting Agenda.

RESOLUTION
090815

Moved: Cr Wallace

Seconded: Cr Smythe

"That Council:

- *Adopt the recommendations of Main Roads WA of roads that have been assessed for the RAV4 Network*
- *That the Acting Chief Executive Officer advise Main Roads WA to include the approved roads to the RAV 4 network.*
- *That the Acting Chief Executive Officer advise the Shire of York Rural Road Group of these changes."*

CARRIED: 3/0

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Monthly Financial Reports – July 2015

FILE NO:	FI.FRP
COUNCIL DATE:	24 August 2015
REPORT DATE:	10 August 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 31 July 2015 is presented for consideration.

Appendix A includes the following:

- Monthly Statements for the period ended 31 July 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 31 July 2015;

Outstanding Rates and Services

After generating the 2015/16 rates of \$5,053,728, total outstanding rates as at 31 July 2015 are \$5,610,482 compared to \$795,047 as at 30 June.

3 Years & over	\$ 268,182	4.78% of rates outstanding
2 Years & over	\$ 120,369	2.15% of rates outstanding
1 Years & over	<u>\$ 277,468</u>	4.95% of rates outstanding
<i>Total Prior Years</i>	<i>\$ 666,019</i>	<i>11.87% of rates outstanding</i>
Current rates	\$ 4,944,463	88.13% of rates outstanding

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 July 2015 are \$390,811 compared to \$396,611 as at 30 June 2015.

90 days & over	\$307,690	78.73% of sundry debtors outstanding
60 days & over	\$ 394	0.10% of sundry debtors outstanding
30 days & over	\$ 3,022	0.77% of sundry debtors outstanding
Current	\$ 79,705	20.40% 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

The Shire President stated he had raised some issues with the Acting CEO privately who will provide clarification.

Cr Smythe asked if using AMPAC for debt recovery was value for money? The Acting CEO stated that using a debt recovery agency was one of the only ways to collect outstanding money. The Shire President stated that these costs were borne by the ratepayer whose money is being collected.

The Shire President requested the Acting CEO to provide a confidential memo to Council on nominated legal expenditure.

Cr Smythe requested information on various issues –

- Bus Shelter – the Financial Controller replied that it is money carried over from last year's budget.
- Consultants Fees for Bally Bally leases – the Acting CEO replied fees were for the cancellation of the Bally Bally lease and the new lease for Mr Grimshaw.
- FOI Consultant Services – the Acting CEO replied that a consultant is employed one day per week
- PPR Consultancy fees for money are almost \$26,000 – the Acting CEO replied that the fees included the writing of the Voice of York as well as the Fact Sheets.

The Shire President requested the Acting CEO to provide clarification of PPR costs.

RESOLUTION
100815

Moved: Cr Smythe

Seconded: Cr Wallace

"That Council:

Receive the Monthly Financial Report for July and the list of payments drawn from the Municipal and Trust accounts for the period ending 31 July 2015 as summarised below:

	<u>AMOUNT</u>
<u>MUNICIPAL FUND</u>	
Cheque Payments	\$ 42,400.44
Electronic Funds Payments	\$ 911,337.64
Direct Debits Payroll	\$ 160,762.63
Bank Fees	\$ 63.19
Corporate Cards	\$ 0.00
Fire Messaging Service	\$ 0.00
TOTAL	<u>\$ 1,114,163.90</u>
<u>TRUST FUND</u>	
Cheque Payments	\$ 0.00
Electronic Funds Payments	\$ 12,415.47
Direct Debits Licensing	<u>\$ 127,582.85</u>
TOTAL	<u>\$ 139,998.32</u>
TOTAL DISBURSEMENTS	<u>\$1,254,162.22"</u>

CARRIED: 3/0

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.2 Investments – July 2015

FILE NO: FI.FRP
COUNCIL DATE: 24 August 2015
REPORT DATE: 10 August 2015
SENIOR OFFICER: Graeme Simpson, Acting CEO
AUTHOR: Tabitha Bateman, Financial Controller
APPENDICES: Shire of York Investment Portfolio
DOCUMENTS TABLED: Nil

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 31 July 2015.

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

ASB Comment:

Cr Smythe asked why we had all our money invested with the Bendigo. The Financial Controller replied that we bank with the Bendigo Bank and currently our investments are also with the Bendigo Bank, however investments will be placed this month with other banks.

