



# SHIRE OF YORK

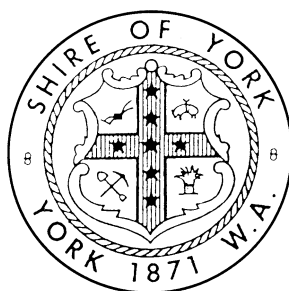
**MINUTES OF THE ORDINARY  
MEETING OF THE COUNCIL  
HELD ON 28 AUGUST 2017  
COMMENCING AT 5.09PM  
IN THE LESSER HALL,  
YORK TOWN HALL, YORK**



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## SHIRE OF YORK

### THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 28 AUGUST 2017, COMMENCING AT 5.09PM 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 David Wallace, Shire President, declared the meeting open at 5.09pm.*

*The meeting was initially planned to be held in Council Chambers, however due to the large number in the Gallery (above the allowed number of 16 people) at 5.00pm it was determined to hold the meeting down stairs in the Lesser Hall to provide adequate space for the public to attend. Notices were placed in appropriate places to inform the public of the change of venue.*

##### 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

*Nil*

##### 1.4 Announcement of Visitors

*Nil*

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

*Nil*

- 1.6 Declarations of Financial Interest  
*Cr Tricia Walters – SY099-08/17 – Avon Valley Motor Museum*  
*Cr Trevor Randell – SY100-08/17 – Perth International Jazz Festival*  
*Mr Paul Martin – SY107-08/17 – CEO Annual Performance Review & KPI's for 2017/18*

- 1.7 Declarations of Interest that May Affect Impartiality  
*Nil*

## **2. ATTENDANCE**

- 2.1 Members  
*Cr David Wallace, Shire President; Cr Denese Smythe, Deputy Shire President;*  
*Cr Heather Saint; Cr Pam Heaton; Cr Jane Ferro; Cr Trevor Randell; Cr Tricia Walters*
- 2.2 Staff  
*Paul Martin, Chief Executive Officer; Paul Crewe, Executive Manager Infrastructure & Development Services; Suzie Haslehurst, Executive Manager Corporate and Community Services; Carly Rundell, Senior Planner; Helen D'Arcy-Walker, Executive Support Officer*
- 2.3 Apologies  
*Nil*
- 2.4 Leave of Absence Previously Approved  
*Nil*
- 2.5 Number of People in Gallery at Commencement of Meeting  
*There were 24 people in the Gallery at the commencement of the meeting*

## **3. QUESTIONS FROM PREVIOUS MEETING**

- 3.1 Response to previous public questions taken on notice

### **Mr John Cole**

#### **Question 1:**

Under what authority/instrument did the Shire rely upon when it decided to apply the deposited funds of \$995.00 to Rates instead of the documents dated 1 June 2016, titled "Statement"? Why is the Shire threatening me with legal action in June 2017 when the amount required to be paid was deposited into the Shires bank account on the 27 October 2016 and incorrectly receipted by the Shire as 'Rates' on the 28 October 2016. Given that I had entered into a binding agreement with the Shire to pay the rates for 2016/17 by way of four (4) instalment as openly offered by the Shire, why should this not be viewed as harassment or incompetency? Does the CEO, Paul Martin, think it acceptable to threaten legal action for outstanding fines while the Shire currently holds funds in credit?

#### **Response provided by the Executive Manager Corporate & Community Services:**

The Shire receives hundreds of payments via its daily bank statements and without the inclusion of appropriate references, it can be difficult to assign payments correctly. On this occasion, based on the information provided on the bank statement, officers assumed in error that the payment was for rates.

Debt collection has been a major focus for Council and officers, and in an attempt to follow up outstanding balances, letters and/or statements were sent in June 2017 requesting payment of all outstanding debts prior to referral to Council's debt collection agency.

The Shire apologises for any inconvenience this caused.

A further detailed response was provided to Mr Cole due to the confidential nature of the information provided.

- 3.2 Response to unasked questions from the previous meeting  
*Nil*

#### **4. PUBLIC QUESTION TIME**

Public Question Time is conducted in accordance with the Act and Regulations. In addition to this the Shire's Council Meetings Local Law 2016 states –

##### **6.7 Other procedures for question time for the public**

- (1) A member of the public who wishes to ask a question during question time must identify themselves and register with a Council Officer immediately prior to the meeting.*
- (2) A question may be taken on notice by the Council for later response.*
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and*
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.**
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and*
  - (b) allow another person to respond to the question.**
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.*
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.*
- (7) The Presiding Member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;*
  - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or*
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.**
- (8) A member of the public shall have 2 minutes to submit a question.*
- (9) The Council, by resolution, may agree to extend public question time.*
- (10) Where any questions remain unasked at the end of public question time they may be submitted to the CEO who will reply in writing and include the questions and answers in the agenda for the next ordinary Council meeting.*

*(11) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.*

*Public Question Time Commenced at: 5.12pm*

#### 4.1 Written Questions – Current Agenda

##### **Mrs Kay Davies**

The Shire President read Mrs Davies question –

##### **Question 1:**

I would like to request that the Shire of York organise a Town Meeting to inform the community about the new application received by the DWER from Alkina Holdings called the 'Great Southern Landfill'. I have been approached by many very concerned citizens requesting this meeting and asking for more information.

##### **Response:**

The question was responded too in two parts -

**The Shire President** stated that at this stage the Council's intention is to assess the application then hold a Special Council Meeting so the community can see what is in the Shire's submission to DWER.

**The Executive Manager Infrastructure and Development Services** also stated as the Shire is assessing the works approval application and operating in accordance with the guidelines and legislation, it is reluctant to 'Chair or hold' a meeting of this type.

The Shire would, however be happy to attend an 'information session' should a community member hold it and investigate waiving the facility hire fees should such a meeting occur.

#### 4.2 Public Question Time

##### **Mrs Yvonne Dols**

##### **Question 1:**

Will the Shire assure concerned ratepayers that they will strenuously protest the new 'waste' proposal on behalf of the ratepayers as this proposal rides on the 'coat tails' of the SITA plan, which included York jobs and a venue for York's waste. Is this 'carrot' part of the new proposal?

##### **Response provided by the Shire President:**

The Shire position has not changed from before when it was against the proposal.

##### **Question 2:**

Has the second proposal got the 'carrot' of more employees?

##### **Response provided by the Senior Planner:**

The Shire is still assessing the application. The Shire will call a Special Council Meeting so the community can view the submission the Shire will make to DWER in a timely manner.



**Mr Denis Hill**

**Question 1:**

Assuming the application falls over and assuming the time will expire in due course is there a window of opportunity for another applicant to put in another proposal?

**Response provided by the Chief Executive Officer:**

We would be hoping that the Minister agrees to a sunset clause, however until this happens it is still possible.

**Question 2:**

Is there still an opportunity for another applicant?

**Response provided by the Chief Executive Officer:**

Yes, there is still an opportunity for another applicant.

**Mrs Tanya Richardson**

**Question 1:**

Has the Avon Valley Motor Museum presented a Business Plan to the Shire and has the Shire verified the Local Government Act that the Shire can be the guarantor for the loan?

**Response provided by the Chief Executive Officer:**

An investigation will be undertaken once the item been considered by Council. Included in the Agenda item is all the information the Shire was provided with regarding this request.

**Mr John Cole**

**Question 1:**

I have received a letter to say the money should have gone to the rates account, however I still have not received an updated Rates notice.

**Response provided by the Executive Manager Corporate & Community Services:**

A new Rates notice is still to be done, Mr Cole should receive it in the next day or so.

**Question 2:**

Does the Shire consider those other debts finalised and there is nothing outstanding on the Rates?

**Response provided by the Executive Manager Corporate & Community Services:**

I believe so, a new Rates notice will be forwarded to you.

*Public Question Time Concluded at 5.24pm*

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

*Nil*

**6. PRESENTATIONS**

**6.1 Petitions**

*Nil*

**6.2 Presentations**

*Nil*

6.3 Deputations  
*Nil*

6.4 Delegates reports  
*Nil*

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

7.1 Minutes of the Ordinary Council Meeting held 24 July 2017

Confirmation

**RESOLUTION  
010817**

**Moved: Cr Smythe**

**Seconded: Cr Heaton**

***“That the minutes of the Ordinary Council Meeting held on 24 July 2017 be confirmed as a correct record of proceedings.”***

***CARRIED: 7/0***

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

**9. OFFICER’S REPORTS**

## ***SY096-08/17 – Scheme Amendment No. 50 – Omnibus***

**FILE REFERENCE:** PS.TPS.50  
**APPLICANT OR PROPONENT(S):** Shire of York  
**AUTHORS NAME & POSITION:** Carly Rundle, Senior Planner  
**RESPONSIBLE OFFICER:** Paul Crewe, Executive Manager Infrastructure & Development Services  
**PREVIOUSLY BEFORE COUNCIL:** 27 June 2016 (SY059-06/16)  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** A - Confidential Attachment - Legal Advice  
B – Confidential Legal Advice distributed to Councillors, the Chief Executive Officer and Executive Managers under separate cover on Friday, 25 August 2017

***Appendices A and B are confidential under Section 5.23 2(d) of the Local Government Act 1995 in that it deals with “legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.”***

***Copies have been provided to Councillors, the Chief Executive Officer and Executive Managers only.***

### **Nature of Council’s Role in the Matter:**

- Executive

### **Purpose of the Report:**

- To provide an update on the progress of Scheme Amendment No. 50 and Council resolution 27 June 2016 objecting to the inclusion of the Special Use No.8 zone (SU8), required by the Minister’s modifications for Scheme Amendment No. 50.
- To consider a potential modification to the SU8 zone and determine whether to support this modification in a response to the Minister for Planning.

### **Background:**

Scheme Amendment No. 50 is an omnibus amendment containing a number of administrative changes to the Shire of York Town Planning Scheme No.2 (Scheme), which was adopted by Council for the purposes of public advertising on 19 November 2012.

Initially, the advertised version proposed to introduce the land use of ‘Waste Disposal Facility’ as an ‘SA’ use (means that the issuing of planning approval is at the discretion of Council, after public notice has been given) in the General Agriculture zone and prohibited in all other zones. Following public advertising being undertaken and submissions received objecting to this, reference to the land use of ‘Waste Disposal Facility’ and ‘Waste or Resource Transfer Station’ was removed and the amendment was adopted for final approval by Council 15 April 2013 and forwarded to the Western Australian Planning Commission (WAPC) and Minister for Planning.

Council then resolved at the Ordinary Council Meeting 14 April 2014 to request the Minister for Planning to make ‘waste management facilities’ a prohibited use in the Scheme. To consider a development application for a ‘Waste Disposal Facility’ would then firstly require a scheme amendment to be pursued to allow the ability to apply for such a use on the property, such as through the creation of a ‘special use zone’.

The Minister for Planning issued final approval for the amendment on 5 April 2016, subject to modifications. The modifications in part reflected the 14 April 2014 resolution by requiring a modification to the advertised version of the amendment to make the land use of 'Waste Disposal Facility' prohibited in all zones (although required 'Waste Storage Facilities' to be listed as an 'SA' use in the General Agriculture and Industrial zones).

However, in recognising the Allawuna Landfill development approval issued by the State Administrative Tribunal 8 March 2016, and to avoid the creation of a non-conforming use by making Waste Disposal Facilities prohibited in all zones, the ministerial modifications required the insertion of Special Use Zone No. 8 (SU8) over the broader Allawuna farm property into Schedule 3 as follows:

No.	Particulars of Land	Special Use	Conditions
8	Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St. Ronans	1. Waste Disposal Facility and associated infrastructure on Lot 4869 (AA) 2. Caretaker's dwelling on Lot 4869 (AA) 3. Single House on Lot 9926 (P) 4. Agriculture – extensive (P)	1. The waste disposal facility shall only accept waste types permitted for disposal at a Class I and Class II landfill (DER, <i>Landfill Waste Classification and Waste Definitions</i> 1996 (as amended)). 2. The development is to be undertaken generally in accordance with the 8 March 2016 decision of the State Administrative Tribunal ([2016]WASAT22) and a development approval issued by the local government.

