



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 15 OCTOBER 2007
COMMENCING AT 3.03PM
IN THE PAVILION, FORREST
OVAL, YORK**

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RAY HOOPER
CHIEF EXECUTIVE OFFICER

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL WILL BE HELD ON MONDAY, 15 OCTOBER 2007, COMMENCING AT 3.03PM IN THE PAVILION, FORREST OVAL, YORK.

1. OPENING

- 1.1 Declaration of Opening
The Shire President, Cr Pat Hooper declared the meeting open at 3.03pm.
- 1.2 The Chief Executive Officer read the disclaimer.
- 1.3 Announcement of Visitors
Nil.
- 1.4 Announcement of any Declared Financial Interests

COUNCILLOR/OFFICER	ITEM	NATURE OF INTEREST
Cr T Randell	9.1.2	Financial – Licensee of other Property
Cr A Fisher	9.3.2	Financial – Partner in Avon Waste
Cr B Lawrance	9.5.1	Financial – Club Member

2. ATTENDANCE

2.1 Members

Cr Pat Hooper	President
Cr Brian Lawrance	Deputy President
Cr Trevor Randell	
Cr Ashley Fisher	
Cr Mick Delich	
Cr Tony Boyle	

2.2 Staff

Mr Ray Hooper	Chief Executive Officer
Mr Graham Stanley	Deputy Chief Executive Officer
Mr David Lawn	Planning Consultant
Mrs Tyhscha Cochrane	Senior Administration Officer
Mrs Natasha Brennan	Executive Assistant

- 2.3 Apologies
Peter Stevens.
- 2.4 Leave of Absence Previously Approved
Nil.
- 2.5 Number of People in Gallery at Commencement of Meeting
The Shire President welcomed the thirteen (13) people present at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

- 3.1 Previous Public Questions Taken on Notice
Nil.
- 3.2 Written Questions – Current Agenda
- 3.1 Mr Dave Johnson
Item 9.1.6 - Council Meeting 17 September 2007 – Closure of Springbett Airfield.

Question 1

What, in the Council's view, is the foreseeable future for aviation activity around the York Shire?

Response

Council believes in and supports the development of York for aviation purposes to compliment what is already in place in this industry.

Question 2

Where will various aviation participants have equal access to a public facility / ALA in York that allows for the many varieties of airborne action in existence today?

Response

A condition of the Regional Airport Development Grant is for public access to Brooklands Airfield to be guaranteed for a minimum of five (5) years.

Beyond this period the public use of the Airfield will be managed through normal commercial operations.

Question 3

What will happen to the use of the land at the present Springbett Airfield if it is actually closed down in spite of commonsense and reasonableness?

Response

The land currently partly utilised by the Springbett Airfield may be used for community cropping, a cemetery or other community benefit purposes. No formal decision has been made by Council at this stage.

Question 4

Why is the Shire of York supporting a private commercial entity by closing down a viable airfield to achieve benefits for only a specific part of general aviation activity in the York area?

Response

Council considers that an Airfield with two sealed runways and guaranteed public access for a specific period is better value than an unviable airfield with severe use restrictions and which is of limited benefit to the general community.

Question 5

What has the Shire of York done and how has it fully investigated the need to verify that nothing in fact can be done about changing the name of the Brooklands Airfield as I have heard differently?

Response

Council has not said that nothing can be done to change the name Brooklands Airfield. What it has said is that the owner of Brooklands Airfield has been requested to recognise the contribution to aviation in the York area by the Springbett family being incorporated in the upgraded facility to ensure continuation of the Springbett contribution.

Question 6

Is the Shire of York already planning very well ahead in 2007 to gain more substantial and real Federal and State funding to construct a fully integrated and fully public facility available to all and to create a major public benefit for York?

Response

At this stage Council has no plans to acquire and develop land for a fully integrated and publicly accessible airport for York.

4. PUBLIC QUESTION TIME

4.1 Mr Dave Johnson

How long will we it be until we can have access to the new facility, given that Springbett Airfield will be closed and what will happen after the 5 year period?

Response

The Shire President advised that Springbett Airfield has not been officially closed. The resolution from the previous Council Meeting held at Greenhills was to commence the processes & procedures for the closure of the airfield.

The Shire President noted that Council has not made a decision as to the use of the Springbett Airfield at this stage.

4.2 Mrs Roma Paton

Recycling

My question to the Councillors is: Why are the ratepayers of York restricted on the type of plastic we can place in our bin, when in fact it all goes to the exact same plant?

Response

The Chief Executive Officer advised that this question would be taken on notice and a written response would be provided to Mrs Paton.

4.3 Mr Kerry Bell

At the Council Meeting of the 20th August 2007 I made verbal and written requests for the Shire to supply in writing, the source and qualifications of the often mentioned "professional" information regarding the Avon Terrace Ficus Hillii. To date this information has not been forthcoming.

I now request once more that this information be provided in writing to myself and be made available to the people of York and to also include the total of the "professional" information provided and the amount paid for said "professional" advice.

Response

The Chief Executive Officer advised that the Council has not incurred any external professional advice on any financial costs in relation to the ficus tree.

The Council will not become involved when the matter is to do with a tree on a landowner's private property.

The advice on the Ficus Hillii tree was researched in-house, by Council Officers.

4.4 Mrs Tricia Walters

Referring to Item 9.5.1 – Late Report to do with the Bowling Club and a CSRFF Grant.

Is the current lighting adequate for night games to be played at the York Bowling Club and will the synthetic surface be requiring a cover?

Response

The Shire President advised that the present lighting currently supports Corporate Bowls which is played at night and that the synthetic surface does not require a cover.

4.5 Mrs Carole Bozich

Request for Council to repair potholes in Avon Terrace.

Response

This matter will be referred to the Works Supervisor. Council has committed \$92,000 to street scaping in 2007/08.

- 4.6 Mrs Carole Bozich
Request for Council assess the service provided by the York Visitor Centre in relation to customer service and the availability of mapping particularly for heritage sites.

Response

New brochures have been prepared by the Visitor Centre and are available for distribution.

- 4.7 Mrs Carole Bozich
Will Council undertake work to clean up the townsite as visitor feedback is that the town is tired, dirty and unkempt? Would this include cleaning out drains eg: South Street?

Response

Council is undertaking a cleanup this week.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

- 7.1 Minutes of the Ordinary Meeting of Council held 17th September 2007

Corrections

Confirmation

Resolution

011007

MOVED Cr Delich seconded Cr Randell

“That the minutes of the Ordinary Council Meeting held 17th September 2007 be confirmed as a correct record of proceedings.”

CARRIED (6-0)

- 7.2 Minutes of the Special Meeting of Council held 24th September 2007

Corrections

Confirmation

Resolution

021007

MOVED Cr Boyle seconded Cr Randell

“That the minutes of the Special Council Meeting held 24th September 2007 be confirmed as a correct record of proceedings.”

CARRIED (6-0)

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

STS Leeuwin – Sponsorship

The Shire President advised that the Council was sponsoring three (3) places on the STS Leeuwin for local Youth in the Community.

Anyone who knows of someone who would be interested was asked to take a brochure and contact the Shire Council or Cr Trevor Randell for more information.