**RESOLUTION
110815**

Moved: Cr Smythe

Seconded: Cr Wallace

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

CARRIED: 3/0

9.5 Late Reports

9. OFFICER'S REPORTS 9.5 DEVELOPMENT REPORTS

Disclosure of Interest: Cr Denese Smythe – Impartiality Interest – Cr Smythe advised that her daughter's father-in-law owns property within the plan

9.5.1 Daliak Outline Development Plan

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:

COUNCIL DATE:	24 August 2015
REPORT DATE:	17 August 2015
LOCATION/ADDRESS:	Daliak Precinct
APPLICANT:	Planwest Town Planning Consultants
SENIOR OFFICER:	G Simpson, CEO
REPORTING OFFICER:	C. Thompson, Consultant Planner (GHD)
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	1 – Daliak Outline Development Plan 2 – Local Water Management Strategy 3 – Transport Assessment 4 - Engineering Servicing Plan/Implementation Plan 5 – Submissions received
DOCUMENTS TABLED:	Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

The Daliak Precinct was rezoned to Development on 3 June 2011 and the next stage in the process was the preparation of an Outline Development Plan (ODP) for approval to facilitate urban development of the precinct.

The Daliak ODP was lodged in early 2013. Following a lengthy assessment process and liaison with the applicant, the ODP was deemed to be refused in October 2014 (having not been determined within 120 days of lodgement) and the applicant has appealed the deemed refusal in the State Administrative Tribunal (SAT).

Through mediation in the SAT, an amended ODP has been received. Orders of the SAT have invited Council to reconsider their original decision to (deemed) refuse the ODP at their meeting of 24 August 2015.

The amended plan is presented to Council for determination.

Background:

The Daliak Precinct consists of an area of 114.23 hectares and is bounded by Great Southern Highway, Ulster Road and Morris Edwards Drive.

In 2011 the rezoning of the Precinct was gazetted to a Development zone, identifying the planning intent of the land being for urban development – subject to the approval of an ODP.

The Structure Plan was submitted to Council in 2013, and was advertised in accordance with the provisions of the York Town Planning Scheme No. 2. Since that time, the Administration has been liaising with the applicant to amend the ODP to meet planning policy requirements. This liaison took the application beyond the determination timeframe outlined in the scheme, therefore the ODP was ultimately deemed to be refused by the applicant. In October 2014, the applicant submitted an application for appeal to the State Administrative Tribunal (SAT).

Through mediation, an amended ODP has been prepared (Appendix 1), and is supported by additional technical documentation, including:

- Local Water Management Strategy (Appendix 2),
- Transport Assessment (Appendix 3), and
- Engineering Servicing Plan/Implementation Plan (Appendix 4).

The ODP outlines the proposed land uses and densities, road network and public open space, including drainage infrastructure. The delivery of the ODP will yield an estimated 1770 lots/dwellings that will result in a population of up to 4071 people.

Consultation:

The original ODP was advertised for the minimum period of 21 days in accordance with the provisions of the Scheme.

All landowners within and adjoining the precinct were notified in writing, together with an advertisement being placed in the Avon Valley Gazette and on Council's website. During the exhibition period, the ODP was available for viewing at Council's Administration Office.

All submissions received in writing within the advertising period were considered prior to amendments being requested of the applicant and prior to the applicant deeming the proposal refused. Submissions received on the original ODP are provided in Appendix 5.

The confidential nature of mediation proceedings in the State Administrative Tribunal, and the orders of the SAT to reconsider the amended ODP at the meeting of 24 August 2015 have not facilitated any further advertising or consultation.

Statutory Environment:

Shire of York Town Planning Scheme No. 2

The Daliak Precinct was rezoned to 'Development'. The Development zone has no permissible uses until such time an ODP has been approved.

Development Zone

The purpose of 'Development' zone is to:

- Designate land considered to be generally suitable for future development and to prevent such land being used or developed in a manner which could prejudice its possible future use for planned development
- Provide for the sustainable development of land in an orderly manner with appropriate levels of physical infrastructure and human services
- Ensure the orderly development of the land, through a requirements for the preparation and endorsement of an ODP in accordance with the provisions of section 5.10 of the Scheme, as a prerequisite to subdivision or development of the land
- Establish zoning and density coding for land through the adoption of an ODP.

The amended ODP satisfies the requirements of the Development Zone of the scheme, and provides a planning framework for development of the Daliak precinct.

Policy Implications:

There are no policy implications associated with this proposal.

Financial Implications:

The Shire has incurred consultant fees in the assessment and mediation of the ODP in the SAT. The Shire has been invited to reconsider their (deemed) refusal of the ODP. A refusal of the application is likely to result in the applicant requesting a full hearing in the SAT to determine the ODP. Any further mediation and/or hearing in the SAT will continue to incur legal and consultant fees.