Although Ministerial modifications are considered a 'direction' and there is no ability for the Shire to appeal, Council considered the modifications and resolved at the Ordinary Council Meeting 27 June 2016:

1. *To request the Chief Executive Officer to write to the Minister for Planning advising of:*
  - (i) *Council's objection to the inclusion of a modification to rezone Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St Ronans from General Agriculture to Special Use No. 8;*
  - (ii) *That in the event that the Minister does not amend the modification, advise of the Shire's position that the modification is significant and request that the Minister direct the Shire to re-advertise the amendment in accordance with Clause 46 and/or 56 of the Planning and Development (Local Planning Schemes) Regulations 2015*
2. *In the event that the Minister of Planning directs to remove Special Use No. 8 from the modifications and Amendment 50, the modified Amendment No. 50 documents be sent back to the Commission for execution.*

A full background of the amendment document and modifications can be found in the SY059-06/16 minutes, although the reasons for the objection noted in the report relate to:

- The wording of Condition No. 2 is considered unclear as to whether it is restricting development to the 8 March 2016 SAT decision and incidental uses, and anything outside of this would require a further scheme amendment; or if it facilitates any future, additional approvals issued by the local government;
- The introduction of the SU8 zone is a new addition to Amendment No. 50; it was not part of the advertised or finally adopted version. The Minister has not directed the Shire to advertise this modification under Clause 46 and/or 56 of the Regulations as the Minister considers that the modification is not significant. It is the Shire's opinion that the modification is significant and should firstly require re-advertising to occur;

- The proposed rezoning is a completely new addition to the advertised and finally adopted version by Council, was not advertised and was not contemplated by the submission of the development application/SAT proceedings;
- The amendment relates to the overall lot areas, whereas the development approval relates to the development site only;
- In the absence of the rezoning being included within the initial Scheme Amendment, the rezoning is effectively bypassing the requirements of the *Environmental Protection Act 1986* which requires schemes and scheme amendments to be referred to the Environmental Protection Authority, a process which would consider the broader implications of the land use change of the overall site, whereas current approvals relate only to a portion of the property; and
- The rezoning relates to a development that received significant community concern and objection which would warrant proper consultation being undertaken. On this note, an objection has already been received, which cannot be considered in a manner consistent with orderly and proper planning;
- The rezoning reflects a land use change that, in of itself, reflects a 'complex' amendment and therefore cannot be considered insignificant;
- The rezoning is not planned for in the Local Planning Strategy;
- The introduction of a Special Use zone into the scheme for the site is also considered premature when there is no guarantee that the development will commence, and it is potentially limited to the current approval. Should the development not commence, depending on how Condition 2 is interpreted, any development on the site may require a further, unnecessary scheme amendment to revert the area to the General Agriculture zone.

It is officers' opinion that the use would be better treated as a non-conforming use, which, on face value, would be no more restrictive than the SU8 zone proposed by the Ministerial modifications. Should the landowner choose to, they could progress a rezoning separately, with community consultation, transparency and consideration of appropriate consideration of submissions and content of any Special Use conditions.

Since Council's resolution 27 June 2016 objecting to the inclusion of the SU8 zone, the following has occurred:

- 6 July 2016 – Press Release issued by SUEZ (previously SITA) advising they would no longer be proceeding with development on the site;
- Contact was made with a representative of the landowner on 20 July 2016 advising of the ability to cancel the development approval, and implications of the rezoning on use of the land;
- A letter was sent to the then Minister for Planning on 26 July 2016 outlining the objections to the proposal and requested the removal of the SU8 zone from the modifications;
- A response was received from the Minister for Planning 12 September 2016, advising that the planning approval is still valid for a period of two years, and indefinitely if the development is substantially commenced within this period. On this basis it was advised that removal of the SU8 zone would be considered if the planning approval were to be cancelled. It was suggested that the Shire consult with the landowner/applicant to determine if they wished to cancel the approval. Officers had already undertaken this action (refer above).

- The Shire sought a meeting with the Minister for Planning on 23 November 2016 and an offer was made to meet with a Policy Advisor and the WAPC. The meeting was held on 19 December 2016 where the Shire outlined its objections to the inclusion of the SU8 zone and requested that the zoning remain 'General Agriculture'. If the development commenced it would then become a non-conforming use, and a separate scheme amendment could be progressed by the landowner representing their intentions for how the land is to be used and developed. The Shire was advised that the removal of the SU8 zone would be unlikely to be supported. The concept of a 'sunset clause' was discussed as an alternate provision that could require the property to revert back to 'General Agriculture' if the development was not commenced within the two year period. The Shire provided that removal of the SU8 zone was still our preferred outcome, as if development were commenced, the SU8 zone allowed further development than that contemplated by the development application and has not followed orderly and proper planning processes to be adopted. However, it was noted that if the SU8 zone was not to be removed the inclusion of a 'sunset clause' would be a preferred option over the existing conditions of the SU8 zone. Whilst the inclusion of a sunset clause was discussed, the decision to accept any modification to the SU8 zone would ultimately be at the discretion of the Minister for Planning.
- Email correspondence was received from the WAPC on 20 January 2017 providing a summary of the meeting outcomes, and advising that the Minister wishes to consider the views of the landowner, as the introduction of the SU8 zone had so far been drafted for inclusion by the Department of Planning without input, consultation or comments from the landowner (aside from notification sent to the landowner by the Shire advising of the amendment).
- Council was briefed on the request to seek further comments from the landowner. State Elections were then held 11 March 2017, with most government agencies entering into 'caretaker mode' from February until election results were clear or until government is formally sworn in.
- Two Shire representatives held a meeting with the landowner affected by the rezoning on 4 April 2017. A copy of the amendment, and explanation of its effects were provided. The landowner's written comments on the proposal were requested. The landowner did not offer comments on the proposal during the meeting, and declined to provide any written comments on the proposal until such time that the Minister for Planning met directly with the landowner.
- A meeting request to the Minister for Planning was submitted on behalf of the landowner on 4 April 2017, and response received on 28 April 2017 offering a meeting with the policy advisor instead. The response was forwarded to a representative of the landowner, and to date a response is yet to be received.
- Additional advice was sought verbally from McLeod's on 7 April 2017, and discussion on the potential inclusion of the sunset zone, as efforts to date, had so far indicated no support for removal of the SU8 zone. The outcome of this was that removal of the SU8 zone is preferred, and that further attempt be made to have this removed.
- The March 2017 State elections resulted in a new government and Ministerial department being appointed. A meeting was held on 8 May 2017 with the Hon Darren West MLC, and followed up by letter correspondence sent 18 May 2017. The Hon Darren West MLC subsequently sent a letter to the new Minister for Planning indicating support to the Shire's request to have the SU8 zone removed.
- Officers sent a request for an update on the matter on 19 June 2017.

- On 3 July 2017 the WAPC sent through a draft proposal for two additional conditions to be included within the SU8 zone representing the discussion regarding the sunset clause for consideration. The draft modifications are as follows:

	No.	Particulars of Land	Special Use	Conditions
SU8	8	Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St. Ronans	1. Waste Disposal Facility and associated infrastructure on Lot 4869 (AA) 2. Caretaker's dwelling on Lot 4869 (AA) 3. Single House on Lot 9926 (P) 4. Agriculture – extensive (P)	1. The waste disposal facility shall only accept waste types permitted for disposal at a Class I and Class II landfill (DER, <i>Landfill Waste Classification and Waste Definitions</i> 1996 (as amended)). 2. The development is to be undertaken generally in accordance with the 8 March 2016 decision of the State Administrative Tribunal ([2016]WASAT22) and a development approval issued by the local government. 3. If development of the waste disposal facility is not substantially commenced prior to 8 March 2018, the provisions of SU8 will cease to have effect, and use and development of the site shall be in accordance with the 'General Agriculture' zone. 4. If a development approval is sought following expiry of the approval mentioned in point 2, the application is to be assessed under the requirements applicable to the 'General Agriculture' zone.

Upon receipt, officers sent the draft provisions to Shire lawyers for advice on the wording. A response to the advice was received 28 July 2017 (**Appendix A** – Confidential Attachment). As such this matter is now presented to Council for consideration.

#### Comments and details:

As outlined above, the Shire has undertaken numerous actions requesting the modification requiring the inclusion of the SU8 zone be removed from Scheme Amendment No. 50.

The Shire's preferred outcome is that the property remains zoned 'General Agriculture' and if the landfill development is commenced, the use becoming a 'non-conforming' use, with non-conforming use rights, and a future separate scheme amendment proposed by the landowners could be proposed. This approach resolves many of the reasons for the objections to the rezoning as outlined above (that proper and orderly planning processes have not been followed), allowing an amendment to be progressed in a proper and orderly manner, with community consultation and consideration by Council.

However, given the actions that have occurred to date, officers are not confident that this outcome will be achieved.

If an application were to be received at the current time for a modification or extension or even a new development application for a landfill on this site, it would be considered against Shire of York Town Planning Scheme No. 2 where it is currently a 'use not listed', although Scheme Amendment No. 50 and the approved provisions (Minister modifications) are required to be given due regard which reflect a rezoning of the site to 'Special Use Zone No. 8' for the purposes of a 'Waste Disposal Facility'. This allows for extension and modification to occur to the planning

approval even after the development approval expires, particularly given the uncertainty of the wording of condition 2, which limits 'generally' to the existing planning consent.

The WAPC's proposed inclusion of conditions 3 and 4 introduces a 'sunset clause' to the SU8 zone, specifying that if development is not substantially commenced by 8 March 2018, that the provisions of the SU8 will cease to have effect. Whilst this does not resolve all of the objections previously raised by Council (i.e still makes changes above that contemplated by the development application and has not followed proper planning processes such as advertising of significant modifications) it is a preferred outcome over the inclusion of the SU8 zone as currently proposed as it removes the ability for extension of the existing planning consent.

It is therefore recommended that the WAPC's 'sunset clause' modification be supported, as it is a preferred outcome over the inclusion of the SU8 zone currently proposed by the Minister for Planning. It will still be at the discretion of the Minister for Planning as to whether the additional conditions reflecting the 'sunset clause' be included.

Officers have sought further advice on the wording (Appendix A) and it is therefore recommended to support the inclusion of the modifications to the SU8 zone subject to amendments to the wording as follows:

	No.	Particulars of Land	Special Use	Conditions
SU 8	8	Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St. Ronans	1. Waste Disposal Facility and associated infrastructure on Lot 4869 (AA) 2. Caretaker's dwelling on Lot 4869 (AA) 3. Single House on Lot 9926 (P) <b>and on the other three lots in the event that the waste disposal facility is not developed on Lot 4869.</b> 4. Agriculture – extensive (P)	1. The waste disposal facility shall only accept waste types permitted for disposal at a Class I and Class II landfill (DER, <i>Landfill Waste Classification and Waste Definitions</i> 1996 (as amended)). 2. The development is to be undertaken <b>generally</b> in accordance with the 8 March 2016 decision of the State Administrative Tribunal ([2016]WASAT22) and a development approval issued by the local government. 3. If development of the waste disposal facility is not substantially commenced prior to 8 March 2018, the SU8 <b>provisions other than this condition and condition 4 will cease to have effect, and use and development of the site shall be only in accordance with the 'General Agriculture' zone and use permissibility for the General Agriculture zone in the Zoning Table.</b> 4. If, a development approval is sought following expiry of the approval mentioned in point 2, the application is to be assessed under the requirements applicable to the 'General Agriculture' zone.

#### Options:

Officers recommendation is for Council to resolve to advise the Minister for Planning that the preferred position is for the Special Use Zone No. 8 be removed, and in the event that the Minister chooses not to remove the Special Use Zone No. 8, that it supports the inclusion of the 'sunset clause' into the Special Use Zone No. 8.



The following options are also available to Council:

1. Advise the Minister for Planning that it does not support the sunset clause, and request that the Special Use No. 8 zone be removed.

The potential implications of this are discussed below under the 'Risk' heading.

2. Support the inclusion of the Special Use Zone No.8.

This would supersede the previous Council resolution on 27 June 2017 objecting to the inclusion of the SU8 zone. This option is not recommended based on the reasons for objecting to the inclusion of the SU8 zone listed above.

A further comment raised by a member of the community related to the Shire progressing a separate scheme amendment to Scheme Amendment 50, which would then propose to make landfill a 'prohibited land use in all zones', and not propose the inclusion of the SU8 zone.