9. OFFICER’S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Restriction on Building Materials – 5 Mount Street, York

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

FILE NO:	Mo 6.6415
COUNCIL DATE:	15 October 2007
REPORT DATE:	3 October 2007
LOCATION/ADDRESS:	Lot 13 (5) Mount Street, York
APPLICANT:	W Bydder & V Vanderhelm
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A – Elevations Appendix B – Offer and Acceptance (Sub 1)
DOCUMENTS TABLED:	Yes – Sample Product

Summary:

The applicants have requested an exemption from the Restriction on Building Materials Policy in that the finished product will have a textured finish and not be of a brick or masonry product.

Background:

Council at its Special Council meeting held on 23 January 2006 resolved to delegate approval of certain materials to the Chief Executive Officer, which gave the same outward appearance and texture of face or rendered brick work. Through this delegation approximately eight planning approvals have been issued for the textured finish on hardiboard and two approvals have been issued recently at Council.

Consultation:

Surrounding landowners;
McLeods – Lawyers and Solicitors; and
Advert in paper.

The following submissions were received:

Submission 1:

“The lot is part of a development created by the sub-division of Suburban lots 271, 272 and 273 into 13 lots. It was the developer’s intention that it should be a “brick area” as demonstrated by the fact that restrictive covenants were registered on the titles. This covenant states that the house shall have a living area of not less than 14 Squares (130m²) and that the walls shall not be face constructed in any material other than brick. It further states that all lots in the

development benefit from the restrictions and it comprises a common building scheme. Please see attached.

The existing residence on Lot 10 was constructed in brick and all the other residences that have since been erected are faced in brick. Eight owners have complied with conditions; the most recent residence was only built in 2006. Our house is faced with a combination of brick and limestone, but we did obtain approval for this from the developer prior to purchasing the lot.

We object to this current proposal for lot 13, which is before you, on the grounds that it is totally against both the Shire's "brick area" zonings and the original objective of the development. To approve this proposal as it stands, would go against the rights of all of us that have invested in land in this development for the specific reason that we had reasonably expected to be protected from non brick residences being permitted."

Submission 2:

"After due consideration, I have come to the conclusion that a Hardiplank dwelling with texture coated fibre cement covering would be acceptable in the area.

This is an area, which was originally designated a brick only area by the then developer and the York Shire. The blocks have restricted covenants registered in the titles specifying that the external walls must be constructed in brick. All houses built up to now have followed these strict guidelines. Why would it be acceptable to change the building restrictions now? It seems a retrogression to now accept dwellings of other materials.

I would like to see the dwelling plans change to feature brick external to be in keeping with the surrounding houses."

Statutory Environment:

Planning and Development Act 2005.
Shire of York Town Planning Scheme No. 2.

Financial Implications:

Nil to Council.

Strategic Implications:

To encourage development, which is appropriate to York's history and heritage.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: No

Triple bottom Line Assessment:

Economic Implications:

Nil to Council.

Social Implications:

There may be some social implications, as two submissions were received.

Environmental Implications:

Nil.

Comment:

Council approval is required for an exemption of other materials that are not of a rendered look or masonry type. Whilst the buildings will result in a rendered finish residents within the area have put in submissions and as such the Council needs to consider these submissions.

There are new products on the market that give the same outward appearance of a rendered finish, this issue has been considered by Council previously and the new products are believed to be suitable. (A sample is tabled for perusal.)

The policy allows for an exemption where it can be shown that the building materials proposed has the same outwards appearance and texture of face or rendered brick work, it is believed that the sample provided shows that the new products give this result.

It is a condition that stormwater is to be retained on the property.

Council has already set a precedent by allowing a delegation to the Chief Executive Officer to approve the variation to the finishes where an appropriate product is to be used.

The officer has recommended approval with conditions that are believed to be appropriate.

Due to the submissions advice was sought from McLeods to ensure that Council were acting in good governance. As a result Council is not a party to the restrictive covenants and shall only act on the planning issue at hand. The area is no longer referred to as a "Brick Area" and as such in accordance with the actions that Council has taken in the past this dwelling is recommended for approval.

The following advice was provided from McLeods:

"1. Clause 7.5 of the Shire's Town Planning Scheme 2 states:

"The local government in considering an application for planning consent is to have regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application:

[goes on to list 28 considerations]."

None of those considerations mentions private restrictive covenants or other private and contractual arrangements.

2. *In determining a planning application the Shire has to decide what is best in the interests of orderly and proper planning, and that determination should be unaffected by any private contractual arrangements even if they are noted on the certificate of title of the subject property.*
3. *It would place an unreasonable burden on the Shire if they needed to investigate for the existence of, or take account of the effect of restrictive covenants.*
4. *Additionally, if the Shire were to refuse an application because of a private restrictive covenant, or were to grant a conditional approval subject to the terms of the restrictive covenant the applicant would then have a right of appeal against the Shire and the Shire would be in effect fighting the third party's fight."*

OFFICER RECOMMENDATION

Resolution
031007

MOVED Cr Fisher seconded Cr Delich

"That Council:

1. ***Advise the applicants that the exemption from the Restriction on Building Materials Policy is granted for Lot 13 Mount Street, York for hardiboard with a high profile textured finish/coating to be used subject to the following:***
 - a. ***A building licence being issued for the proposed dwelling and to comply with the Building Code of Australia.***
 - b. ***The textured finish is to be completed prior to occupancy and is to be of the cream or earth coloured range.***
 - c. ***A landscaping plan being provided to the satisfaction of the Chief Executive Officer and to include details of screening/fencing etc.***
 - d. ***All stormwater to be retained on the property.***
2. ***Advise those that put in submissions of the resolution.***
3. ***Note that in making this decision it did not take notice of any restrictive covenant or any other private contractual constraint and that it is the responsibility of the landowners to take account of those matters.***

Advice Note:

The applicant be advised that any approval of the Shire will not necessarily authorise the carrying out of any development or use which is inconsistent with the restrictive covenant binding the land or any other contractual constraint.”

CARRIED (4-2)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.2 Signage & Liquor Licence for Alfresco Area & Council Thoroughfare
(Heritage Precinct)

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

FILE NO: Av 1.6360
COUNCIL DATE: 15 October 2007
REPORT DATE: 4 October 2007
LOCATION/ADDRESS: Lot 14 (No 87) Avon Terrace, York
APPLICANT: S & H Saint
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST: Cr Randell - Financial
APPENDICES: Appendix A – Site Plan
Appendix B – Liquor Licensing Standards
DOCUMENTS TABLED: Nil

Summary:

Council is requested to consider an application for planning approval for signage and a liquor licence for the alfresco area and the Council's verge.

Background:

This is the first application Council has received in accordance with the new liquor licensing laws.