The amended ODP includes a series of statutory provisions which clearly place the requirement for servicing and upgrades of infrastructure to deliver the Daliak Structure Plan on the developer. This will alleviate potential financial costs to the Shire for upgrading of infrastructure.

Some additional infrastructure required to service the development, whilst being constructed by the developer, will be handed over to the Shire of York. It is standard for the WAPC to place conditions on subdivision that developers maintain infrastructure for a minimum of two years following practical completion. The Shire of York will be responsible for infrastructure following that time, and will need to incorporate maintenance of additional infrastructure into their operational budget in future.

Strategic Implications:Shire of York Community Strategic Plan

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 Daliak Precinct is a significant land development for York and will provide an appropriately planned area for population growth in close proximity to the town centre.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: No

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

It is expected that the ODP may bring economic benefit to the community of York. Subdivision and development presents a potential stimulus for the local construction industry. A larger resident population bring potential economic benefits for the community through greater demand for local service industries.

Social Implications:

The ODP provides a range of residential densities as well as retirement villages/aged person's care. The range of lifestyle choices provides an opportunity for longer term residents of York and surrounds to 'age in place' in suitable and diverse accommodation options. This presents a key social benefit to the York community.

Environmental Implications:

The Daliak precinct is bisected by a creek line. The ODP has not been informed by an appropriate investigation to determine the most appropriate buffer for the creekline. However, the amended ODP includes a statutory requirement for a biophysical assessment to identify the necessary buffer/foreshore reserve prior to subdivision. This is a suitable planning mechanism to ensure the environmental requirements of the creek are investigated prior to commencement of subdivision.

Other potential environmental implications include the impact of poor quality stormwater on receiving environments (including surface water and groundwater). The amended ODP is supported by a Local Water Management Strategy which outlines the management of stormwater quantity and quality. This has been peer reviewed and found to be sufficient for the purpose of the proposed ODP. The ODP also includes statutory provisions requiring the preparation of more detailed plans (Urban Water Management Plans) at subdivision, in line with state planning policy and guidelines for water management.

Officer Comment:

The amended ODP and supporting documentation reflects modifications recommended by Administration to comply at a basic level with planning requirements, and therefore responds to the key issues raised prior to and during mediation. These issues are outlined below, and include:

- Staging, and infrastructure delivery
- Impacts on local roads
- Impacts on local drainage infrastructure
- Public open space provision

Staging and infrastructure delivery

The amended ODP responds sufficiently to earlier concerns raised by Administration in relation to the sharing and staging of infrastructure delivery. Due to fragmented landownership, it is important that the ODP provides a framework to ensure infrastructure delivered in early subdivision stages is of sufficient capacity to service latter subdivision stages.

The Engineering Servicing Report/Implementation Plan includes a detailed servicing plan, clearly articulating the required infrastructure and capacity for each subdivision stage. This report is supported by statutory provisions in the ODP that clearly stipulate that all infrastructure is the responsibility of the developer. The provisions in the ODP further require that individual stages of subdivision include infrastructure of sufficient capacity to manage ultimate development levels. The ODP also includes statutory provisions that enable sharing of infrastructure costs across subdivision stages where an item of infrastructure services several stages.

Impacts on Local Roads

Delivery of the ODP will increase the number of vehicles, cyclists, and pedestrians using local roads and paths in York. Consistent with state planning policy, where a development creates demand for infrastructure upgrades, planning mechanisms can require that those upgrades are funded by the developer. Within the Daliak precinct, this includes potential upgrades to Trews Road, Ulster Road, Morrie Edwards Drive, and existing intersections of local roads to Great Southern Highway, among others.

The Transport Assessment provided to support the amended ODP identifies that additional traffic movements can be accommodated within the existing road reserves outside the Daliak precinct, however does not identify any upgrades to the current road infrastructure. However, the amended ODP includes statutory provisions requiring the preparation of a detailed Transport Study, prior to the first stage of subdivision, to identify any required upgrades. Statutory provisions in the ODP require that subdividers pay a cost contribution to Council, as a condition of subdivision, to pay for these required upgrades.

It is noted that Trews Road has been constructed outside its alignment adjacent to the hospital and town dam. Services extension to subdivision stages will need the road reservation of Trews Road to be modified, including:

- Gazettal of crown land (Hospital site) as road reserve;
- Closure of road reserve in eastern portion of ODP area.