Initiating a separate amendment with a proposal that has already been considered as part of Scheme Amendment No. 50, would follow the exact same process as Scheme Amendment No. 50, where the Minister for Planning is required to issue final approval. Given that the Minister has already issued a decision on this matter (which is the subject of this report), a new Scheme Amendment would be unlikely to result in a different outcome. It could also be refused on the basis that Scheme Amendment No. 50 has already issued a decision on the prohibition of waste disposal facilities within the Shire of York.

It should also be noted that the WAPC/Minister has the ability to undertake the modifications and organise for these to be gazetted at any time without further discussion with the Shire, and invoice the Shire for costs incurred accordingly.

#### **Implications to consider:**

- **Consultative**

Consultation undertaken to date has been listed above.

Whilst the Shire has maintained that in its opinion, the modification is significant, and should have required a direction to readvertise for further consideration of Council, a direction to re-advertise and consider submissions is at the discretion of the Minister for Planning and is not likely to be required.

Consultation with affected landowners has also been limited to contact made by the Shire outlined above and to date no response has been received indicating whether the landowners support or oppose the rezoning of their property.

- **Strategic**

The development was recommended to be refused by the Shire and refused by the Wheatbelt Joint Development Assessment Panel as it is inconsistent with statutory documents and strategic documents of the Shire of York (although this decision was overturned and the application approved by the State Administrative Tribunal). Whilst the revised recommendation is to support the SU8 zone with the draft 'sunset clause' modification which is inconsistent with this direction, it is considered the most likely to be approved by the Minister of Planning.

In terms of a risk assessment, not taking this action may result in an application for extension or a new application being submitted, which could otherwise not have been permitted if the sunset clause was included.

- **Policy related**

Nil

- **Financial**

There are no known financial implications associated with the recommendation at this time.

- **Legal and Statutory**

The process for adoption and modification of Scheme Amendments is determined by the *Planning and Development Act 2005*, and *Planning and Development (Local Planning Schemes) Regulations 2015*.

Legal advice was sought on the proposed wording of the SU8 zone, and in accordance with Section 5.23(2)(d) of the *Local Government Act 1995*, has been provided as a confidential attachment for Councillor's review. The advice received is reflected in the content of this report and officer's recommendation.

- **Risk related**

Regardless of Amendment No.50 there is an existing planning consent for the landfill that permits development to occur in accordance with conditions of planning approval, determined by the State Administrative Tribunal.

There is a risk that if the development commences, that the current Ministerial modifications which approve the inclusion of the SU8 zone allow for further development and expansion to occur on the site, above that contemplated by the current development approval. The rezoning and development that the SU8 permits has not been able to be considered by Council, including any submissions from public advertising that would normally occur during a rezoning process.

However, if the modified SU8 zone and inclusion of the 'sunset clause' is not supported, with the intent that the Shire continue pushing for removal of the SU8 zone, there is a risk that an application to extend or modify, or even a new application could be received to develop the site. This would then be considered as a 'Use Not Listed' with due regard to Amendment 50, which proposes to rezone the site for a Waste Disposal Facility, which is not in the interests of the Shire. In this regard, correspondence has recently been received on 1 August 2017 indicating that a new developer will be seeking the relevant approval to develop a smaller version of the previously approved SUEZ proposal for a class II landfill east of York and will be applying for a new works approval with the Department of Water and Environmental Regulation (DWER). DWER have advised that they have received a new works approval application, and anticipate that public advertising of this proposal will commence on the 22 August 2017. At the time of writing this report, the Shire is yet to receive a copy of these plans or details of the new applicant's proposal.

Given the actions that have occurred to date have not indicated that Ministerial support will be given for removal of the SU8 zone, support for the sunset clause is a way to reduce risk that an extension or new application could be approved, if this is accepted by the Minister for Planning.

- **Workforce Implications**

There are no known workforce implications associated with the officer's recommendation.

**Voting Requirements:**

**Absolute Majority Required:           No**

OFFICER RECOMMENDATION:

*“That Council:*

*1. Requests the CEO to write to the Minister for Planning advising that:*

*(a) Council’s preferred position is that the Special Use Zone No. 8 be removed and Lots 9926, 26934, 4869 & 5931 Great Southern Highway, St Ronan’s remain zoned General Agriculture;*

*(b) Should the Minister choose not to remove the Special Use Zone No. 8, Council supports the inclusion of the ‘sunset clause’ into the Special Use Zone No. 8 to read as follows:*

	No.	Particulars of Land	Special Use	Conditions
SU 8	8	Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St. Ronans	1. Waste Disposal Facility and associated infrastructure on Lot 4869 (AA) 2. Caretaker’s dwelling on Lot 4869 (AA) 3. Single House on Lot 9926 (P) and on the other three lots in the event that the waste disposal facility is not developed on Lot 4869. 4. Agriculture – extensive (P)	1. The waste disposal facility shall only accept waste types permitted for disposal at a Class I and Class II landfill (DER, <i>Landfill Waste Classification and Waste Definitions</i> 1996 (as amended)). 2. The development is to be undertaken in accordance with the 8 March 2016 decision of the State Administrative Tribunal ([2016]WASAT22) and a development approval issued by the local government. 3. If development of the waste disposal facility is not substantially commenced prior to 8 March 2018, the SU8 provisions other than this condition and condition 4 will cease to have effect, and use and development of the site shall be only in accordance with the 'General Agriculture' zone and use permissibility's for the General Agriculture zone in the Zoning Table. 4. If, a development approval is sought following expiry of the approval mentioned in point 2, the application is to be assessed under the requirements applicable to the 'General Agriculture' zone.

*2. In the event that the Minister of Planning modifies the Special Use No. 8 zone, authorises the CEO to send the modified Scheme Amendment No. 50 documents to the Western Australian Planning Commission for execution.”*

**RESOLUTION  
020817**

**Moved: Cr Smythe**

**Seconded: Cr Saint**

***“That Council:***

**1. Requests the CEO to write to the Minister for Planning advising that:**

**(a) Council’s preferred position is that the Special Use Zone No. 8 be removed and Lots 9926, 26934, 4869 & 5931 Great Southern Highway, St Ronan’s remain zoned General Agriculture;**

**(b) Should the Minister choose not to remove the Special Use Zone No. 8, Council supports the inclusion of the ‘sunset clause’ into the Special Use Zone No. 8 to read as follows:**

	No.	Particulars of Land	Special Use	Conditions
SU 8	8	Lots 9926, 26934, 4869 and 5931 Great Southern Highway, St. Ronans	1. Waste Disposal Facility and associated infrastructure on Lot 4869 (AA) 2. Caretaker’s dwelling on Lot 4869 (AA) 3. Single House on Lot 9926 (P) and on the other three lots in the event that the waste disposal facility is not developed on Lot 4869. 4. Agriculture – extensive (P)	1. The waste disposal facility shall only accept waste types permitted for disposal at a Class I and Class II landfill (DER, <i>Landfill Waste Classification and Waste Definitions</i> 1996 (as amended)). 2. The development is to be undertaken in accordance with the 8 March 2016 decision of the State Administrative Tribunal ([2016]WASAT22) and a development approval issued by the local government. 3. If the development of the waste disposal facility is not substantially commenced prior to the expiration of 2 years from the date the SAT approval is taken to have had effect, the SU8 provisions other than this condition and condition 4 will cease to have effect, and use and development of the site shall be only in accordance with the ‘General Agriculture’ zone and use permissibility’s for the General Agriculture zone in the Zoning Table. 4. If, a development approval is sought following expiry of the approval mentioned in point 2, the application is to be assessed under the requirements applicable to the ‘General Agriculture’ zone.

**2. In the event that the Minister of Planning modifies the Special Use No. 8 zone, authorises the CEO to send the modified Scheme Amendment No. 50 documents to the Western Australian Planning Commission for execution.”**

***CARRIED: 7/0***

*Reason: Change to 1(b) Conditions Point 3 – due to advice received on Friday, 25 August 2017 and late today (Monday, 28 August, 2017).*

## ***SY097-08/17 – Road Dedication: Quairading – York Road***

**FILE REFERENCE:** YO1  
**APPLICANT OR PROPONENT(S):** Main Roads Western Australia  
**AUTHORS NAME & POSITION:** Paul Crewe, Executive Manager Infrastructure & Development Services  
**RESPONSIBLE OFFICER:** Paul Crewe, Executive Manager Infrastructure & Development Services  
**PREVIOUSLY BEFORE COUNCIL:** SY060-06/16 – 27 June 2016  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** A – Road Widening Plan – Drawing 1560-206-1 to 1560-211  
B – Location Plan

### **Nature of Council’s Role in the Matter:**

- Quasi-judicial

### **Purpose of the Report:**

The Shire has received correspondence from Main Roads requesting Council dedicate the land shaded in **Appendix A** as a road in accordance with Section 56 of the *Land Administration Act 1997*.

### **Background:**

The request to dedicate the land as a road was originally received from Main Roads on 20 May 2016, with plans depicting the land (**Appendix A**) required for widening/improvement works to be carried out on the Quairading - York Road (Location Plan provided at **Appendix B**), managed by Main Roads.

The widening/improvement works require acquisition of private land, which varies from 3m to 38m in width.

Council considered the request on 27 June 2016 and resolved:

#### *“That Council:*

- (i) Resolve to dedicate the land the subject of Main Roads Land Dealing Plans (depicted on plan 1560-205-1) as a Road pursuant to Section 56 of the Land Administration Act 1997; and*
- (ii) Consent to Main Roads acquiring the land for inclusion in the road reserve from Reserve 40499 as depicted on plan 1560-205-1, over which the Shire has a management order.”*

At the time, it was understood that Main Roads was seeking consent for the dedication of the land from Reserve 40499 managed by the Shire of York, and the resolution reflected this consenting to the dedication of land depicted on plan 1560-205-1 only.

Main Roads has since advised that they are seeking the Shire to dedicate all land identified in plans 1560-205-1 to 1560-211 as a road. Main Roads has indicated that the wording of the *Land Administration Act 1997*, specifically requires the local government to resolve to dedicate the land as a road, and that this ability is not provided to Main Roads to undertake itself. Main Roads has also provided in writing that they will indemnify the Shire against any costs and claims that may arise as a result of the dedication.

The road dedication is an administrative task to allow for land which has already been acquired to be dedicated as a road. The widening and improvement works proposed by Main Roads (and within the area subject to the road dedication request), has received all relevant approvals, and 90% of the construction works in this area (**Appendix B** which shows road widening from outside the York townsite boundaries to Mackie Road in Mount Hardey) will be completed by end of the 2017/18 financial year. These works will continue to occur regardless of whether the road dedication occurs.

The works within the road dedication area reflect approximately 40% of the overall proposed works on the Quairading-York road within the Shire of York local government boundaries. Main Roads has advised that the remainder of works identified to be undertaken are dependent on funding being provided, and designs (including identification of widening) which may require future road dedication, have not yet been finalised.

#### **Comments and details:**

The road dedication is an administrative task required to facilitate the road widening and improvements being undertaken by Main Roads, which will improve safety and access within the Shire for the public and community. The majority of road works proposed within the area subject to the road dedication request (**Appendix A & B**), have or will be completed by the end of the 2017/18 financial year regardless of whether council support the road dedication or not.

It is noted that there have been concerns raised from community members and groups regarding the amount of vegetation that has been cleared as part of the project and Main Roads has since established a Construction Reference Group allowing concerned parties to have further input into the works proposed. The road dedication does not affect this process or Main Roads' ability to undertake further proposed works.

It is recommended that the request to dedicate land identified in **Appendix A** as a road be supported by Council.

#### **Options:**

Should Council choose not to dedicate the land as a road, Council could:

1. Resolve not to support the dedication of the land as a road, or determine not to consider Main Roads' request to dedicate the land as a road.

This option is not recommended by officers, as construction works are proposed to be completed regardless of the dedication occurring, and if the dedication does not occur it is likely to cause administrative anomalies with the acquired portion of land technically not forming part of the dedicated road.

2. Council could choose to defer the item, and provide reasons why.

#### **Implications to consider:**

- **Consultative**

Main Roads is responsible for meeting procedural requirements, including consultation required under Section 56 of the *Land Administration Act 1997*.

Main Roads has provided that all landowners have been approached and that arrangements for acquisition of land are being finalised.