The property is zoned Town Centre under the Shire of York Town Planning Scheme No. 2 and is part of the Town Centre Heritage Precinct. The applicants have received approvals to operate the premises as a B & B and café as detailed below:

"I am pleased to advise you that approval is granted under delegated authority for additions (as per plans attached), alfresco area, bed and breakfast and café in a heritage area subject to the following:

- 1. The colour and materials to be complimentary to the existing building.*
- 2. The food premises to comply with the Health (Food Hygiene) Regulations 1993.*
- 3. The seating capacity will be assessed in accordance with the Health (Public Buildings) Regulations 1992.*

4. *The bed and breakfast facility is limited to less than 6 people at any one time.*

Advice Note:

- a. *When you are ready to open the food premises please contact Council to determine the class eg café, tearooms etc under the Health (Food Hygiene) Regulations.*
- b. *The amount of people that you can accommodate will be determined under the Health (Public Buildings) Regulation and will be assessed on items such as area, toilet facilities etc.”*

“I am pleased to advise you that approval is granted under delegated authority for additional toilets and a storeroom in a heritage area in accordance with your site plan submitted subject to the following:

1. *A building licence being issued for the proposed works;*
2. *Compliance with the Australian Standards 1428 – Design for access and mobility;*
3. *Compliance with the Health (Public Buildings) Regulations 1992 in relation to sanitary facilities; and*
4. *The colours of the construction to compliment the existing building.”*

Neither of the previous applications referred to the serving of alcohol.

Consultation:

As part of the process Council advertised locally, notified adjoining owners and advised the Heritage Advisor of the development. Only one submission was received which is provided below:

Submission dated 24 September 2007.

“Proposed plans show a positive step forward in creating atmosphere and opportunity for both residents and tourists to socialise and relax in York.

Successful forward thinking towns include liquor licence in alfresco areas and attracts visitors to an atmosphere which is relaxed and friendly.

This and future applications for facilities of an upmarket nature should be encouraged and supported.

Thank you for allowing the opportunity to comment.”

Statutory Environment:

Liquor Control Regulations 1989;
Liquor Control Act 1988;

Shire of York Town Planning Scheme.

Policy Implications:

Nil.

Financial Implications:

There are no financial implications to Council in relation to this report other than staff time in the preparation of a report.

Strategic Implications:

To encourage development, which is appropriate to York's history and heritage.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Various

Triple bottom Line Assessment:

Economic Implications:

This will be an economic benefit to the applicants and may assist in the economics of the business district as a whole.

Social Implications:

The use of alfresco areas can add to the liveliness of the town.

Increased availability of alcohol may lead to increased antisocial behaviour.

Environmental Implications:

Possible increase in noise from patrons frequenting the premises.

Comment:

The State Government has introduced new liquor licensing laws to move away from the large single venue drinking establishments and move to a more relaxed European atmosphere for the consumption of food and alcohol.

This is the first application to Council made under the new regime and should be considered carefully. However there have been no submissions opposing the application and one submission in support.

It is suggested that Council commence drafting of a new planning policy to reflect the new categories of licence for inclusion in the Shire of York Town Planning Scheme No. 2.

OFFICER RECOMMENDATION

Cr Randell declared his interest in this item and left the meeting at 3.35pm.

Resolution
041007

MOVED Cr Lawrance seconded Cr Delich

“That Council:

1. ***advise Mr and Mrs Saint that it grants approval for the serving of liquor on the premises and the alfresco area including Council’s verge at Lot 14 Avon Terrace, York subject to the following conditions:***
 - a. ***The use is to commence within two years of the date of this decision.***
 - b. ***Acknowledge that whilst planning approval is granted, that this does not negate the need for a Section 40 Certificate.***
 - c. ***Details being provided to the Department of Racing, Gaming and Liquor.***
 - d. ***Compliance with the Liquor Control Regulations and Liquor Licencing Act.***
 - e. ***Proof of sufficient Public Liability Insurance being provided (\$10,000,000).
A minimum of two (2) metres of clear pathway being provided to allow pedestrian flow and to be maintained as a clearway at all times while the business is operating.***
 - f. ***It is the responsibility of the applicant that the alfresco area is kept clean at all times.***
 - g. ***A completed Alfresco Trading application being completed and all relevant fees being paid.***
2. ***Delegates to the Chief Executive Officer authority to approve the signage once all details have been received.***

Advice Note:

The applicant is advised that there may be additional requirements under other licensing requirements.”

CARRIED (5-0)

Cr Randell returned to the meeting the time being 3.39pm.

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.3 Aviation Uses

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

FILE NO: SP 1.750 & SP 1.340
COUNCIL DATE: 15 October 2007
REPORT DATE: 5 October 2007
LOCATION/ADDRESS: Lots 9 & 10 York Spencers Brook Road
APPLICANT: L Forster & Skydive Express WA Pty Ltd & Blacks Australia Pty Ltd
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – List of Approved Uses
DOCUMENTS TABLED: Nil

Summary:

Council is requested to consider an application for general aviation and associated uses at Lot 9 and Lot 10 York Spencers Brook Road, York which are detailed as follows:

1. Commercial Skydiving Centre.
2. Unrestricted aircraft airfield.
3. Short stay accommodation (on site caravans & sleeping quarters within main building), with use restricted to aviation uses such as skydiving.
4. Restaurant & Bar.
5. Museum (Aviation & Parachute).
6. Flight Training.
7. Office & Storage areas.
8. Aircraft hangers and associated facilities.
9. Aviation Fuel storage and dispensing facilities.
10. Adventure Training.
11. Caretaker and Staff Accommodation.
12. Aircraft and parachute maintenance.
13. Car Parking.
14. Club facilities.
15. Sky park which would allow for people to purchase/ lease land for a hanger and residence.

Background:

The applicant provided the following information in relation to the existing approvals and subsequently what the proposed uses for the site would be, detailed as follows:

“Skydive Express has operated a Skydiving Centre that was formally opened by Gordon Marwick in June 1999. This approval covered:

- 1. Skydiving Operations.*
- 2. Café/ Restaurant Area.*
- 3. Swimming Pool.*
- 4. Bunk/ Sleeping Rooms.*
- 5. Caravan Park Area.*
- 6. Refuelling Area.*
- 7. Car Parking Area.*
- 8. Toilet & Shower areas with Biocycle sewage system.*
- 9. Children’s play area.*
- 10. Dwellings for caretakers and other staff.*

The original approval contained a clause that stated ‘Approval being valid for three years from 10 November 1997’. We had taken this to mean that the development must be completed within this period.

This approval was subject to a review by the Department of Environmental Protection (DEP). The DEP followed Australian Standard AS 2021 that prescribes a maximum noise level of 75db for surrounding residences.

A report was prepared by Herring Storer Acoustics that mapped noise contours based on actual noise readings. There were no residences that were within the 75db noise contour for all directions of plane movements (except for the Lot 10 residence for which a letter of support was received.)

Subsequently to the Council approval, Skydive Express gained a special facility licence from the Department of Racing Gaming & Liquor.

Description of proposed development and/or use

To clarify our existing use and provide for future development approval is sought to conduct the following operations from both Lot 9 & Lot 10 Spencers Brook Road:

- 1. Commercial Skydiving Centre.*
- 2. Unrestricted aircraft airfield.*
- 3. Short stay accommodation (on site caravans & sleeping quarters within main building), with use restricted to aviation uses such as skydiving.*
- 4. Restaurant & Bar.*
- 5. Museum (Aviation & Parachute).*
- 6. Flight Training.*
- 7. Office & Storage areas.*
- 8. Aircraft hangers and associated facilities.*
- 9. Aviation Fuel storage and dispensing facilities.*
- 10. Adventure Training.*
- 11. Caretaker and Staff Accommodation.*
- 12. Aircraft and parachute maintenance.*
- 13. Car Parking.*

14. Club facilities.

15. Sky park which would allow for people to purchase/ lease land for a hanger and residence.

The operations relate to Skydiving and aviation related activities.

No new buildings are planned at this stage.