This is a process that the Shire should initiate and manage, as the land to be gazetted as road reserve is outside the ODP area, and beyond the responsibility of the developer.

Impacts on Local Drainage Infrastructure

Stormwater generated within the Daliak precinct requires management in the context of the town dam and the creek line, which flows downstream into the Avon River. The preparation of the Local Water Management Strategy includes modelling of stormwater flows and has been reviewed by a consultant hydrologist. The proposed stormwater basins and other management strategies presented in the Local Water Management Strategy are suitable to manage downstream drainage risks. The amended ODP includes statutory provisions to ensure that subdivision drainage design is undertaken in accordance with the Local Water Management Strategy.

Public Open Space

The ODP map includes the creek line, its (as yet undetermined) foreshore reserve, and drainage areas as ‘public open space’. Western Australian Planning Commission development control policies require the provision of at least 10 percent of a development area for public open space; this does not include areas of waterways, foreshore reserve, and some types of drainage basins. Therefore, the ODP is unlikely to meet the policy requirement for POS. In the absence of the determination of the required foreshore reserve, POS cannot be accurately determined.

To resolve this policy uncertainty, the amended ODP includes statutory provisions requiring at least 10 percent public open space, and clarifies that foreshore reserve will not count toward public open space. The statutory provisions required that a detailed public open space schedule be provided at subdivision to demonstrate that at least 10 percent public open space is provided. Alternatively, and as provided by WAPC policy developers can provide “cash-in-lieu” for any shortfall in public open space, which would provide a funding source for the Shire to enhance recreational facilities elsewhere.

In summary, the ODP provides a satisfactory planning framework for the urban development of the Daliak precinct. Key financial risks to the Shire, in relation to infrastructure provision, are addressed in the amended ODP negotiated with the applicant through SAT mediation. Some final modifications are required to the Engineering Services Report/Implementation Plan, which are appropriate to be made as conditions of the approval of the ODP.

OFFICER RECOMMENDATION

"That Council:

Pursuant to clause 5.10.12 of the Shire of York Town Planning Scheme No. 2 ADOPT the Daliak outline development plan and technical supporting documents including the Local Water Management Strategy, Transport Assessment, Landscaping Plan and Engineering Servicing Report/Implementation Plan, subject to the following modifications to the Engineering Servicing Report/Implementation Plan:

1. *The implementation plan to note that tanks, booster pumps and/or supply pressure mains required to service Stage 6, as identified by consultation with Water Corporation prior to the first stage of subdivision, if not a Water Corporation prefund shall be a shared cost over Stage 6 only.*
- 2 *The implementation Plan to note at stage 5 (page 33) that the 300 mm water main, if not prefunded by Water Corporation, is a shared cost over all stages.*
- 3 *Section 5.3.1 of the Implementation Plan should refer to a 225mm diameter sewer.*
- 4 *Figure 13 of the Implementation Plan is to show the Stage 7 boundary.*
- 5 *The Implementation Plan is to include a statement requiring high voltage power to be extended to stage boundaries, to ensure the future adjoining stages can be serviced."*

RESOLUTION

120815

Moved: Cr Wallace

Seconded: Cr Smythe

"That Council:

Pursuant to clause 5.10.12 of the Shire of York Town Planning Scheme No.2 Council ADOPT the Daliak outline development plan dated 17 August, 2015 as per Appendix 1 and Technical Supporting Documents including the Local Water Management Strategy (Appendix 2), Transport Assessment (Appendix 3), Landscaping Plan And Engineering Servicing Report / Implementation Plan (Appendix 4) as attached, subject to the following modifications to the Engineering Servicing Report /Implementation Plan:

- 1. The implementation plan to note that tanks, booster pumps and/or supply pressure mains required to service Stage 6, as identified by consultation with Water Corporation prior to the first stage of subdivision, if not a Water Corporation prefund shall be a shared cost over Stage 6 only.**
- 2 The implementation Plan to note at stage 5 (page 33) that the 300 mm water main, if not prefunded by Water Corporation, is a shared cost over all stages.**
- 3 Section 5.3.1 of the Implementation Plan should refer to a 225mm diameter sewer.**
- 4 Figure 13 of the Implementation Plan is to show the Stage 7 boundary.**
- 5 The Implementation Plan is to include a statement requiring high voltage power to be extended to stage boundaries, to ensure the future adjoining stages can be serviced.**
- 6 Direct the Chief Executive Officer to prepare a local Planning Policy for Outline Development Plans and Subdivision in the development zone."**

CARRIED: 3/0

Changes to the Officer Recommendation where made under advice from the Consultant Planner and guidance from the Mentoring Panel with the inclusion of the date of the adopted Daliak outline development plan, and the mention of all appendices to the document and an additional Point 6 was added for clarification.