There were comments received which indicated that the preliminary consultation undertaken by Main Roads in regard to the proposed works and clearing were insufficient. Main Roads has since held a number of drop-in sessions to answer any queries on the project and established a Construction Reference Group consisting of community groups and adjacent landowners to ensure that they are able to make comment on the project and final design, and improve communication between the community, stakeholders and Main Roads.

- **Strategic**

The proposal is consistent with the Shire of York's 2016-2026 Strategic Community Plan and in particular the following themes and desired outcomes;

Theme 1: The Place to Live

1.4 There are few barriers to people moving safely, freely and easily around the town of York and rural townships and to other communities.

Theme 4: Built for Resilience

4.4 The Shire's rural roads are maintained and preserved at a level which provides safe and accessible bus routes and haulage routes and optimises asset life across the network.

It is considered that dedication of land identified in **Appendix A** as a road reserve is consistent with the Strategic Community Plan goals. It is noted theme 4.4 relates to Shire roads, although the intent of 4.4 is applicable to major roads within the Shire.

- **Policy related**

There are no policy implications as a result of the officer's recommendation.

- **Financial**

With appropriate indemnification from costs and claims provided by Main Roads, there are no financial implications associated with this proposal for the Shire.

- **Legal and Statutory**

Council resolution to dedicate a road is required in accordance with Section 56 of the *Land Administration Act 1997*. Main Roads will be responsible for meeting further procedural requirements relating to Section 56.

- **Risk related**

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion.

- **Workforce Implications**

There are no workforce implications associated with the recommendation.

**Voting Requirements:**

**Absolute Majority Required:        No**

**RESOLUTION  
030817**

**Moved: Cr Smythe**

**Carried: Cr Ferro**

***“That Council resolves to dedicate the land the subject of Main Roads Land Dealing Plans (depicted on plan 1560-206-1 to 1560-211) as a Road pursuant to Section 56 of the Land Administration Act 1997.”***

***CARRIED: 7/0***



## ***SY098-08/17 – “Work for the Dole” Initiative***

<b>FILE REFERENCE:</b>	<b>CS.SSP.2</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Shire of York</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Paul Crewe, Executive Manager Infrastructure and Development Services</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Paul Crewe, Executive Manager Infrastructure and Development Services</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>Nil</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>N/A</b>
<b>APPENDICES:</b>	<b>A – “Work for the Dole Information”</b>

### **Nature of Council’s Role in the Matter:**

- Executive

### **Purpose of the Report:**

This report seeks Council approval to enter into a “Work for the Dole Agreement” which will supplement the Shire’s existing outside workforce throughout the year, with an initial “trial period” of 6 months.

### **Background:**

Work for the Dole is part of the Australian Government’s jobactive employment service. It is a work experience programme designed to help job seekers gain new skills while they look for work.

Officers have been approached by “Max Employment” who are the Work for the Dole (WFD) Coordinators in the Great Southern Wheatbelt.

Following several meetings and negotiations with Max Employment, Shire Officers are now confident that the agreement reached will benefit all parties involved.

### **Comments and details:**

The agreement is centred around the WFD job seekers (participants) being provided with skills and experience in civil construction and maintenance work.

Whilst there are some restrictions on tasks and jobs the participants can carry out (for example driving Shire vehicles and operating heavy machinery), there are a number of tasks and activities that this incentive can provide to develop skills and gain experience employers may be looking for in the future. This incentive program also enables participants to get involved with their local community.

Participants will be integrated into the existing workforce and supervised internally by both the Shire’s Works Supervisor and Leading Hands, and by the Work for the Dole Coordinator who will manage the administration requirements of this initiative.

The Shire’s costs in entering into this agreement are negligible and can be absorbed by the road construction costs. The costs are mainly associated with focusing on ensuring the participants are working in a safe and productive environment.

The agreement that has been negotiated with Max Employment involves the participants being provided with all PPE (boots, shirts, jackets pants safety glasses, gloves and hats) by the Work for the Dole service provider. Max Employment is also ensuring all participants will be covered by the WFD insurances and have National Police Clearances. Participants will be required to comply with the Shire’s Code of Conduct and will be certified in Traffic Management prior to commencing with the Shire of York.

The Traffic Management certification is considered by Officers as an especially welcome consideration in this agreement as it will allow all of the existing workforce to carry out works unimpeded, saving both time and expenditure in this area.

The participants will be working for the Shire on a 26 week rotation. Typically, they are required to work for 25 hours per week, and as such to cover a full week, the Shire has requested 6 personnel to ensure each day of the week has been allowed for.

This is the first time such an agreement has been reached with the "Work for the Dole" program, and other Shires (Northam, Pingelly and Goomalling) are now considering a similar concept for their own outside workforces.

On the completion of the trial period, Officers envisage bringing a report back to council considering the possible extension or cancellation of the agreement.

**Implications to consider:**

- **Consultative**  
Max Employment.
- **Strategic**  
This item also meets identified actions in the Corporate Business plan to ;
  - Provide a positive, active and involved community;
  - Continually develop positive working partnerships between the Shire and the Community.
- **Financial**  
This incentive has negligible costs to the Shire which will be absorbed by the capital works, parks and gardens and maintenance budget line items.
- **Policy related**  
G1.10 Workforce and Human Resources.  
G 1.1 Code of Conduct: Councillors, Committee members and Employees
- **Legal and Statutory**  
Nil
- **Risk related**  
Minor risks are associated with general construction activities, however the Shire has several management practices in place to ensure these have been mitigated. It is not envisaged that the participants will be involved with high-risk practices within the Capital and Maintenance works program.
- **Workforce Implications**  
This incentive supplements the Outside workforce, allowing additional works to be carried out.
- **Options**  
Council could consider the following alternative options:
  - Council could decide not to enter the agreement with Max Employment and the Work for the Dole Scheme
  - Council could decide to reduce or increase the number of participants able to be a part of this incentive, however Officers feel this decision would be best made following the trial period.

**Voting Requirements:**  
**Absolute Majority Required:       No**

*Ms Carly Rundle, Senior Planner left the meeting at 5.29pm and did not return*

**RESOLUTION  
040817**

**Moved: Cr Randell**

**Seconded: Cr Walters**

***“That Council:***

- 1. Authorises the Chief Executive Officer to enter into a “Work for the Dole Agreement” with Max Employment which will supplement the Shire’s existing outside workforce, with an initial “trial period” of 6 months.”***
- 2. Requests the CEO brings a report back to Council following the trial period considering an extension or possible cancellation of the agreement.”***

***CARRIED: 7/0***



## ***Disclosure of Interest – Cr Walters – Financial – Propose to Purchase Shares***

*Cr Walters declared a Financial Interest to this item and left the room at 5.30pm*

## ***SY099-08/17 – Avon Valley Motor Museum Request To Be Guarantor For Loan***

<b>FILE REFERENCE:</b>	<b>AV1.6672</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Avon Valley Motor Museum Association</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Paul Martin, Chief Executive Officer</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Paul Martin, Chief Executive Officer</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>26 June 2017</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Cr Walters, Financial</b>
<b>APPENDICES:</b>	<b>A. Correspondence from AVMMA</b>
	<b>B. AVMMA Business Plan</b>

### **Nature of Council's Role in the Matter:**

- Executive

### **Purpose of the Report:**

This report seeks Council's consideration of a request from the Avon Valley Motor Museum (AVMMA) to essentially be guarantor for its loan to secure the premises of York Motor Museum in Avon Terrace in addition to the commitment already made by Council towards their acquisition of the site.

### **Background:**

Council considered a request for support from the AVMMA at its meeting on 26 June 2017 and resolved the following:

#### ***RESOLUTION 070617***

#### ***That Council:***

- 1. Agrees in principle to provide \$18,000 per annum to the Avon Valley Motor Museum Association for three years commencing in the 2017/18 financial year subject to the following conditions:*
  - a. A detailed Business Plan being prepared which includes marketing strategies, management model, financial budgets and initiatives all of which lead to improved visitor numbers and experiences.*
  - b. Details on annual reporting obligations which are expected to include annual financial acquittals and visitor numbers.*
  - c. The development of a Collection Policy and an Interpretation Plan.*
- 2. Requests the Chief Executive Officer to negotiate a funding agreement between Avon Valley Motor Museum Association and the Shire to this effect for Council's consideration*
- 3. Requests the Chief Executive Officer to investigate options for funding this contribution and present this for Council consideration when considering the Funding Agreement."*

Since this time, AVMMA has been attempting to source the remaining funds by way of a loan of \$405,000 to purchase the building.

On 7 July 2017 representatives from AVMMA and Social Enterprise Finance Australia (SEFA) met with the Shire President and the Chief Executive Officer to discuss the need for security on the loan.

Since that time, representatives from AVMMMA, the Wheatbelt Development Commission and the Shire of York have met to discuss opportunities and the conditions of the grant agreement.

The AVMMMA has since written to the Shire of York outlining the request to enable the matter to be considered by Council. A copy of this correspondence is attached at Appendix A.

AVMMMA has also provided Officers with a copy of its draft Business Plan which is attached at Appendix B. Officers have not had an opportunity to review the business plan in detail and provide feedback to the AVMMMA however it is presented to Council at this stage for information.

**Comments and details:**

As AVMMMA has been attempting to source loan funding, a condition of the funding being provided by the State Government presents a challenge which needs to be resolved. The clause of the funding agreement in question states that

*(6) Where the Grantee purchases, constructs or renovates real estate (including building, land and associated infrastructure) with Grant Funds, the real estate must not be disposed of within ten (10) years of the Completion Date without the written consent of the Grantor.*

The lending organisation has an issue with this clause, given the risk of the AVMMMA being unable to meet the loan obligations and the association for whatever reason folding within the first 10 years.

The AVMMMA, the State Government and the potential lender have redrafted a new Clause 6 in the funding agreement which would meet their requirements as follows:

- (6)
- 6.1 *Where the Grantee purchases, constructs or renovates real estate (including building, land and associated infrastructure) with Grant Funds, the real estate must not be disposed of within five (5) years of the Completion Date without the written consent of the Grantor.*
  - 6.2 *Should the Avon Valley Motor Museum be unable to meet the loan requirements or unable to manage and run the museum for any reason, all the assets and associated liabilities will be transferred to the Shire of York. In this event, the facility will continue to operate as a Museum or other community purpose for a minimum of 5 years from original purchase date.*
  - 6.3 *If, after 5 years, the building has to be sold, the Shire undertakes to ensure a minimum total of \$40,000 per year, for a maximum of 5 years, over and above normal planned expenditure, will be spent for community purposes. The total amount spent will depend on the length of time between the original purchase date and the sale date. Eg. If sold after 7 years and 2 months, then only \$80,000 would need to be spent, \$40,000 per year for each complete year left with respect to the 10 year time frame. The cash flowing of this amount would be the decision of the Shire.*
  - 6.4 *Proceeds from the sale of the building will be used to pay back the loans associated with this asset and any remaining funds up, to \$200,000, can be used by the Shire to meet the community purposes requirement in 6.3 above.*

Whilst this change meets the requirements of the AVMMMA, the State Government and potentially the lender, it represents a potential change in exposure, risk and responsibility for the Shire.

The risk to the Shire is that if, for whatever reason the AVMMMA folds and cannot operate or meet its loan obligations, the assets and the loan liability would revert to the Shire of York. Details of this are outlined in the correspondence from AVMMMA.

Given this, prior to investigating this request in any detail, Officers are seeking some initial direction from Council as to whether this is something Council would consider.

If Council wanted to consider this request further, Officers would recommend the following course of action:

1. Officers would seek legal advice on the above-mentioned clause and proposed amendment to the constitution of the AVMMMA required to facilitate any transfer of assets.
2. Provide feedback to the AVMMMA on the draft Business Plan so a final plan can be prepared.
3. Conduct research into the building including a structural assessment and potentially, a second valuation of the premises to understand the condition and value of the building.
4. Prepare a Business Plan in accordance with the *Local Government Act 1995* which incorporates all of the information associated with the above proposal including risk management and present it to Council for advertising for a period of 6 weeks to allow the community an opportunity to provide input.
5. If Council agrees to advertise the Business Plan, Officers would present any submissions received in a report to Council for consideration

As outlined above, if Council wanted to investigate this request further, Officers would be recommending a significant amount of work be undertaken, some of which would require expenditure of funds. Furthermore, given the potential risk to the Shire, Officers are also recommending the Shire seeks the views of the community prior to making a final decision. Officers consider the most appropriate framework for this to occur is the requirements of Section 3.59 of the *Local Government Act 1995* including the requirement to prepare and advertise a Business Plan.