Existing dangerous goods storage facilities registered with the Department of Consumer & Employment Protection and complaint with the Explosives and Dangerous Goods Act are:

2.5 Kilolitre LP gas Tank

13,000 Jet A-1 Tank & Refuelling facility.”

The following approvals were put in place.

1. THAT THE APPLICATION DATED 8 MAY 1997 FOR THE USE OF LOT 9 SPENCERS BROOK ROAD, YORK, FOR COMMERCIAL SKYDIVING OPERATIONS BY SKYDIVE EXPRESS BE REFERRED TO THE ENVIRONMENTAL PROTECTION AUTHORITY.
2. SUBJECT TO THE ENVIRONMENTAL PROTECTION AUTHORITY ADVISING THE COUNCIL THAT THE PROPOSED USE OF LOT 9 SPENCERS BROOK ROAD, YORK FOR COMMERCIAL SKYDIVING OPERATIONS BY SKYDIVE EXPRESS IS ACCEPTABLE, THE APPLICATION TO USE LOT 9 SPENCERS BROOK ROAD, YORK FOR “CLUB PREMISES” BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:
 - I) THE USE OF THE AIRFIELD BY AIRCRAFT TO BE FOR SKYDIVING PURPOSES FOR SKYDIVE EXPRESS, NOT ANY OTHER USE.
 - II) EXCLUDING THE USE OF THE AIRFIELD, ALL DEVELOPMENT TO BE IN ACCORDANCE WITH THE APPLICATION RECEIVED BY THE COUNCIL ON 23 JULY 1997 AND THE USE OF “CLUB PREMISES”.
 - III) COMPLIANCE WITH THE PROVISIONS OF THE SHIRE OF YORK TOWN PLANNING SCHEME NO.2.
 - IV) ISSUE OF A BUILDING LICENCE FOR ALL BUILDINGS.
 - V) COMPLIANCE WITH ALL RELEVANT BY-LAWS, LOCAL LAWS AND REGULATIONS.
 - VI) APPROVAL BEING VALID FOR THREE YEARS FROM 10 NOVEMBER 1997.

VII) APPROVAL FROM WESTRAIL AND THE MAIN ROADS DEPARTMENT THAT THE RAIL CROSSING OFF THE MAIN ROAD IS OF ADEQUATE STANDARD FOR THE PROPOSED DEVELOPMENT. IN THE EVENT THAT THE ROAD OR CROSSING IS REQUIRED TO BE UPGRADED THESE WORKS ARE TO BE CARRIED OUT AT NO COST TO THE COUNCIL."

"THAT THE COUNCIL ADVISE SKY DIVE EXPRESS THAT THEY APPROVE THEIR APPLICATION FOR A SPECIAL FACILITIES LICENCE SUBJECT TO CONDITIONS AS DETAILED IN APPENDIX A BEING INCLUDED ON THE LICENCE."

Appendix A reads as follows:

1. The sale, supply and consumption of liquor on or from licensed premises is prohibited on Good Friday and before noon on Anzac;
2. The principal place for the sale of liquor will be from the shop/café ("the licensed premises");
3. Packaged liquor may be sold to lodgers for consumption off the licensed premises provided the lodger remains on the property of Skydive express for one night or more.
4. Liquor may be sold for consumption from the licensed premises to bona fide participants in skydiving and parachuting, guests of such sportspersons, spectators, employees or friends of employees and relatives of both employees and sportspersons who attend the Skydive Express facilities.
5. Liquor shall be available from the licensed premises between the hours of 12 noon to 1am, seven days a week save and except no liquor shall be in the "packing area" or other parts of the premises (except the licensed premises) while parachuting is in progress;
6. Pursuant to Section 120(1)(e) of the Liquor Licensing act 1988 unaccompanied juveniles are permitted to enter and remain on licensed premises;
7. Liquor may not be consumed on the runway, in any aircraft or in any area where maintenance is carried out to aircraft or in the packing area during any periods during which parachutes are being packed."

Consultation:

Council advertised and notified surrounding owners of the development and no submissions were received at the close of the advertising period.

Statutory Environment:

Relevant Acts and associated Regulations will apply to this type of development eg. public buildings, which will be included under the broad umbrella of the Health Act. Inspections will be carried out in accordance with the conditions of approval and further details/licensing may be required.

In the following section a definition has been provided for each of the areas under the Shire of York Town Planning Scheme, if available:

Commercial Skydiving Centre

The use is not listed within the Shire of York Town Planning Scheme and therefore can be considered as per Clause 3.2.3 and 3.2.4, detailed at the bottom of this section.

Unrestricted aircraft airfield

The use is not listed within the Shire of York Town Planning zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2.

Short stay accommodation (on site caravans & sleeping quarters within main building), with use restricted to aviation uses such as skydiving.

camping area: means land used for the lodging of persons in tents or other temporary shelter.

caravan park: means an area of land specifically set aside for the parking of caravans and park homes or for the erection of camps on bays or tent sites allocated for that purpose.

The use is not listed within the Shire of York Town Planning Scheme zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2, detailed at the bottom of this section.

Restaurant and Bar

restaurant: means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant.

A restaurant is not a permitted use under the Scheme; consideration may be given to ancillary tourist use, which is detailed as follows:

ancillary tourist use means a premises used for:

- (a) recreation or entertainment,
- (b) consumption of food and/or beverages,
- (c) the sale of produce,
- (d) the sale of arts and crafts, and / or
- (e) tourist excursions,

where such use is incidental to and directly related to the predominant use of the land.

Museum

public amusement: means land and buildings used for the amusement or entertainment of the public, with or without charge.

The use is not listed within the Shire of York Town Planning Scheme and therefore can be considered as per Clause 3.2.3 and 3.2.4, detailed at the bottom of this section.

Flight Training

The use is not listed within the Shire of York Town Planning Scheme and therefore can be considered as per section 3.2.3, detailed at the bottom of this section.

Office and Storage Areas

An office is not a permitted use under the Scheme in a General Agricultural zone, however through the review of the Scheme it should be made available as an 'IP' use, which is detailed at the end of this section under Clause 3.2.2.

Aircraft Hangars and associated facilities

The use is not listed within the Shire of York Town Planning Scheme zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2, detailed at the bottom of this section.

Aircraft Fuel Storage and dispensing facilities

The use is not listed within the Shire of York Town Planning Scheme zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2.

Adventure Training

The use is not listed within the Shire of York Town Planning Scheme zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2.

Caretaker and Staff Accommodation

caretakers dwelling: means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.

Clause 3.2.2 of the Scheme relates to this part of the proposal.

Staff accommodation is not a use listed on the zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2, detailed at the bottom of this section.

Aircraft and Parachute Maintenance

The use is not listed within the Shire of York Town Planning Scheme zoning table and therefore can be considered under Clause 3.2.3 & 3.2.4 of the Shire of York Town Planning Scheme No. 2, detailed at the bottom of this section.

Carparking

Carparking is defined under the Shire of York Town Planning Scheme No. 2 and is subject to various conditions, however there is sufficient land onsite for carparking.

Club Facilities

club premises: means land and buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the *Liquor Licensing Act, 1988* (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme.

A club premises is an 'AA' use under the Shire of York Town Planning Scheme No. 2, which is defined at the bottom of this section.