9. OFFICER'S REPORTS

9.5 WORKS REPORTS

9.5.2 Henrietta Street And Forrest Road Regional Bicycle Network Grant (RBN)

FILE NO:	FI.FAG.7
COUNCIL DATE:	24 August 2015
REPORT DATE:	19 August 2015
LOCATION/ADDRESS:	Henrietta Street and Forrest Road York
APPLICANT:	Shire of York
SENIOR OFFICER:	Graeme Simpson (ACEO)
REPORTING OFFICER:	Allan Rourke (MWS)
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

REPORT APPROVED BY THE ACEO: *Graeme Simpson*

Summary:

To withdraw the Henrietta Street and Forrest Road shared path project from the 2015/16 Regional Bicycle Network Grants programme (RBN).

This is because of issues that have arisen onsite and would hinder the completion of the project.

Background:

The Shire of York applied and were successful in obtaining funding (\$44,925 being 50% of the project cost) through the RBN Local Governments funding programme 2015/16.

The projects scope was to install 633 meters of shared concrete path 2.5 meters in width. The path commenced from Avon Terrace, west along Henrietta Street on the north side, north into Forrest Road on the east side and terminating at South Street.

Consultation:

Department of Transport
Shire President
Deputy President
Cr Wallace
Ms Janny Harris (Tidy Towns)
Mr Ian Crombie
CEO

Statutory Environment:

Department of Transport 2015/16 Regional Bicycle Network Program

Policy Implications:

Nil

Financial Implications:

The Shire of York's contribution of \$44,925 will remain unspent in the 2015/16 budget and can be discussed at the mid-year review.

Strategic Implications:

The proposed path was to connect the town site to the Forrest Oval Precinct and the York District High School (Ref: Shire of York's Integrated Bike and Trails Master Plan)

Voting Requirements:

Site Inspection: Yes
Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

N/A

Social Implications:

Restricts public convenience

Environmental Implications:

N/A

Officer Comment:

The issues that arose during the planning process are as follows:

Signage insitu,

Banners Poles insitu,

Street trees insitu.

Light and power poles insitu,

Proximity to and potential issues with the Rail Reserve which requires additional external approval (Main Roads WA, Brookfield Rail and Public Transport Authority),

Rail crossing and treatment,

Site planning.

The existing project cannot be transferred to an alternative location as it was submitted and awarded on its current location after undergoing a rigorous panel assessment and Ministerial approval.

With above issues in mind the project would not be completed in the time frame as set in the 2015/16 Regional Bicycle Network Local Governments Grants Program Grant Agreement Contract.

ASB Comment

N/A

RESOLUTION

130815

Seconded: Cr Wallace

“That Council:

Accept the problem

current grants programme and an alternative site surveyed and an application be submitted when the grants rounds open for 2016/17.”

CARRIED: 3/0

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.3 Relief Chief Executive Office

FILE NO:

COUNCIL DATE: 24 August 2015
REPORT DATE: 21 August 2015
LOCATION/ADDRESS: N/A
APPLICANT: G K Simpson, A/CEO
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Short Biography of Mark Dacombe

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary: Council

The Acting Chief Executive Officer had Leave Without Pay approved on 2nd July, 2015 for the week commencing 28 September, 2015.

Mr Mark Dacombe has accepted the offer to carry out the duties for the 4 working days during this period.

Background:

The search for a suitable person for such a short period has been difficult and Mr Dacombe has also agreed to assist with further employment on governance matters for a minimum of 2 days per week.

Consultation:

Councillors and Mentoring Panel

Statutory Environment:

Section 5.39(1a)(1) of the Local Government Act

Policy Implications:

Nil

Financial Implications:

Cost neutral. The existing Acting CEO has leave without pay.

Strategic Implications:

The additional resource of Mr Dacombe will assist the administration to cope with the increase work load.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

Nil

Environmental Implications:

Nil

Officer Comment:

Mr Dacombe holds the qualification of Master of Public Management with Merit (Victoria University of Wellington) 2006. His experience is extensive and includes a background in local government in New Zealand and Western Australia, Senior Advisor to Government and Director of his jointly owned business.