Prior to undertaking the preparation of such a Business Plan and incurring the associated costs, Officers are seeking direction from Council regarding whether this is something Council wants considered.

Officers accept that the York Motor Museum is a key attraction for York. However the new request by AVMMMA significantly increases the Shire's responsibility, involvement and risk and therefore requires investigation and the opportunity for the community to have input prior to a final decision being made.

The AVMMMA needs to have this matter resolved as soon as possible to ensure the funding from the State Government is not returned. AVMMMA was required to have all remaining funding secured by 30 June 2017. If Council agrees to the process recommended by Officers, it is likely to take until December to have the matter finally presented to Council. This may be longer than the State Government is prepared to accept as every month past June the matter is not finalised increases the risk of the funding being lost.

The State Government is actively reviewing Royalties for Regions projects and funding to assist with the State Government finances. Officers understand that funding for other Royalty for Regions projects that is not secured is being returned to the State Government across the State and there is a real risk of this occurring with this funding meaning funding for the purchase of the museum by AVMMMA at this stage is lost.

Whilst this is a risk and would be a loss for York, Officers consider the priority for the Shire should be sound, transparent processes which include the opportunity for community input into major decisions such as this.

The matter is now presented to Council for direction.

## Options

Council has the following options in regards to this request:

- Request the CEO to investigate the matter further and prepare a Business Plan as outlined above and present it to Council so advertising for public comment can take place.
- Agree to the request from the AVMMA now without requiring a Business Plan to be prepared or seeking community input.
- Request the CEO to undertake consultation on the proposal with the level of detail currently available for a shorter period of time to reduce the timeframe for Council consideration of this request.
- Advise the AVMMA that Council is not in a position to support the request and extend beyond the existing commitment provided.

Officers have explored other options not involving the Shire being guarantor, however the State Government has a preference the Shire is involved.

### Implications to consider:

- **Consultative**  
In preparing this report, Officers have consulted with representatives from AVMMA and the Wheatbelt Development Commission.
- **Strategic**  
The York Motor Museum is a key attraction for the Shire of York and Officers support attempts to secure its long term operation in the town.

Many of the issues the Shire of York has encountered over recent years, and is still dealing with today, could be argued are the result of good ideas not being executed with the level of governance, community input and transparency the community expects. Officers are concerned that any attempt to undertake a less than ideal process to consider this matter will impact upon the brand of the organisation in the community's mind at a strategic level.

- **Policy related**  
G 2.9 Community Engagement and Consultation  
G 4.6 Risk Assessment and Management
- **Financial**  
The financial implications of this request would need to be considered in detail as part of the Business Planning process. Any long term financial implications will need to be considered as part of the Shire's long term financial plan.
- **Legal and Statutory**  
Officers are recommending that a process in accordance with Section 3.59 of the *Local Government Act 1995* be followed to consider this request. Although it could be argued that this transaction may not reach a value of \$2 million to achieve the mandatory requirement for a Business Plan, Officers consider this is a sound process to consider such a request.

### **3.59. Commercial enterprises by local governments**

(1) *In this section —*

*acquire* has a meaning that accords with the meaning of **dispose**;

*dispose* includes to sell, lease, or otherwise dispose of, whether absolutely or not;

*land transaction* means an agreement, or several agreements for a common purpose, under which a local government is to —



- (a) acquire or dispose of an interest in land; or
- (b) develop land;

**major land transaction** means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

**major trading undertaking** means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

**trading undertaking** means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of **land transaction**.

(2) Before it —

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or
- (c) enters into a land transaction that is preparatory to entry into a major land transaction,

a local government is to prepare a business plan.

(3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —

- (a) its expected effect on the provision of facilities and services by the local government; and
- (b) its expected effect on other persons providing facilities and services in the district; and
- (c) its expected financial effect on the local government; and
- (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this subsection.

(4) The local government is to —

- (a) give Statewide public notice stating that —
  - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and
  - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
  - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

- (b) make a copy of the business plan available for public inspection in accordance with the notice.

- (5) *After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*

*\* Absolute majority required.*

- (5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*
- (6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*
- (7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*
- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
- (a) prescribe any land transaction to be an exempt land transaction;*
  - (b) prescribe any trading undertaking to be an exempt trading undertaking.*
- [Section 3.59 amended by No. 1 of 1998 s. 12; No. 64 of 1998 s. 18(1) and (2).]*

- **Risk related**

There are two main risks Council should balance in considering this request namely:

- The risk that the AVMMMA may lose the \$200,000 of State Government funding allocated towards the purchase of the York Motor Museum if the process for Council to consider the request to be guarantor takes too long. If this occurs the Shire could be criticised that it took too long to consider the request from AVMMMA.
- The risk to the organisation that appropriate due diligence is not undertaken to manage any potential financial impacts upon the organisation and the community is not provided an opportunity to have input into the decision-making process.

Officers are erring on the side of managing the risks associated with the organisation at this stage and consider that ensuring the community has faith in the processes the Shire uses to make decisions such as this outweighs the risk that funding to purchase the site may be lost. However, this is ultimately a decision of the Council.

- **Workforce Implications**

The process recommended is likely to impact upon workload of Officers however given the importance of the Motor Museum to York, Officers consider this is appropriate.

Any long-term workforce implications can be considered as part of the Business Plan process.

**Voting Requirements:**  
**Absolute Majority Required:       No**

**OFFICER RECOMMENDATION**

*"That Council:*

- 1. Advises AVMMMA that in relation to its request the Shire wants to undertake some investigation and provide the opportunity for the community to have input prior to Council making a final decision which is unlikely to be concluded until December 2017.*
- 2. Requests the CEO to prepare a Business Plan regarding this matter in accordance with the Local Government Act 1995 for Council's consideration prior to advertising.*
- 3. Notes the CEO will use funds allocated to GL 42169 to undertake any investigation, assessments or valuations required."*

**RESOLUTION  
050817**

**Moved: Cr Saint**

**Seconded: Cr Smythe**

*"That Council:*

- 1. Advises AVMMMA that in relation to its request the Shire wants to undertake some investigation and provide the opportunity for the community to have input prior to Council making a final decision which is unlikely to be concluded until December 2017.*
- 2. Requests the CEO to prepare a Business Plan regarding this matter in accordance with the Local Government Act 1995 for Council's consideration prior to advertising.*
- 3. Notes the CEO will use funds allocated to GL 42169 to undertake any investigation, assessments or valuations required to a maximum value of \$4,000."*

**CARRIED: 6/0**

*Reason: Point 3 – To provide point of clarity for the value of the proposed expenditure*

*Cr Walters returned to the room at 5.33pm*

*The Shire President read the Council Resolution to Cr Walters*



## ***Disclosure of Interest – Cr Randell – Financial***

*Cr Randell declared a Financial Interest to this item and left the room at 5.34pm*

## ***SY100-08/17 -- Evaluation of Perth International Jazz Festival York Event***

<b>FILE REFERENCE:</b>	<b>FI.DON / CS.CEV</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Perth International Jazz Festival Inc</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Esmeralda Harmer, Events Economic Development Officer</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Paul Martin, Chief Executive Officer</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>February 2017, April 2017, May 2017</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Cr Randell - Financial</b>
<b>APPENDICES:</b>	<b>A – PIJF Sponsorship of Tourism Events Evaluation Report</b>

### **Nature of Council's Role in the Matter:**

- Executive

### **Purpose of the Report:**

This report presents to Council the evaluation of the Perth International Jazz Festival (PIJF) York held in May 2017 and seeks direction from Council regarding future jazz and/or music festivals in York.

### **Background:**

Officers, with knowledge of how integral “Jazz” was to the brand of York, considered how a Jazz Festival could be re-established in York.

Appreciative of the challenges experienced by previous Jazz Festivals Officers approached Perth International Jazz Festival (PIJF) to determine if there was any interest in conducting part of their 2017 event in York.

At the February 2017 Ordinary Council meeting, Council was then presented with the opportunity to fund PIJF to deliver elements of the festival to be presented in York. It resolved:

***“That Council requests the Chief Executive Officer to:***

- 2. Negotiate a one-year funding agreement with the Perth International Jazz Festival to hold part of the festival in York in May 2017 for Councils consideration, utilising unspent funds held in trust from the proposed 2015 Jazz Festival which did not proceed, to a maximum value of \$23,500 (excluding GST).”***

Council then considered a draft funding agreement at the Ordinary Council meeting in April 2017 when it resolved that:

***‘The matter be deferred for further information, investigation and negotiation.’***

Officers met with PIJF and further negotiated amendments to the draft funding agreement including more free community performances the addition of artisan markets to the program and presented the revised draft funding agreement for Council's consideration at the Special Council Meeting held 8 May 2017, where it was resolved:

***“That Council:***

- 1. Agrees to enter a one-year funding agreement with Perth International Jazz Festival to a maximum value of \$23,500 (excluding GST), utilising \$23,500 unspent funds held in Trust Account T65 for the proposed 2015 Jazz festival which did not proceed.***
- 2. Approves the budget amendment required to transfer \$23,500 from Trust Account T65 to GL 132150 Festivals Assistance to achieve this outcome.***
- 3. Authorises the Shire President and Chief Executive Officer to engross the Shire of York and Perth International Jazz Festival Funding Agreement as attached to this report at Appendix 1.”***

Tickets sold for the Friday opening event at the town hall were fifty-four, lower than Officers had anticipated and PIJF projected estimates. In evaluating the opening event, the following feedback from patrons, community, Officers and PIJF was collated;

- Difficulty and confusion accessing online tickets for the town hall venue, with the York Mill venue still present on marketing media and websites.
- Effectiveness of promoting the gala event and lead in time requirements
- Attending Friday night events difficult for local working families
- Reviews received from patrons who attended reported the artists who performed were excellent, venue was accommodating and value for money
- 60% of patrons who attended were not from the local 6302 areas
- 60% of patrons who attended stayed overnight in local accommodation
- 40% of patrons who attended stayed multiple nights in local accommodation

Saturday's PIJF York started with street musicians from 9.00am through to 4pm on Avon Terrace from the Courthouse, Motor Museum, and Settlers Courtyard. Some businesses leveraged this activity as an opportunity to provide street music at their establishments including Gallery 152, Hope Farm Guesthouse, Dingas Winkle Second-hand shop and Settlers House.

Although difficult to evaluate numbers and the impact of the street musicians, the community feedback received regarding the street activation components has been positive, with encouragement received from businesses, residents, and visitors to the town for similar activity at future events.

The event acquittal report has been submitted by PIJF and is attached at Appendix A. This report is presented as an acquittal to the event and seeks direction from Council on the way forward.

**Comments and details:**

Review and evaluation of the event is considered under the following categories.

**Liaison/coordination with venues**

Officers met with PIJF representatives in February introducing all potential venues and businesses to consider as part of the PIJF York event including site visits. PIJF then selected the York Mill for the Friday Gala event and the Castle Hotel and Settlers House as the Saturday day pass venues.

As a not for profit organisation, run solely by volunteers, PIJF engaged a third-party event management company, JumpClimb to manage;

- artists liaison & management
- communications and logistical requirements required for each venue
- coordination of food & beverage options
- venue and ticketing requirements with each venue.

In March, following an absence of communication from PIJF and JumpClimb, the York Mill formally declined the opportunity to be the opening night host venue. As a result, the Town Hall was selected as a replacement to open PIJF York. The Castle Hotel and Settlers House confirmed their availability to remain a PIJF York venue for day pass ticket holders.

Both the Castle Hotel and Settlers House received positive numbers throughout Saturday with one hundred twenty four day passes sold in the pre-lead to PIJF York and an additional twenty two on the day tickets sold. Venue owners reported;

- An increase in patrons over the entire weekend
- An increase in food and beverages sold on Saturday and Sunday
- An increase in patrons visiting from outside the 6302 area code
- Satisfaction with the artist programming, event setup and delivery
- Communications with PIJF & JumpClimb could have been improved i.e. more lead in time, equipment to be supplied by venue and providing a contact point for ticket sales enquiries

Officers were keen to provide opportunities for other venues in York to host jazz performances as part of the festival weekend. To that end, a clause was included in the funding agreement with PIJF requiring the presentation to the Shire of York of a list of potential performers which could be distributed to local businesses. This list was provided to the Shire of York closer to the event than anticipated. It was distributed to local venues and businesses.