Sky Park

It is a use description which allows for the development of residents and hangar facilities on the land, however further information is required eg a structure plan.

Shire of York Town Planning Scheme No. 2 – References:

Clause 3.2.2 of the Scheme states:

3.2.2 *The symbols used in the cross reference in the Zoning Table have the following meanings:*

... 'IP' means a use that is not permitted unless such use is incidental to the predominant use as decided and approved by the local government.

... 'AA' means that the use is not permitted unless the local government has exercised its discretion by granting planning consent.

The above use is not listed within the Shire of York Town Planning Scheme's zoning table and therefore can be considered under Clause 3.2 of the Scheme, which states as follows:

3.2.3 *Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*

3.2.4 *If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type or class of activity of any other use the local government may:*

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.3 in considering an application for planning consent; or*
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

Policy Implications:

Nil.

Financial Implications:

No financial implications to Council.

Strategic Implications:

Economic Development & Tourism KRA 2 Sections 1 – 5:

“To encourage a sustainable community by increasing opportunities in York, attracting investment and businesses to the town and achieving diversification of industries.

To increase tourism to achieve business viability and growth.

To increase the net disposable income of the York community and investigate ways of increasing spending within the Shire.

To utilise the unique features of York’s heritage and rural lifestyle, where appropriate, as the basis for economic development.

To ensure economic development does not conflict with York’s heritage, lifestyle and environment.”

History and Heritage KRA 5 Section 4:

“To encourage development which is appropriate to York’s history and heritage.”

Community Services KRA 7 Section 1:

“To meet community needs in terms of physical infrastructure and overall community services.”

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

This will be an economic benefit to the applicants and may assist in the economics of the business district as a whole.

Social Implications:

It would appear that the development which has been operating for a number of years has gained acceptance through the community, as no submissions were received through the advertising period.

Environmental Implications:

Possible increase in noise from patrons frequenting the premises.

Comment:

It is unknown why the development was not approved in full at the time of the original application, however a time period was put on the development of three years and this has not been picked up until such time as the Department for Planning and Infrastructure were providing funding for the upgrading of the airstrip and Council staff conducted a search on the current approvals and records for Skydive Express.

OFFICER RECOMMENDATION

Resolution

051007

MOVED Cr Lawrance seconded Cr Fisher

“That Council advise the applicants that it approves general aviation with the associated uses listed in Appendix A at Lot 9 & 10 York Spencers Brook Road, York subject to the following conditions:

- 1. All necessary approvals being in place from the Civil Aviation Authority;***
- 2. Noise levels created are not to exceed the requirements of the Environmental (Noise) Regulations 1997;***
- 3. Compliance with the Liquor Control Act 1988;***
- 4. Compliance with the Caravan Parks and Camping Grounds Act 1995;***
- 5. Compliance with the Health Act 1911;***

6. Public Liability Insurance being kept up to date at all times.

7. A structure plan being provided for the Sky Park.

Advice Note:

The applicants are advised that all development must comply with all legislation required under law or relevant to the development.

Please note that there may be other State Departments where other licensing is required.

Council to incorporate aviation uses within the General Agriculture zone through the Town Planning Scheme review.”

CARRIED (5-1)

List of Associated Uses

Commercial Skydiving Centre.

Unrestricted aircraft airfield.

Short stay accommodation (on site caravans & sleeping quarters within main building), with use restricted to aviation uses such as skydiving.

Restaurant & Bar.

Museum (Aviation & Parachute).

Flight Training.

Office & Storage areas.

Aircraft hangers and associated facilities.

Aviation Fuel storage and dispensing facilities.

Adventure Training.

Caretaker and Staff Accommodation.

Aircraft and parachute maintenance.

Car Parking.

Club facilities.

Any ancillary uses associated with aviation.

Sky Park.

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.4 Planning Consent – Extractive Industries

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

FILE NO: Ha 1.1060/Ka 1.3610/Le 3.2961/Ca 1.2385 & 2920
COUNCIL DATE: 15 October 2007
REPORT DATE: 6 October 2007
LOCATION/ADDRESS: Various – Detailed in Report
APPLICANT: Various – Detailed in Report
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Extractive Industry Requirements
DOCUMENTS TABLED: Nil

Summary:

The following applicants have requested Council's permission to have an extractive industry use approved on their properties:

R & G Ludgate - Ludgate & Sons – Lots 73, 613 and 5577 Hamersley Siding Road, York – Gravel.

A Robinson – TF & JM Robinson Pty Ltd – Lot 200 Karabine Road, York – Gravel & Sand.

EJ & LJ Hewett – Lot 3890 Lennard Road, York – Sand, Gravel, Composting, Soil Conditioning.

G Humphrey – Humphrey Bros – Lots 4797, 3215, 8539, 2251, 1273, 21133 Cameron and Goldfield Roads, York – Gravel and Sand.

G & S Humphrey – York Earthmoving – Lot 2308 Cameron Road, York – Gravel and Sand.

Background:

The subject properties are zoned 'General Agriculture' under the Shire of York Town Planning Scheme No. 2.

This proposal requires two separate application processes. Firstly the planning consent of Council is required for an extractive industry and the second process is an application for a license to be issued under the Extractive Industry Local Law.

The issue of illegally operated extractive industries has been ongoing for some time now and the purpose of this report is to approve the first step of the process to operate an extractive industry.

The Council offered an amnesty in 2005 to try to rectify the situation however there was a very poor response.

Consultation:

The applications were advertised for public comment in accordance with the Shire of York Town Planning Scheme.

Statutory Environment:

Part one of this application is an application for planning consent in accordance with Town Planning Scheme No. 2.

In the zoning table an extractive industry is an "AA" use in the 'General Agriculture' zone. An 'AA' use is defined in the Scheme as:

"AA' means that the use is not permitted unless the local government has exercised its discretion by granting planning consent."

In addition to the requirement for planning consent any proposal for an extractive industry requires a license to be issued under the Local Law relating to Extractive Industry. Clause 2.1 of the local law states:

*"2.1 A person must not carry on an extractive industry -
(a) unless the person is the holder of a valid and current licence; and
(b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence."*

The WAPC Statement of Planning Policy 2.4 – Basic Raw Materials recognises that raw materials such as gravel are a valuable resource and identifies resources that must be protected. While the policy area does not extend to the Shire of York, in relation to identifying priority protection areas, the requirements of the policy do apply and clause 6.2.1 states:

"6.2.1 Proposals in local planning schemes, to prohibit extractive industries in zones that permit broad rural land uses (in future referred to as a Rural zone), will not be supported without adequate justification being provided. Extractive industry could also be a permitted use in other zones, subject to the location of these zones in relation to sensitive uses."

It should be noted that Council is in receipt of advice from the Department for Planning and Infrastructure that the Western Australian Planning Commission is seeking to update its Basic Raw Materials Resource Protection Strategy for the Perth Metropolitan Region and expand it further east to the outer Metropolitan areas and to cover the Peel and South West regions of Western Australia.

The intention of this policy statement is that local authorities cannot list extractive industries as a prohibited use in the zoning table in the scheme. The use must be listed as either a permitted use or a discretionary use. The Council must consider an application for planning consent however they have the discretion to approve or refuse any application on the merits of that application.

If the conditions of a Development Approval are breached then action will be taken in accordance with the *Planning & Development Act 2005*.