ASB Comment

Not Applicable

RESOLUTION

140815

Moved: Cr Smythe

Seconded: Cr Wallace

"That Council:

1. *Appoint Mr Mark Dacombe as relief Chief Executive Officer for the period 29 September to 2 October, 2015 (inclusive).*
2. *The remuneration to be at the rate of \$100 per hour plus superannuation contribution at 9.5%. The Shire will also provide the vehicle (O-Y) and meet the costs of accommodation for 3 to 4 nights."*

CARRIED: 3/0

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.4 Appointment of Committees

FILE NO:

COUNCIL DATE:

24 August 2015

REPORT DATE:

10 August 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:

Nil

APPENDICES:

Previous Register of Council Representatives

DOCUMENTS TABLED:

Nil

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

Summary:

There is a need for elected members to be appointed to represent the Council on local and regional committees and to establish an Audit Committee.

Background:

The attached list became inactive at the commencement of 2015 year because of the suspension of Council and the resignation of two other members.

An absolute majority of members is required to appoint an Audit Committee but only a simple majority of members need to appoint representatives to external bodies.

Consultation:

Not Applicable

Statutory Environment:

Various State Government Agencies have legislative requirements to invite Local Governments in the region to participate in meetings.

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Appointment of delegates will allow the Shire to have voting representation at regional forums.

Voting Requirements:

Absolute Majority Required: **Yes for the Audit Committee –**

In accordance with authority delegated by the Minister for Local Government, the Executive Director of the Department of Local Government & Communities has approved the Shire of York's application to reduce the number of offices of member to three (3) to make an absolute majority decision for this item.

Site Inspection:

Site Inspection Undertaken: **Not Applicable**

Triple bottom Line Assessment:
Economic Implications: Not Applicable

Social Implications:

Nil

Environmental Implications:

Nil

Officers Comment:

The appointments will be for the period ending 17 October, 2015.

The newly elected Council will be required to elect representatives for a further two year period.

ASB Comment

N/A

OFFICER RECOMMENDATION

"That for the period up to 17th October, 2015 Council:

1. *Appoint an Audit Committee.*
2. *Nominate Council Representatives for regional committees.*
3. *Appoint Emergency Services Recovery Co-Ordinator."*

RESOLUTION

150815

Moved: Cr Wallace

Seconded: Cr Smythe

"That for the period up to 17th October, 2015 Council:

1. *Appoint an Audit Committee comprising of all Elected Members.*
2. *Nominate Council Representatives for regional committees.*

Nominations as Council Representatives

York Health Advisory Committee

Representative: Cr Matthew Reid

Avon Regional Roads Sub-Group

Representative: Cr David Wallace

York Community Resource Centre

Representative: Cr Denese Smythe

York Honours Reference Group

Representative: Cr Matthew Reid

Avon Midland Ward of WALGA

Representative: Cr Matthew Reid **Deputy:** Cr Denese Smythe

Youth Advisory Committee

Representative: In Recess

District Emergency Management Committee (DEMC)

Representative: Shire President, Cr Matthew Reid

Road Advisory Group

Representative: Cr David Wallace

3. *Appoint the Chief Executive Officer as the Emergency Services Recovery Co-Ordinator."*

CARRIED: 3/0

By Absolute Majority by Ministerial Approval

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.5 Roads to Recovery – Budget Amendment

FILE NO:	FI.FAG.2.2
COUNCIL DATE:	24 August 2015
REPORT DATE:	13 July 2015
LOCATION/ADDRESS:	N/A
APPLICANT:	N/A
SENIOR OFFICER:	G K Simpson, A/CEO
REPORTING OFFICER:	T Bateman, FC
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Extract 'Roads to Recovery Allocations 2015'
DOCUMENTS TABLED:	Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

Each year Roads to Recovery funding is provided by the federal government for the purpose of upgrading local and regional roads. Funding programmes span over a five year period in which Council manages the use of these funds.

Background:

In the 2014-2019 funding period the Shire of York was granted \$1,699,213. Advice was received that funding would be allocated as follows;

<u>Financial Year</u>	<u>Allocation</u>
2014/15	\$283,202
2015/16	\$566,404
2016/17	\$283,202
2017/18	\$283,202
2018/19	\$283,202

An announcement on 23 June 2015 confirmed that Council's allocation for the 2015/16 financial year would increase from \$566,404 to \$809,306.

A variation to the adopted budget of \$242,902 is required to increase the income and expenditure in line with the available funding from Roads to Recovery.

Below is the statement released on 23 June 2015 from the Federal Government to Councils;

"The objective of Roads to Recovery is to contribute to the Infrastructure Investment Programme through supporting maintenance of the nation's local road infrastructure asset, which facilitates greater access for Australians and improved safety, economic and social outcomes. The Roads to Recovery programme does not contain a sunset clause under the new National Land Transport Act 2014 meaning no new legislation will be required for the continuation of the programme.