Notwithstanding this, multiple venue programming worked well, allowing patrons to access both venues throughout the day and evening, spreading people throughout the town and encouraging patronage at other non-selected venues that provided food, accommodation, or street music. Consideration should also be given to varying start times to allow more opportunities for patrons to travel between venues between performances.

Officers received positive feedback on the artistic direction by PIJF and selection of performers at venues.

### **Free street performances**

The free performances were negotiated into the funding agreement and approved by Council. PIJF selected and engaged the performers and the Shire was responsible for determining timing and location of performances. Initially, these were proposed to be at the Town Hall. However, Officers decided to move these to the main street in an attempt to bring vibrancy and activation to street activities and to manage other bookings within the Town Hall.

Following April's Ordinary Council resolution to include more free community performances and artisan markets, Officers met with PIJF and agreed that:

- street 'pop' up musicians would occur along Avon Terrace Saturday throughout the day and Sunday morning. PIJF would programme artists with JumpClimb arranging on the ground coordination over the two days.
- Artisan markets presented by the Vintage Collective Markets (VCM) would be offered in the Courthouse Complex to add festival vibrancy to the main street and complement the street musicians and existing PIJF York venues.

Overall street performances received positive reviews, with overnight stayers enjoying the alfresco breakfast entertainment on offer, with three separate street performances offered along Avon Terrace throughout the morning and early afternoon.

### **Vintage Collective Markets**

As part of the funding agreement, in an attempt to provide additional activities for festival participants, the Shire was required to organise markets as part of the festival.

Officers approached the Vintage Collective Markets (VCM) who had successfully participated as part of the Motorbike Festival to provide markets as part of the event.

The Courthouse Complex was recommended by Officers for the following reasons:

- it was considered it would add to the vibrancy of Avon Terrace complementing street performances and music at venues.
- Given the time of year weather, an indoor venue central to existing activated venues and businesses was considered essential.
- An existing booking in the Town Hall prevented this venue being used Saturday afternoon and Sunday.

Following negotiations with the National Trust (owners of the Courthouse Complex) and VCM, the following was agreed:

- Markets would be offered Saturday and Sunday of the PIJF York weekend including kid's entertainment, activity, and games
- Street musicians would be programmed in the courthouse vicinity over the two days
- Food stalls would be limited to offerings not available in the CBD and would be housed in the stable yard alfresco area, not on Avon Terrace.
- Vintage Collective Markets would undertake all advertising and liaison support with market vendors and venue including equipment requirements and site placement

However, on the Saturday of the festival while set up was occurring, representatives of the Courthouse Complex, concerned about the size of the vans, raised concerns about providing access to the stable yard area for the food vans. This resulted in two food vans being unable to gain entry and access to the area approved for their location. As a result, a large food van ended up in the lane way and a second van set up in Avon Terrace.

Officers were onsite working with VCM to establish a temporary solution for Saturday trade, giving temporary approval of the food van to trade in the laneway area and the other food van to remain on the main street, considering the increasing crowds and difficulties faced to safely move these vehicles to the approved areas. This temporary solution was communicated to businesses in the immediate vicinity, with an agreement the vans would be moved to the designated area for Sunday trading. Notwithstanding this arrangement, this situation became an issue for some businesses and community members.

Officers acknowledge the issues associated with location of food vans on Saturday impacted the overall effectiveness of the Vintage Collective Markets as well as the ambience of the event and are hopeful relationships with VCM organisers and vendors can be re-established to enable the potential to offer markets of this calibre again in York for other events.



## **Marketing and Promotion of the event**

The marketing and promotion of the event was the responsibility of PIJF. The only obligations on the Shire were to promote the event through its available marketing streams such as the Shire's community page, websites, and events calendar.

Officers met numerous times throughout March and April with PIJF and JumpClimb to ensure internal communications targeted the following;

- how the event was gaining exposure to the Perth and regional markets
- timelines for the release of marketing collateral, website promotions, banners, and programs
- venue liaison including artist setup, food & beverage, and security

By far this is the area that suffered the most regarding the festival. In hindsight, Officers consider this is due to the following reasons:

- PIJF did not engage a dedicated marketing and promotional organisation to market the event.
- JumpClimb's responsibility was for event delivery not marketing.
- PIJF's administrative body is a board of volunteers who are time poor and were also delivering a larger event in Perth on the same weekend.
- The Shire could have been clearer with event organisers regarding marketing expectations.

This resulted in the event not achieving the marketing impact and delivery an event of this nature required such as banners not arriving in York until the day of the event, despite requests by Officers for an earlier delivery to maximise event exposure.

PIJF did an excellent role in Artist Direction. The selection of the performers for the ticketed venues and the free street performances received positive feedback and commendation.

The key lesson for the future music events such as this is that the following roles are required:

- Artist Director
- Event Manager
- Marketing and Communications.

It is acknowledged that to achieve effectiveness of these roles increased resources would be required.

## **Community expectations**

Officers acknowledge the PIJF York event experienced multiple challenges in the lead up and during the PIJF York event, including the community's expectation of a bigger, better York Jazz Festival than previous years. However, with the budget allocation of \$23,500 and time on hand, to deliver on such expectations simply was not possible. The lesson for the Shire is that expectations should have been better managed to appreciate that what was proposed was not going to be a Jazz Festival commensurate with a \$200,000 plus budget but elements of PIJF occurring in York.

This expectation issue was further compounded by not managing the fact that it was proposed that the first year's event would be small in nature, focusing upon rebuilding the relationship with members of the Perth Jazz community to allow the event to grow into the future in size and scope.

### **Clarity on the Shire's role**

Initially it was proposed the PIJF would be responsible for all aspects of the event in the same way the Shire supports other events. As the event planning developed the Shire took on increased responsibility for aspects of the event. Although the Shire plays an active role assisting many events which operate in York, this further increased as challenges were experienced as outlined above in an attempt to ensure the event was delivered as supported by Council.

This change of role led to a perception in the minds of some community members that the event was run entirely by the Shire of York, which was not the case. This resulted in criticism of the event being directed towards the Shire which in all cases was not justified.

Moving forward, the Shire needs to be clearer with event organisers and the community on what its role is in events to ensure this doesn't occur in the future.

### **Timing of the event**

Officers made a conscious decision to recommend a partnership with PIJF to deliver aspects of their festival in York as part of the Perth International Jazz Festival for the following reasons:

- Perth is the largest market accessible to York
- Officers believe that increasing awareness in the Perth market of how close York is to Perth will benefit York long term
- The risk of any financial loss is covered by PIJF rather than the Shire of York. Even though ticket sales for this year's event were not as good as expected the Shire did not incur any further loss beyond what was committed financially.
- PIJF brings a significant amount of expertise and contacts in the Jazz community to the festival in regard to artistic direction which benefits York.

Officers have received comments from members of the community that the date should be moved so as to not compete with the market attending PIJF events in Perth at the same time. This is something that is hard to determine given the challenges experienced with marketing the event this year.

### **Positives from the event**

Notwithstanding the challenges outlined above, there were some positive outcomes taken from the PIJF York event, which include;

- Re-establishing relationships with Perth International Jazz Festival Inc
- Re-establishing jazz in York
- Positive working relationships established with Castle Hotel, Settlers House, The Flour Mill, National Trust, and other participating businesses.
- Rebuilding York's image as an events destination
- Including street music as part of any music based event/s and festivals as this worked well and received positive feedback.

### **Options:**

Officers propose Council has the following options in regards to the event in future years:

#### **Option one**

Learning from the experiences this year continue to hold elements of PIJF in York at the same time as the event occurs in Perth. PIJF acknowledges the constraints as detailed in this report in delivering the PIJF York event. During debriefing PIJF was positive about its relationship with York and sees the potential to implement these key learnings to evolve future PIJF York events should Council wish to support this event in future years.

### Option two

Officers see merit in attracting a music based festival to York due to York's proximity to Perth and tourism presence in the region. Visitors to York still hold fond memories of York as a music/festival town and many visitors still look for this type of activity when visiting York. It is possible that York could evolve the PIJF York event into a music based festival that could offer a wider genre of music. Jazz elements could be included in a weekend of this nature along Avon Terrace as street music to activate the township and acknowledge York's jazz history. Should Council wish to support such a proposal, consideration of budgets for marketing support, event management and early engagement will require equal weighting.

Given the work involved to investigate and develop this concept Officers would consider it would take 12 months to plan for an event of this nature.

### Option three

Council could discontinue support for any new music based festivals and look at increasing exposure to smaller community events to build the profile of these events within the region, whilst encouraging the event organisers to increase in size and nature. Officers suggest this option would not increase York's tourism profile outside the region as detailed in the Shire's Strategic and Corporate Business Plans, however it would increase community confidence in Shire supported activity locally.

### **Implications to consider:**

#### **Consultative**

As detailed in this report extensive communications were undertaken through;

- Business Forum with local businesses advising of the event to occur and its implications.
- Several stakeholder meetings with Castle Hotel, Settlers House, York Flour Mill, National Trust, Hope Farm Guesthouse, Palace Hotel, Greenhills Inn, Gallery 152, and local businesses along Avon Terrace
- Email networking to accommodation providers to establish visitor numbers, availability, and evaluation of the event
- Site visits with PIJF, JumpClimb and venue owners
- Funding agreements detailing each party's obligations

#### **Strategic**

Council's commitment to develop economic benefits for York through Tourism is identified in both the Strategic Community Plan and Corporate Business Plan. Officers also see the long term strategic benefits a music based festival such as PIJF York or similar could provide to York due to its positioning, music reputation and the infrastructure York has available to support such festivals.

#### **Policy related**

#### ***C1.4 Sponsorship of Tourism Events 4. Acquittal***

#### **Financial**

PIJF York budget allocation as resolved by Council was deducted from GL132150 Festival Assistance for \$21,500 of cash and \$2,000 of in kind support.

A financial breakdown detailing these monies is tabled below:

ITEM	AMOUNT
Artist Fees	6500
Production (sound, stage, lighting)	10200
Event Management	3500
Marketing (programs, feather banners, posters)	1300
<b>TOTAL CASH</b>	<b>21,500</b>
Artist Accommodation	829
Town Hall Hire	171
Courthouse Hire	500
Vintage Collective Markets (stallholder fees, event organiser, marketing and advertising)	500
<b>TOTAL IN KIND</b>	<b>2000</b>

#### Legal and Statutory

Nil

#### Risk related

Nil

#### Workforce Implications

Nil

#### Voting Requirements:

Absolute Majority Required: No

#### RESOLUTION

060817

Moved: Cr Smythe

Seconded: Cr Ferro

*“That Council:*

- 1. Receives the acquittal of the Perth International Jazz Festival in York in 2017 including the key learnings from the event.*
- 2. Requests the Chief Executive Officer to work with stakeholders to develop a concept for a broader music festival in York (including jazz elements) and present a report to Council for consideration.”*

**CARRIED: 6/0**

*Cr Randell returned to the meeting at 5.35pm*

*The Shire President read the Resolution to Cr Randell*

## ***SY101-08/17 – Minutes of Audit Committee Meeting held 7 August 2017***

**FILE REFERENCE:** FI.FRP.6; FI.BUD1718  
**APPLICANT OR PROPONENT(S):** Shire of York  
**AUTHORS NAME & POSITION:** Suzie Haslehurst – Executive Manager, Corporate and Community Services  
**RESPONSIBLE OFFICER:** Suzie Haslehurst – Executive Manager, Corporate and Community Services  
**PREVIOUSLY BEFORE COUNCIL:** No  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** A. Audit Committee Meeting Minutes 7 August 2017

### **Nature of Council's Role in the Matter:**

- Executive
- Legislative

### **Purpose of the Report:**

This report presents the Minutes of the Audit Committee meeting held on 7 August 2017 and seeks Council approval of the recommendations made by the Committee.

### **Background:**

The Audit Committee meeting was originally planned for 11 July 2017. However, due to a lack of quorum, the meeting was rescheduled to 7 August 2017.

The Audit Committee has no delegated authority and therefore any recommendations made by the Committee must be brought before Council for approval.