If the conditions of an Extractive Industry Licence are breached then action will be taken in accordance with the Shire of York's Extractive Industry Local Law.

The following terms are extracts from the Shire of York Local Planning Strategy and are provided for information:

2.3.4 Minerals and Basic Raw Materials

The potential for extractable minerals and materials in the Shire is generally restricted to basic raw materials, however, significant exploratory drilling has occurred in 2005 and 2006 for gold and other metals. Basic raw materials of hard rock, sand, and gravel must be reserved and protected with buffers to ensure their staged utilisation during future development of the shire. Excavations for basic raw materials take up very small areas when compared to the total area occupied by roads, houses, or other land uses. Without their ready availability, however, development could be restricted through conflicting land uses.

Quartz sand occurs in both the western and eastern parts of the shire. Frequently this sand requires little or no processing apart from perhaps screening. Laterite gravel is present on the plateau remnants. However, these areas remain covered by remnant vegetation. Currently, active and completed gravel pits bottom on duricrust that restricts rehabilitation and future land use. Hardrock resources occur where basement granite is exposed. It is unlikely that more than one hard rock quarry would be required in the shire in the foreseeable future, although there is potential for granite to be cut into blocks for dimension stone, and a quarry exists to the south of York although production has been intermittent.

Section 2.3.6 - Planning Implications:

- Areas suitable for basic raw material extraction need to be protected from encroachment by inappropriate uses.
- Impact of extractive industry on adjoining landowners, the environment and the transport network.

3.1.9 Buffers

Developments that may need a buffer include industries (including rural and extractive), agriculture, infrastructure and services. Buffer requirements are generally guided by State and regional policy, including that which is set by the Environmental Protection Authority, Western Australian Planning Commission and the Department of Industry and Resources. Any proposed land use or expansion of an existing land

use that may require a buffer should be referred to the relevant State Government Department for advice.

Actions

10. Identify and map the current and proposed basic raw material extraction operations in the Shire and the location of high quality, high volume basic raw material resources elsewhere in the Shire.
11. Prepare a local planning policy on basic raw materials that addresses issues such as buffer requirements, traffic impacts, management plan requirements and community consultation.
87. Review scheme to ensure that a range of agricultural uses, tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.
93. Review scheme to ensure that tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.
98. Review scheme to ensure that a range of agricultural uses, tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.
106. Review scheme to ensure that a range of agricultural uses, tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.
115. Review scheme to ensure that a range of agricultural uses, tree farming, tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.
122. Review scheme to ensure that tree farming, tourism and basic raw materials are permissible with discretion of Council and that guidance is given on what basis such applications will be assessed and what conditions imposed through Scheme provisions or policies.

The planning applications have identified areas within York that extract basic raw materials.

Policy Implications:

No policy implications arise from this report.

Financial Implications:

The maximum security bonds for rehabilitation of the site as permitted under the local law will be imposed on the project to protect the community from any future costs.

Annual license fees are payable under the Extractive Industry Local Law, which will cover the cost to Council of administration and monitoring of the development.

Strategic Implications:

The objectives of KRA 2 – Economic Development and Tourism, include:

“To ensure economic development does not conflict with York’s heritage, lifestyle and environment.”

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

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

No economic implications arise from the granting of planning consent as the Extractive Industry Licence process still has to be followed.

Social Implications:

As this application only relates to planning consent no adverse social impacts are envisaged.

Environmental Implications:

If or when an extractive industry licence is issued monitoring and compliance regimes will need to be in place for all relevant conditions.

Comment:

Extractive industry is a special case, as it can be a temporary use or a long term use. In the case of basic raw materials, or materials used in the development of urban areas for buildings, roads and infrastructure, its cost effectiveness often requires proximity to the urban areas.

The Shire will require the submission of appropriate management plans prior to the issue of an extractive industry licence. The management plans may be forwarded to the relevant State Government agencies for comment and advice but it is unlikely that the plans will be advertised for public comment.

Extractive Industry Licence’s and their associated conditions will be audited by the Shire to ensure compliance.

Generally the proposals will involve the removal and stockpiling of the topsoil and the subsequent removal of the product.

The following issues must be addressed to ensure that the amenity of the area is protected.

- Traffic Impact
- School Bus Route
- Lifespan of Operation
- Extent of Activities
- Noise
- Dust Control
- Water Run-Off
- Intersections of Local and State Roads
- Hours of Operation
- Landscape Views
- Rehabilitation
- Damage to the Environment
- Danger to Children

Planning consent relates to the use of the land, or a portion of that land, for a purpose in addition to the uses already permitted under the 'general agriculture' zoning. The term of the planning consent may be definite, for example 20 years, or open - no end date.

The issuing of planning consent identifies the use as being permitted on the subject land; it does not permit the excavation to occur. For excavation to occur a license under the Extractive Industry Local Law must be issued. This license is the controlling power over the actual removal of the resource from the land. It is proposed that any approval under the local law be limited to five years. If at the conclusion of that time further activities are planned the applicant will have to again make application for a license. Extension of the activities outside the condition of the license is an offence under the local law.

Accordingly it is not necessary to limit the timeframe of the planning consent.

The proposals have merit and are activities that can be supported and approved in the rural area. The 'general agriculture' zone is the only zone within the scheme area where an extractive industry can be permitted, however there is the potential for environmental and social problems occurring if not managed properly.

The use of the land for the purpose of an extractive industry should be supported, however to support the commercial operations further information must be provided and it is envisaged that a further three month period be provided to gather relevant information and submit with an extractive industry application. Accordingly it is recommended that the use be approved.

OFFICER RECOMMENDATION

Resolution
061007

MOVED Cr Fisher seconded Cr Randell

“That Council:

- 1. Advise R & G Ludgate that it grants planning consent to operate an extractive industry for the extraction of gravel on Lots 73, 613 and 5577 Hamersley Siding Road, York subject to no valid objections being received during the advertising period and compliance with Condition 6 to 11 inclusive of the recommendation.***
- 2. Advise A Robinson that it grants planning consent to operate an extractive industry for the extraction of gravel and sand on Lot 200 Karabine Road, York subject to compliance with Condition 6 to 11 inclusive of the recommendation.***
- 3. Advise EJ & LJ Hewett that it grants planning consent to operate an extractive industry for the extraction of gravel, sand, composting and soil conditioning on Lot 3890 Lennard Road, York subject to the appropriate approvals being in place with the Department for Environment in regards to composting and soil conditioning and subject to compliance with Condition 6 to 11 inclusive of the recommendation.***
- 4. Advise G Humphrey that it grants planning consent to operate an extractive industry for the extraction of gravel and sand on Lots 4797, 3215, 8539, 2251, 1273, 21133 Cameron and Goldfields Road, York subject to compliance with Condition 6 to 11 inclusive of the recommendation.***
- 5. Advise G & S Humphrey that it grants planning consent to operate an extractive industry for the extraction of gravel and sand on Lot 2308 Cameron Road, York subject to compliance with Condition 6 to 11 inclusive of the recommendation.***
- 6. The Shire of York’s Extractive Industries Local Law states the following in respect to setbacks:***