From 2014-15 to 2018-19 the Government will provide \$3.2 billion under the Roads to Recovery programme, to be distributed to Australia's local councils, state and territory Governments responsible for local roads in the unincorporated areas (where there are no councils) and the Indian Ocean Territories.

Roads to Recovery allocations for the councils in each jurisdiction (except the ACT as it is a unitary jurisdiction) have been determined on the basis of the recommendations of the Local Government Grants Commissions in each state and the Northern Territory for the

roads component of the Financial Assistance Grants. This is the same methodology as was used for this purpose in previous Roads to Recovery programmes.

As announced on 23 June 2015, Councils across Australia will receive an extra \$1.105 billion over the next two years.

Local governments will receive an extra \$300 million in 2015-16 under Roads to Recovery, on top of the \$700 million they are already receiving—a \$1 billion cash injection in local roads over the next 12 months.

In 2016-17, local government will receive an extra \$805 million in addition to the \$350 million they were already scheduled to receive under Roads to Recovery—\$1.155 billion next financial year.”

Consultation:

Manager Works and Services
Roads to Recovery

Statutory Environment:

Local Government Act 1995
Part 1 Section 1.4

1.4. Terms used

In this Act, unless the contrary intention appears —

***absolute majority* —**

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council.

Financial Implications:

This amendment will increase budgeted expenditure on Council roads in 2015/16 by \$242,902 however income will increase to match resulting in a nil effect on the budget.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: Yes

In accordance with authority delegated by the Minister for Local Government, the Executive Director of the Department of Local Government & Communities has approved the Shire of York’s application to reduce the number of offices of member to three (3) to make an absolute majority decision for this item.

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Officer Comment:

The increased funding provided by Roads to Recovery of \$242,902 will be allocated to Council roads in the 2015-16 year. Expenditure will be allocated to eligible roads as per the Roads to Recovery funding guidelines and priorities identified in the Shire of York Road and Bridges Asset Management Plan and Long Term Financial Plan.

The guidelines state;

"3 PROJECT CRITERIA**3.1 Eligibility of projects**

Payments under the Programme may be used on any project for the construction and/or maintenance of a road.

As defined by the Act, the term 'roads', includes each of the following when in association with a road:

- (a) traffic signs and control equipment;
- (b) street lighting equipment;
- (c) vehicular ferries;
- (d) bridges or tunnels, including pedestrian bridges (for the purpose of crossing from one side of the road to the other – not from one public area to another eg parks etc) ;
- (e) bicycle paths;

A bicycle path 'associated with a road' is one that:

- is located within the road reservation; or
- where removed from the road reservation, provides a route between points on the road that is shorter than or broadly similar in distance to the road route.

To list a bicycle path on your work schedule, with the exception of on-road delineated cycle paths, you must first contact a Roads to Recovery team member providing detailed evidence including plans and maps to confirm eligibility.

Footpaths are only eligible where they are part of a wider road project. A project to solely upgrade a foot path will not be considered.

Drainage projects are allowed where the purpose of the project is connected with the road, e.g. to stop flooding in wet weather or to stop pooling of water which affects the road's sub-structure. Projects will not always be in the road reserve. Where a project has several objectives, only one of which is the road, it can be partially funded. The project would need to be entered as a jointly funded road with an appropriate proportion listed against the road.

The purchase of land for compensatory habitat, where required by an environmental permit, is an allowable expense but should be listed against the project to which it relates and not shown as a separate item.

3.2 Excluded items

For further advice about whether an intended project can be funded by the programme, the LGA should contact the R2R Section. Examples of items that cannot be funded under this programme include:

- (a) transport planning studies (except road planning studies relating to a specific project);
- (b) street sweeping;
- (c) rehabilitation studies;

- (d) general administrative overheads and staff salaries not connected with specific projects funded under the programme;
 - (e) road building plant or other capital equipment especially moveable equipment (e.g. graders). However, note that bores for water for road building in remote areas have been allowed in association with complying projects;
 - (f) training;
 - (g) footpaths which are not part of the construction or upgrade of the road itself;
 - (h) off road car parks;
 - (i) street furniture;
 - (k) landscaping such as beatification of roundabouts, verges etc
 - (l) public liability insurance;
 - (m) fringe benefits tax;
 - (n) LGA expenses such as light, power, stationery, IT support, telephone, cleaning and all other expenses which the LGA would have incurred anyway, regardless of whether or not the Roads to Recovery programme was underway;
 - (o) finance leases on equipment;
 - (p) operating lease charges where the rental expense cannot be directly linked to the Roads to Recovery project, e.g. a grader may be hired for a period for a variety of tasks. Only the component that relates specifically to Roads to Recovery jobs can be charged against Roads to Recovery funds;
 - (q) depreciation, except for depreciation of plant and equipment directly attributable to a Roads to Recovery funded project;
 - (r) resealing of regional airport tarmacs; and
 - (s) stand-alone design and preliminary works (refer clause 4.5(d))
- ...