### **Comments and details:**

At the meeting of the Audit Committee held on 7 August 2017, the following items were considered:

1. Fraud and Error Assessment Report
2. Audit Regulation 17 Review Report and Improvement Plan

It was noted that IT security had been identified as an extreme risk to the organisation after the adoption of the 2017/18 budget and that little or no provision had been made to address this.

In addition, cash handling has been identified as an area for improvement. Therefore, officers are proposing that an allocation is made to install additional CCTV facilities at;

- York Recreation and Convention Centre
- York Memorial Swimming Pool
- The Residency Museum
- York Visitor Centre
- York Administration Centre

Officers are proposing that Council allocates funds to address these two risks in the short term.

### **Implications to consider:**

- **Consultative**  
Nil

- **Strategic**

The presentation of the minutes to Council and the community addresses Theme 5: *Strong Leadership and Governance* in the Shire's **Strategic Community Plan** with particular reference to outcome 5.4: *There is a major focus on systems which improve and maintain accountability and transparency.*

- **Policy related**

Nil

- **Financial**

It is proposed that Council allocates the following amounts in order to address the most significant risks identified in the Audit Regulation 17 Review Report and requests the CEO to identify savings as part of the first quarter Financial and Costing Review to balance the budget;

Description	2017/18 Budget	Proposed 2017/18	GL Account
Information and Communications Technology Audit and Security Plan	\$3,000	\$18,000	42188
Installation of CCTV at points of sale	\$0	\$20,000	TBC

- **Legal and Statutory**

**Local Government (Audit) Regulations 1996**

**16. Audit committee, functions of**

*An audit committee —*

*(a) is to provide guidance and assistance to the local government —*

- (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and*
- (ii) as to the development of a process to be used to select and appoint a person to be an auditor; and*

*(b) may provide guidance and assistance to the local government as to —*

- (i) matters to be audited; and*
- (ii) the scope of audits; and*
- (iii) its functions under Part 6 of the Act; and*
- (iv) the carrying out of its functions relating to other audits and other matters related to financial management; and*

*(c) is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —*

- (i) report to the council the results of that review; and*
- (ii) give a copy of the CEO's report to the council.*

- **Risk related**

Nil

- **Workforce Implications**

Nil

**Voting Requirements:**

**Absolute Majority Required: Yes**

**RESOLUTION  
070817**

**Moved: Cr Saint**

**Seconded: Cr Ferro**

***“That Council:***

- 1. *Receives the Minutes of the Audit Committee meeting held on 7 August 2017 and adopts the following recommendations from the Audit Committee;***
  - a) Notes the Fraud and Error Assessment by the Chief Executive Officer as attached to this report;***
  - b) Approves the Fraud and Error Assessment by the Audit Committee as attached to this report; and***
  - c) Requests the Shire President to sign the Fraud and Error Assessment on behalf of the Audit Committee;***
  - d) Receives the Review of Risk Management, Legislative Compliance and Internal Controls undertaken by Moore Stephens in accordance with Regulation 17 of the Local Government (Audit) Regulations 1996 as attached to this report;***
  - e) Approves the prioritised Improvement Plan as attached to this report and the timeline for improvements to be made;***
  - f) Requests the Chief Executive Officer to report back to the Audit Committee on a six monthly basis regarding progress against the Improvement Plan.***
- 2. *In order to address priorities identified as extreme in the Improvement Plan;***
  - a) Amends the 2017/18 budget to allocate an extra \$15,000 for the development of an Information and Communications Technology Security Plan and \$20,000 for the installation of CCTV facilities at Shire points of sale;***
  - b) Requests the CEO to identify organisational savings as part of the Mid-Year Budget Review to balance the budget.”***

**CARRIED: 7/0  
WITH ABSOLUTE MAJORITY**





## ***SY102-08/17 – Appointment of Members to the Access and Inclusion Advisory Committee***

**FILE REFERENCE:** CS.SSP.1  
**APPLICANT OR PROPONENT(S):** Shire of York  
**AUTHORS NAME & POSITION:** Suzie Haslehurst – Executive Manager, Corporate and Community Services  
**RESPONSIBLE OFFICER:** Suzie Haslehurst – Executive Manager, Corporate and Community Services  
**PREVIOUSLY BEFORE COUNCIL:** 26 June 2017  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** A. Confidential – Expressions of Interest Received

***Appendix A is confidential under Section 5.23(2)(b) of the Local Government Act 1995 and has been distributed to Councillors and executive staff only.***

### **Nature of Council's Role in the Matter:**

- Legislative
- Executive

### **Purpose of the Report:**

This report presents the expressions of interest received for membership of the newly established Access and Inclusion Advisory Committee of Council and requests Council to appoint members to the Committee.

### **Background:**

The Shire of York is required to develop a new Disability Access and Inclusion Plan (DAIP) during the 2017/18 financial year. The *Disability Services Act 1993* requires that agencies undertake public consultation during the development of their DAIPs. The establishment of an Access & Inclusion Advisory Committee with community membership included is a mechanism to address this requirement and Council's commitment to community engagement.

Therefore, at the Ordinary Council Meeting held on 26 June 2017, it was resolved;

*"That Council:*

- 1. Adopts the 2016/17 DAIP Progress Report, noting the progress made to date;*
- 2. Requests the Chief Executive Officer to submit the 2016/17 DAIP Progress Report to the Disability Services Commission by 30 June 2017; and*
- 3. Establishes an Access and Inclusion Advisory Committee in accordance with the Terms of Reference as attached at Appendix C to this report and requests the Chief Executive Officer to;*
  - (a) call for expressions of interest from the community for a period of four weeks for membership of the Access and Inclusion Advisory Committee;*
  - (b) present the nominations received for Council's consideration."*
- 4. Notes that the Access and Inclusion Advisory Committee is a formal committee of council under Part 5, Division 2 (Sub-division 2) of the Local Government Act 1995."*

### Comments and details:

In accordance with the above resolution, a call for expressions of interest was distributed via;

- Paid advertising in the Community Matters
- The Shire's page in the Community Matters
- Public notices
- Shire website

Two expressions of interest were received which are attached at Confidential Appendix A to this report.

### Options

The Terms of Reference endorsed by Council proposed that six community members be appointed to the Committee along with two Councillors. Given the nominations received, Officers propose the following options for Council's consideration.

#### *Option 1*

Council could choose to appoint the two community members who expressed interest and two Councillors only and amend the Terms of Reference accordingly. This option limits the amount of community input into the development of the new DAIP.

#### *Option 2*

Council could appoint the two community members who expressed interest and two Councillors and request the CEO to proactively seek nominations from other potential contributors. Officers would then bring a report back to Council to appoint additional members to the Committee.

### Implications to consider:

- **Consultative**

The establishment of an Access & Inclusion Advisory Committee with community membership included is a mechanism to address a requirement of the *Disability Services Act 1993* and Council's commitment to community engagement.

- **Strategic**

The Shire's Strategic Community Plan includes the theme ***Strong and Effective Leadership*** with the following outcomes relevant to this proposal:

- 5.1 Effective and informed governance and decision-making
- 5.5 A strong collective voice
- 5.6 High levels of community engagement
- 5.8 Open, smart communication between the Shire and community

- **Policy related**

G.2.9 *Community Consultation and Engagement*

- **Financial**

Minor costs for the administration of the Committee may apply.

- **Legal and Statutory**

- Disability Services Act 1993***

- 28. Disability access and inclusion plans***

- (10) *A public authority must undertake public consultation in accordance with the procedure specified in the regulations when preparing, reviewing or amending a disability access and inclusion plan.*

- Disability Services Regulations 2004***

- 10. Procedure for public consultation by authorities (s. 28)***

- (1) *For the purposes of section 28(10) of the Act, a public authority is to undertake consultation in relation to its disability access and inclusion plan by calling for submissions either generally or specifically —*

- (a) *by notice in a newspaper circulating throughout the State or, in the case of a local government, the district of that local government under the Local Government Act 1995; and*
      - (b) *on any website maintained by or on behalf of the public authority.*

- (2) *Nothing in subregulation (1) prevents a public authority from also undertaking any other consultation.*

- Local Government Act 1995***

- The Access and Inclusion Committee is established under Part 5 – Division 2 (Subdivision 2) of the *Local Government Act 1995 – Committees and their meetings*. No authority is delegated to the Committee and all recommendations made by the Committee will be brought to Council for decision.

- **Risk related**

- Establishing a formal Committee of Council means that there are requirements for compliance under the *Local Government Act 1995*. Failure to comply with the provisions of the Act will need to be reported in the Shire's annual compliance audit.

- **Workforce Implications**

- The Executive Manager, Corporate & Community Services is the officer responsible for convening this Committee. It should be noted that the preparing formal minutes, agendas and reports will increase the workload in this area. It is proposed that the operation of the Committee is evaluated after a period of twelve (12) months.

**Voting Requirements:**

**Absolute Majority Required:**            **Yes**

**RESOLUTION  
080817**

**Moved: Cr Smythe**

**Seconded: Cr Randell**

***“That Council:***

- 1. Appoints Cr Smythe and Cr Ferro to the Access and Inclusion Advisory Committee;***
- 2. Appoints two members of the community to the Access and Inclusion Advisory Committee in accordance with the nominations received as attached to this report;***
- 3. Reduces the quorum required to three (3) members including at least one Councillor;***
- 4. Requests the CEO to;***
  - a) update the Terms of Reference for the Committee accordingly; and***
  - b) identify and approach further potential members and make a recommendation to Council.”***

***CARRIED: 7/0  
WITH ABSOLUTE MAJORITY***

## ***SY103-08/17 – Rates Remission for Non-Contiguous Agricultural Land***

<b>FILE REFERENCE:</b>	<b>FI.RTS.8; OR.CMA.PPO</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Shire of York</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Suzie Haslehurst – Executive Manager, Corporate and Community Services</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Suzie Haslehurst – Executive Manager, Corporate and Community Services</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>22 June 2015</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>A: Minute from OCM 22 June 2017</b>
	<b>B: Hurunui District Council - Policy for Rates Remission for Non-contiguous Agricultural Land</b>
	<b>C: Landgate Group Valuation Policy</b>

### **Nature of Council's Role in the Matter:**

- Review

### **Purpose of the Report:**

The report seeks Council's direction regarding investigation of a proposed rates remission for non-contiguous agricultural land in the Shire York.

### **Background:**

At the Ordinary Council Meeting held on 22 June 2015, Commissioner James Best submitted the following Notice of Motion;

### ***"That Council;***

- 1. Request the A/Chief Executive Officer investigate the merits of rates remission for non-contiguous agricultural land – consistent with the Local Government Act 1995, Council Policy and any other relevant regulations.***
- 2. That consultation be conducted with stakeholders through the Business Development Working Group.***
- 3. Request a report on the matter to Council at the first available opportunity."***

Officers can find no record of this matter being progressed and in June this year, an enquiry was received from a ratepayer regarding the outcome. Therefore, officers are seeking Council's direction.

### **Comments and details:**

Officers have undertaken preliminary investigation into the provision of concessions of this type and have not identified any precedents within Australia. However, the attached minute refers to the "Hurunui district plan". Hurunui is located in New Zealand and does indeed offer this concession. The brief information provided in the attached Appendix B reflects the content of the policy adopted by Hurunui District Council. The only other references to non-contiguous agricultural land identified by officers are from the United States.

To identify the impact of providing a concession for non-contiguous agricultural land in the Shire of York, officers would need to undertake a lengthy process of identification. There are over 200 agricultural properties that would need to be investigated individually to determine eligibility. An application process would need to be developed and applications sought from eligible landowners. Until the number of potential applications is known and the concession or part-concession proposed to be applied is determined, it is impossible to estimate the financial impact on the Shire.

In accordance with Landgate's group valuation policy (*Unimproved Values – Rural Valuation Policy 4.310*, attached as Appendix C), ratepayers are able to request adjoining land that is in common ownership to be valued as a uniform property. The valuations provided for these grouped properties is often lower than if they were valued separately, resulting in a reduction in the rates payable.

Finally, the cost of providing a concession to ratepayers that arguably, enjoy an existing benefit via group rating, would be borne by remaining ratepayers. Council would need to cautiously consider whether such a proposal represents an equitable distribution of burden on all ratepayers.

#### **Options:**

Council could, if it wished, request officers to pursue the proposed rates remission and present a report back to Council. However, as discussed above, this would be a time-consuming process and until the proposed concession can be agreed, the financial impacts cannot be ascertained.