'LIMITS ON EXCAVATION NEAR BOUNDARY

- 6.1 Subject to any licence condition imposed by the local government, a person shall not, without the written approval of the local government, excavate within –**
- a) 20 metres of the boundary of any land on which the excavation site is located;**
 - b) 20 metres of any land affected by a registered grant of easement;**
 - c) 40 metres of any thoroughfare;**
 - d) 100 metres of any watercourse or 700 metres of any wetland of designated conservation value.'**
- 7. Noise levels emitted are not to exceed the requirements of the Environmental Protection (Noise) Regulations 1997.**
- 8. Dust produced from the site is to be controlled so as not to cause a nuisance to surrounding residents.**
- 9. Detailed plans including contours at a distance of 0.5 metres to be submitted to Council confirming the position of contour banks and bunding designed to control the flow of surface water across the site. Contours for the immediate area within 100 metre radius of the pits to be supplied.**
- 10. Warning signs are to be erected in accordance with the Extractive Industry Local law.**
- 11. Advise all the applicants that should they wish to proceed to an extractive industry licence all relative information needs to be submitted to Council prior to the 31st January 2007 and must include all information contained within the Advice Note and Appendix A.**

Advice Note:

The applicants to be advised that the following matters must be addressed in any future application for an extractive industry licence under the Extractive Industry Local Law:

- (a) A report being prepared by a qualified Traffic Engineer, at the applicants cost, to determine the impact of the proposed development on the relevant roads and submitted to Council for approval. The report is to address:**

- **Current standards of roads;**
- **Required upgrading of roads to accommodate the vehicles associated with the extractive industry;**
- **Current and projected traffic volumes for the roads;**
- **The cost proportion that should be borne by the applicant for the upgrading of roads;**
- **Potential impacts on the school bus service and the provision of bus bays; and**
- **Liaise with Main Roads WA, if required, to determine the suitability of the intersections onto a main road to accommodate safe access and egress for the transport vehicles.**

(b) A noise management plan is to be prepared and submitted to Council for approval. The plan is to demonstrate that the noise levels received at any noise sensitive premises in the vicinity will not exceed the requirements of the Environmental Protection (Noise) Regulations 1997;

(c) A comprehensive dust management plan is to be prepared and submitted to Council for approval. The plan is to:

- **demonstrate the methods of dust reduction in through the use of the dust suppression agent, the procedures for the use of the product, including frequency of application, strength of application, duration of dust suppression with each application and quantity of water required for each application;**
- **adequate information confirming the quantity of water available to be used for dust suppression and the quality of this water source. The DMP is also required to identify auxiliary water supplies if the proposed water supplies are exhausted; and**
- **details of the salinity of the proposed water supply to be used on the site is to be confirmed and details of the environmental implications of applying this water to the land in regard to the potential to increase the salinity of the groundwater supply in the area.**

(d) The applicants are advised that the commercial operation of pits is subject to an extractive industry licence being obtained and subject to relevant fees and charges at the time of the application.”

CARRIED (6-0)

9 OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.5 Health Local Law Amendments

FILE NO: HS.GEN
COUNCIL DATE: 4 October 2007
REPORT DATE: 15 October 2007
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Peter Stevens, EHO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Yes
DOCUMENTS TABLED: Shire of York Health Local Laws
Government Gazette 7 September 2007, No.
183

Summary:

Council has received advice from the Department Of Health that certain provisions of the Shire of York Health Local Laws were unreasonable and possibly contrary to common law. The provisions in question were part of the model Health Local Laws adopted by a large number of Western Australian Local Governments.

The Parliamentary Joint Standing Committee on Delegated Legislation (**the Committee**) drafted the relevant changes to the provisions with the amendments appearing in the Government Gazette on 7 September 2007(**Tabled**). All 100 local governments affected have been notified and are required to amend their local laws in accordance with the Committee's provisions.

Background:

The Parliamentary Joint Standing Committee on Delegated Legislation operates under specific terms of reference to review Delegated Legislation (**Appendix A**). Council was contacted about possible problems with certain provisions of the Health Local Laws in 2006 and 2007 by the Committee. The problems related to unreasonable provisions regarding storage of food and rights to sue a Local Government (Appendix A).

Council was asked to inform the Committee if its Local Health Law contained the disputed provisions. It was found that the provisions were in the Shire of York Health Local Law and the Committee were duly informed. Over a hundred other Local Governments were also affected by the disputed provisions.

The Parliamentary Counsel then drafted amendments to effect the necessary changes to the Local Laws which were then published in Government Gazette No. 183 September 2007.

Council Officers have noted the changes and will undertake to update all copies of the Health Local Law. There is no requirement to publish the Health Local Law in the Government Gazette or advertise the changes.

Consultation:

Department of Health.

Statutory Environment:

The Shire of York Health Local Laws – 6.1.5(3), 6.2.3(3), 6.3.3, 7.1.10(3) and 7.1.2(4).

Health Act 1911 – section 342 and section 343B.

Policy Implications:

Nil.

Financial Implications:

Nil.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspections Undertaken: N/A

Triple Bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

Certain provisions of the Model Health Local Laws adopted by the Shire of York in 2000 were found to be flawed by the Parliamentary Joint Standing Committee on Delegated Legislation. The Shire of York was not alone in this matter as the flawed provisions affected over a hundred local governments. The new provisions drafted by the Committee do not affect the overall intent of the Local Laws but have been amended to provide fairness and common sense in the Local Laws.

All necessary legislative changes have been made to the Local Laws and have been published in the Government Gazette. Council staff will ensure that all copies of the Shire of York Health Local Law are updated accordingly.

OFFICER RECOMMENDATION

Resolution

071007

MOVED Cr Delich seconded Cr Boyle

“That Council receive the information on amendments to the Shire of York Health Local Law.”

CARRIED (6-0)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.6 Stages – Shire of York Local Planning Strategy

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

FILE NO: PS.TPS.1
COUNCIL DATE: 15 October 2007
REPORT DATE: 8 October 2007
LOCATION/ADDRESS: Various
APPLICANT: Shire of York
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Map Detailing Current Staging
Appendix B – Proposed Staging Changes -
Map
DOCUMENTS TABLED: Nil

Summary:

It is proposed to change the current staging of developments within the Local Planning Strategy to facilitate developments, which have structure plans in place.

Background:

Council is in receipt of a completed Local Planning Strategy and has Outline Development Plans for the following proposed rural residential areas:

Mt Matilda;
Lot 4 Great Southern Highway; and
Mt Hardey (partially completed)

Consultation:

Department for Planning and Infrastructure.

Statutory Environment:

Planning and Development Act 2005.

Policy Implications:

Nil.

Financial Implications:

Administration time and mapping changes will incur a cost to Council.

All of the land will require rezoning from General Agriculture to an appropriate zoning and the proponents will be required to meet all associated costs.

Strategic Implications:

KRA5 – History and Heritage

“To encourage development which is appropriate to York’s history and heritage.”

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Those areas listed for proposed Stage 1, have already gone through an expensive exercise to get their proposals up and running.

Social Implications:

Orderly and progressive development through Structure Plans will support social cohesion in the precinct.

Environmental Implications:

Nil arise through the changing of stages.

Comment:

The Shire of York is experiencing high demand for land and it is proposed to change the staging to allow the release of land, in areas where pre-planning is in place.

The Mt Hardey area is currently staged 1 and 3. Research has revealed that in its current staging this would be unviable based on water supply availability, approximately two thirds of Mt Hardey cannot be serviced by existing infrastructure.