4 PROJECT SELECTION AND WORK SCHEDULES

4.1 Project selection and standards

LGAs are entitled to select the projects to be funded within their jurisdiction according to their own priorities, with the exception as set out under clause 4.2. They are responsible for all aspects of each project including the scope, design, the technical standards to which they are built, their construction and the subsequent management of the works involved.

LGAs are encouraged to maintain an appropriate balance between funding for urban and rural roads. Where funding is provided for LGAs in remote areas, the needs of Indigenous communities should be considered.

Councils are encouraged to lodge a small number of larger projects rather than a larger number of small projects (eg less than \$10,000)."

ASB Comment

Cr Reid requested that information regarding where funds will be applied be included in the Agenda item for the Ordinary Council Meeting.

Requested information has been included in the report under Officers Comments.

**RESOLUTION
160815**

Moved: Cr Wallace

Seconded: Cr Smythe

"That Council:

Accept the increase of \$242,902 funding from Roads to Recovery to be allocated to Shire roads in the 2015/16 financial year."

CARRIED: 3/0

By Absolute Majority by Ministerial Approval

9. OFFICER'S REPORTS

9.5. LATE REPORTS

9.5.6 Application to be recognised as a Community Group – York Imperials Cricket Club

FILE NO:	FI.DON
COUNCIL DATE:	17 August 2015
REPORT DATE:	14 July 2015
LOCATION/ADDRESS:	N/A
APPLICANT:	N/A
SENIOR OFFICER:	Graeme Simpson, A/Chief Executive Officer
REPORTING OFFICER:	Gail Maziuk, HR/Compliance Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

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

Summary:

It is a requirement that York Imperials Cricket Club makes application to Council to be recognised as a Community Group in order to qualify to have fees and charges waived when conducting not for profit fund raising activities in public places and thoroughfares.

Background:

On 25 May 2015 an application was made in writing to the Shire asking for York Imperials Cricket Club to be exempt from the street licence trading fees, as part of their fundraising, as a non for profit organisation.

Consultation:

Nil

Statutory Environment:

Shire of York, Local Law – Trading in Thoroughfares and Public Places

Policy Implications:

Nil

Financial Implications:

Shire's fees waived as part of fundraising activities.

Strategic Implications:

In accordance with the Shire of York Strategic Community Plan Our Vision, the following applies:

The Rural Gateway Our Shire will be:

A place of community, where lifestyle choices are important and where community matters.

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Not Applicable**

Triple bottom Line Assessment:

Economic Implications:

Other community-based groups may make similar applications if a precedent is set resulting in Budget consideration.

Social Implications:

It is of benefit to enhance relationships between Council and Community Groups by waiving fees and charges for fundraising purposes of community benefit.

Environmental Implications:

Nil

Officer Comment:

That Council considers to waive the annual fee for operating fundraising stallholder activities within the Shire of York.

ASB Comment:

N/A

**RESOLUTION
170815**

Moved: Cr Smythe

Seconded: Cr Wallace

“That Council recognise the York Imperials Cricket Club as a Community Group for the purpose of waiving fees and charges related to trading in public places and thoroughfares for fundraising”.

CARRIED: 3/0

9.6 Confidential Reports

Nil

10. NEXT MEETING

"That Council:

holds the Agenda Settlement Briefing on Monday, September 14, 2015 at 5.00pm in the Lesser Hall, York Town Hall, York and the next Ordinary Meeting of the Council on Monday, September 21, 2015 at 5.00pm in the Lesser Hall, York Town Hall, York."

**RESOLUTION
180815**

Moved: Cr Smythe

Seconded: Cr Wallace

"That Council:

holds the Agenda Settlement Briefing on Monday, September 14, 2015 at 5.00pm in Council Chambers, York Town Hall, York and the next Ordinary Meeting of the Council on Monday, September 21, 2015 at 5.00pm in Council Chambers, York Town Hall, York."

CARRIED: 3/0

11. CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 6.45pm