Officers propose that, until such time as this policy has been tried and tested in Australia and more specifically in Western Australia, with broad demonstrated benefit for the majority of ratepayers, Council declines to pursue the matter.

#### **Implications to consider:**

- **Consultative**  
Shire of Serpentine-Jarrahdale  
Hurunui District Council (NZ)
- **Strategic**  
*Theme:*           **Strong and Effective Leadership**  
*Outcomes:*    5.1    *Effective and informed governance and decision-making*
- **Policy related**  
Should Council see merit in such a concession, a policy will have to be developed, advertised and approved, along with a comprehensive application procedure.
- **Financial**  
Although it is currently difficult to determine actual values, an initial assessment of the number of properties and potential applicants, such a concession could have a significant impact on the rates revenue of the Shire of York and the deficit burden apportioned to other ratepayers.
- **Legal and Statutory**  
**Local Government Act 1995**  
**6.47. Concessions**  
*Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive\* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*  
\* Absolute majority required.

- **Risk related**

The proposed course of action is recommended in order to mitigate a reputational risk to the Shire should Council be seen to be placing undue burden on Shire ratepayers.

- **Workforce Implications**

The proposed action reduces the cost implications of the time spent by officers to investigate this matter.

**Voting Requirements:**

**Absolute Majority Required:           No**

**RESOLUTION**

**090817**

**Moved: Cr Smythe**

**Seconded: Cr Walters**

***“That Council:***

- 1. Notes the Notice of Motion submitted by Commissioner James Best at the Ordinary Meeting of Council held 22 June 2015 regarding rates remission for non-contiguous agricultural land; and***
- 2. Determines that such a concession would not be in the interests of the majority of Shire ratepayers and chooses not to pursue the matter at this time.”***

***CARRIED: 7/0***





## ***SY104-08/17 – Financial Report for July 2017***

<b>FILE REFERENCE:</b>	<b>FI.FRP</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Not Applicable</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Tabitha Bateman, Financial Controller</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Suzie Haslehurst, Executive Manager Corporate and Community Services</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>No</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>A. Monthly Statements</b>
	<b>B. List of Creditors Payments</b>
	<b>C. Corporate Credit Card Transaction Listing</b>

### **Nature of Council's Role in the Matter:**

- Legislative
- Review

### **Purpose of the Report:**

The purpose of financial reporting and the preparation of monthly financial statements is to communicate information about the financial position and operating results of the Shire of York to Councillors and the community and monitors the local government's performance against budgets.

### **Background:**

Local governments are required to prepare general purpose financial reports in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the *Australian Accounting Standards*.

A statement of financial activity and any accompanying documents are to be presented to the Council at an ordinary meeting of the Council within two months after the end of the month to which the statement relates. The Statement of Financial Activity Report summarises the Shire's operating activities and non-operating activities.

### **Comments and details:**

The Financial Report for the period ending 31 July 2017 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 31 July 2017
- List of Creditor's Payments
- Corporate Credit Card Transaction Listing

It should be noted that the figures reflected in the following reports in relation to 30 June 2017 and carried forward to 31 July 2017 are an estimate of the end of year position only and are subject to audit adjustments to the 2016/17 Annual Financial Report.

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 July 2017;

### Outstanding Rates and Services

Rates were raised and issued during the month and are due 28 August 2017. The total outstanding rates as at 31 July 2017 were \$6,687,115 compared to \$1,070,089 as at 30 June 2017.

#### Previous Years

3 years and over	\$295,250.78	4.42%	of rates outstanding
2 years and over	\$283,540.03	4.24%	of rates outstanding
1 year and over	\$469,542.91	7.02%	of rates outstanding
<b>Total Prior Years outstanding</b>	<b>\$1,048,333.72</b>	15.68%	of rates outstanding
Current Rates	\$5,638,781.08	84.32%	of rates outstanding
<b>Total Rates Outstanding</b>	<b>\$6,687,114.80</b>		

### Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 July 2017 were \$388,672 compared to \$481,930 as at 30 June 2017.

90 days and over	\$278,646.06	71.69%	of sundry debtors outstanding
60 days and over	\$7,085.50	1.82%	of sundry debtors outstanding
30 days and over	\$8,298.66	2.14%	of sundry debtors outstanding
Current	\$94,641.44	24.35%	of sundry debtors outstanding
<b>Total Debtors Outstanding</b>	<b>\$388,671.66</b>		

Council is currently in the process of finalising a number of large long-standing debts contained within the above balances. As a risk mitigation strategy, a contingent liability has been included in the Balance Sheet.

In May 2017, Officers indicated that a report would be presented to Council in June regarding a significant and long-standing debt. Given the complexity of the matter and the significance of the debt, Officers have since sought further legal advice and will present a report to Council as soon as is practicable.

#### **Implications to consider:**

- **Legal and Statutory**

*Local Government Act 1995*

6.10. *Financial management regulations Regulations may provide for —*

- (a) *the security and banking of money received by a local government; and*
- (b) *the keeping of financial records by a local government; and*
- (c) *the management by a local government of its assets, liabilities and revenue; and (d) the general management of, and the authorisation of payments out of —*
- (i) *the municipal fund; and (ii) the trust fund, of a local government.*

*Local Government (Financial Management) Regulations 1996*

#### **34. Financial activity statement required each month (Act s. 6.4)**

(1A) *In this regulation —*

*committed assets* means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
  - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
  - (b) *budget estimates to the end of the month to which the statement relates; and*
  - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
  - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
  - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*
  - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
  - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
  - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
  - (a) *according to nature and type classification; or*
  - (b) *by program; or*
  - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
  - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

*[Regulation 34 inserted in Gazette 31 Mar 2005 p. 1049-50; amended in Gazette 20 Jun 2008 p. 2724.]*

- **Policy**

Policy F1.2 Procurement

Policy F1.5 Authority to make payments from Trust and Municipal Funds

**Voting Requirements:**

**Absolute Majority Required:           No**

**RESOLUTION  
100817**

**Moved: Cr Saint**

**Seconded: Cr Randell**

***“That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 31 July 2017 as summarised below:***

Jul-17	
MUNICIPAL FUND	AMOUNT
Cheque Payments	14,777.14
Electronic Funds Payments	339,762.71
Payroll Debits	165,915.00
Payroll Debits - Superannuation	38,123.02
Bank Fees	574.12
Corporate Cards	424.15
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	82.50
TOTAL	559,895.26
TRUST FUND	
Electronic Funds Payments	780.20
Cheque Payments	0.00
Direct Debits Licensing	101,898.35
TOTAL	102,678.55
TOTAL DISBURSEMENTS	662,573.81

”

**CARRIED: 7/0**

## ***SY105-08/17 – Investments – July 2017***

<b>FILE REFERENCE:</b>	<b>FI.FRP</b>
<b>APPLICANT OR PROPONENT(S):</b>	<b>Not Applicable</b>
<b>AUTHORS NAME &amp; POSITION:</b>	<b>Tabitha Bateman, Finance Manager</b>
<b>RESPONSIBLE OFFICER:</b>	<b>Suzie Haslehurst, Executive Manager Corporate and Community Services</b>
<b>PREVIOUSLY BEFORE COUNCIL:</b>	<b>No</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Investment Portfolio</b>

### **Nature of Council's Role in the Matter:**

- Legislative
- Review

### **Purpose of the Report:**

To report to Council the balance of investments held by the Shire of York as at 31 July 2017.

### **Background:**

Council's policy F1.4 - *Investment* requires Council to review the performance of its investments on a monthly basis. In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York.

### **Comments and details:**

The Shire of York Investment Portfolio includes the following items that highlight Council's investment portfolio performance:

- a) Council's Investments as at 31 July 2017
- b) Application of Investment Funds
- c) Investment Performance

### **Implications to consider:**

- **Legal and Statutory**

*Local Government Act 1995*

#### **6.14. Power to invest**

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may —*
  - (a) *make provision in respect of the investment of money referred to in subsection (1); and*
  - [(b)deleted]*
  - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*
  - (d) *provide for the application of investment earnings; and*
  - (e) *generally provide for the management of those investments.*

*Local Government (Financial Management) Regulations 1996*

**19. Investments, control procedures for**

- (1) *A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.*
- (2) *The control procedures are to enable the identification of —*
  - (a) *the nature and location of all investments; and*
  - (b) *the transactions related to each investment.*

**19C. Investment of money, restrictions on (Act s. 6.14(2)(a))**

- (1) *In this regulation —*  
**authorised institution** means —
  - (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
  - (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;***foreign currency** means a currency except the currency of Australia.
- (2) *When investing money under section 6.14(1), a local government may not do any of the following —*
  - (a) *deposit with an institution except an authorised institution;*
  - (b) *deposit for a fixed term of more than 12 months;*
  - (c) *invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
  - (d) *invest in bonds with a term to maturity of more than 3 years;*
  - (e) *invest in a foreign currency.*

- **Policy**

Policy F1.4 Investment

**Voting Requirements:**

**Absolute Majority Required:        No**

**RESOLUTION  
110817**

**Moved: Cr Heaton**

**Seconded: Cr Smythe**

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

**CARRIED: 7/0**

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

*Nil*

**11. QUESTIONS FROM MEMBERS WITHOUT NOTICE**

*Nil*

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

*Nil*

**13. MEETING CLOSED TO THE PUBLIC**

13.1 Matters for which the meeting may be closed

**RESOLUTION**

**120817**

**Moved: Cr Smythe**

**Seconded: Cr Ferro**

***“That Council goes behind closed doors to discuss Item SY106-08/17 – Deed of Settlement and Release – 51 Panmure Road and Item SY107-08/17 – Chief Executive Officer Annual Performance Review and Key Performance Indicators for 2017/18 in Accordance with Section 5.23 2 (a) & (b) of the Local Government Act 1995”***

**CARRIED: 7/0**

*The Gallery left the meeting at 5.42pm.*

*Paul Martin, Chief Executive Officer; Paul Crewe, Executive Manager Infrastructure & Development Services; Suzie Haslehurst, Executive Manager Corporate and Community Services; Helen D’Arcy-Walker, Executive Support Officer remained in the room.*

***SY106-08/17 – Deed of Settlement and Release – 51 Panmure Road***

**RESOLUTION**

**130817**

**Moved: Cr Smythe**

**Seconded: Cr Saint**

***“That Council requests the CEO:***

- 1. Engross the “Deed of Settlement and Release” documentation for 51 Panmure Road, York.***
- 2. Utilises funds from “Reserve Account 50 – (Land and Infrastructure Reserve) to facilitate the Deed.”***

**CARRIED: 7/0  
WITH ABSOLUTE MAJORITY**





## ***SY107-08/17 – Chief Executive Officer Annual Performance Review and Key Performance Indicators for 2017/18***

*Mr Paul Martin, Chief Executive Officer declared a Financial Interest to this item and left the room at 5.44pm*

*Paul Crewe, Executive Manager Infrastructure & Development Services; Suzie Haslehurst, Executive Manager Corporate and Community Services left the meeting at 5.44pm.*

*Helen D'Arcy-Walker, Executive Support Officer remained in the room.*

### **RESOLUTION 140817**

**Moved: Cr Randell**

**Seconded: Cr Saint**

***“That Council endorses the recommendations in the confidential consultant’s report on the CEO Performance Review”.***

***CARRIED: 7/0***

### **RESOLUTION 150817**

**Moved: Cr Walters**

**Seconded: Cr Smythe**

***“That Council opens the meeting to the public at 5.47pm.”***

***CARRIED: 7/0***

*Five (5) members of the Gallery returned to the room at 5.47pm.*

*Mr Paul Martin, Chief Executive Officer; Paul Crewe, Executive Manager Infrastructure & Development Services; Suzie Haslehurst, Executive Manager Corporate and Community Services returned the meeting at 5.47pm.*

13.2 Public reading of resolutions to be made public

*The Shire President read the Resolutions in full of Items SY106-08/17 and SY107-08/17 to the Gallery.*

## **14. NEXT MEETING**

The next Ordinary Meeting of Council will be held on Monday, 18 September, 2017 at 5.00pm in Council Chambers, York Town Hall, York.

## **15. CLOSURE**

*The Shire President thanked everyone for their patience and attendance and closed the meeting at 5.49pm.*