A new header tank needs to be installed on the high point of the land, which is now known as Stage 3, therefore development will more than likely start adjacent to the header tank. It is therefore proposed that the staging on Mt Hardey be changed from Stage 1 and 3 to Stage 1 and 2 in accordance with Appendix B.

The Mount Matilda area is currently staged 2 and 3, however as the structure plans have been before Council it is proposed to change this to Stage 1 for the whole area of land.

OFFICER RECOMMENDATION

Resolution
081007

MOVED Cr Boyle seconded Cr Randell

“That Council;

- 1. approve a variation to the staging detailed in the adopted Local Planning Strategy to acknowledge and support Structure Plans in place and to provide for the provision and installation of appropriate service infrastructure such as water and power; and***
- 2. request the Western Australian Planning Commission to endorse the revised staging for the Mt Hardey and Mt Matilda precincts.”***

CARRIED (6-0)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.7 Oversize Shed

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

FILE NO: La 1.60138
COUNCIL DATE: 15 October 2007
REPORT DATE: 8 October 2007
LOCATION/ADDRESS: Lot 105 Langsford Cres, York
APPLICANT: Mr G Ashworth
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane, Senior Admin Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Plans
DOCUMENTS TABLED: Nil

Summary:

Council has received an application to construct a general purpose Class 10a private shed at Lot 105 Langford Cres, York. The proposed shed has a floor area of 63m² and a wall height of 2.7 metres.

Council's Building Procedures Manual states that the maximum size for outbuildings on land zoned residential should not exceed 100m² or have a wall height greater than 3.5 metres.

Council has discretionary powers in relation to issuing Building Licences and may allow variations to the sizes listed within the Residential Design Codes of WA.

Background:

The applicant provided the following information:

- "1a. R5 allows wall height (gutter height) to 2.4 mtr I would like to go to 2.7 mtrs.*
- 1b. R5 allows for a garage/shed to a size of 60m². The shed I would like to construct is a 9 x 7m = 63sqm.*
- 2a. Wanting to go to a 2.7mtr wall height to enable the roller door clearance to be high enough to get a 4WD vehicle in the shed with a roof rack on top.*
- 2b. Std shed depth is normally 6mtrs deep but that does not leave a lot of room in front of a car/4WD in the shed. That is why I have proposed a 9 x 7 mtr which just exceeds the 60sqm..."*

Consultation:

Adjoining landowners.

Submission 1:

"We are sorry to have to object. We have already expressed our serious concerns to York Council that these "envisaged" small residential sites have been ruined by huge overpowering sheds out of proportion and inconsistent with the actual homes.

We live in York much of the time and have been dismayed that York Estates has become fields of sheds dominating the outlook from other properties. The height of a shed has huge impacts on its neighbours in a residential area, especially where there are no substantial trees or shrubs to screen it."

Submission 2:

"We have no issue with the proposed shed construction on Lot 105 Langford Cres, York."

Submission 3:

"No objection."

Statutory Environment:

Shire of York Town Planning Scheme;
Residential Design Codes of WA; and
Local Government Miscellaneous Provisions Act 1960 states;

(1b) The authority to approve or refuse to approve plans and specifications submitted under this section may be delegated by a local government to a person appointed to the office of building surveyor, but where a plan and specifications so submitted conform to -

(a) all local laws in force in the relevant district or part of a district in respect of building matters, and the local government's pre-determined policy in respect of building matters; and

(b) all local laws and schemes in force in the relevant district or part of a district in respect of town and regional planning matters, and the local government's pre-determined policy in respect of town and regional planning matters,

the building surveyor shall not refuse to approve that plan or those specifications without first obtaining the consent of the local government.

Policy Implications:

Nil.

Financial Implications:

Building fees will be applicable to the applicant should the approval be granted.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil to Council.

Social Implications:

There may be a possible loss of visual amenity if oversized outbuildings are constructed in the Residential zone.

Environmental Implications:

Increased storm water runoff from the shed.

Comment:

Surrounding property owners have been consulted on the proposed shed and all the comments are provided for in this report. There was a verbal response provided from a neighboring property, which had no objection to the shed in the proposed form.

Council has approved approximately seven applications for a variation to the Residential Design Codes of WA for the York Estates area alone.

The following approvals were issued in relation to height and areas of sheds/garages etc:

Approval is granted under delegated authority for a garage to a maximum floor area of 135m² to be located at Lot 32 Cowan Road, York subject to the following:

- a) *building licence being issued for the garage;*
- b) *non-reflective materials being used; and*
- c) *the shed being used for storage purposes only.*

Approval is granted under delegated authority for a shed to a maximum size of 144m² including the lean to under the same roof at Lot 19 Lewis Road, York subject to the following:

- a) *building licence being issued for the shed;*
- b) *non-reflective materials being used; and*
- c) *the shed being used for storage purposes and personal use only.*

Approval is granted under delegated authority for a wall height of 2.7 metres for the garage to be located at Lot 5 Newcastle Street, York, subject to the following:

- a) *building licence being issued for the garage; and*
- b) *non-reflective materials being used.*

Approval is granted under delegated authority for an oversize shed of 140.76m² with a height of 3.6m to be located at Lot 101 Langford Crescent, York, subject to the following:

- a) *building licence being issued for the shed; and*
- b) *non-reflective materials being used.*

As the variations are considered minor the officer is requesting Council's approval.

OFFICER RECOMMENDATION

Resolution
091007

MOVED Cr Lawrance seconded Cr Boyle

“That Council:

1. ***Advise the applicant that it approves the variation to the Residential Design Codes of WA for the construction of a Class 10a private shed/garage at Lot 105 Langford Cres, York in accordance with Appendix A subject to:***
 - a. ***a building licence being issued prior to construction;***
 - b. ***the shed being clad in a non-reflective type material; and***
 - c. ***all stormwater to be contained on site.***
2. ***Advise the writer of Submission 1, as detailed in the report.***

Advice Note:

- a. ***The approval for the shed is for private use only.***
- b. ***Appropriate landscaping should be put in place to minimise any visual impact of the building.”***

CARRIED (6-0)

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Gazettal Notices - Various

FILE NO:	LE.ACT
COUNCIL DATE:	15 October 2007
REPORT DATE:	20 September 2007
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Natasha Brennan, Executive Assistant
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Gazettal Notices (existing) Appendix A Gazettal Notices (replacement) Appendix B

DOCUMENTS TABLED:

Summary:

Council resolved at the Ordinary Meeting of Council on the 20th March 2006 to undertake an annual review of all Authorised Persons in February each year.

The current Appointment of Authorised Persons, published in the Government Gazette in March 2006 is now out of date.

The following Acts therefore require updating to allow the authorised persons to carry out the procedures delegated under each Act:

Caravan Parks & Camping Grounds Act 1995
Control of Vehicles (Off-Road Areas) Act 1978
Litter Act 1979
Local Government (Miscellaneous Provisions) Act 1960
Dog Act 1976

Note:

The Bush Fires Act 1954 was updated at the Council Meeting last month on the 17th September 2007.

Background:

A review was carried out on the appointment of authorised persons to carry out the administration duties of the various Government Acts in March 2006, with all previous appointments revoked and published in the Government Gazette on the 31 March 2006.

Consultation:

Consultation was undertaken with the Chief Executive Officer, Deputy Chief Executive Officer & Shire Ranger.

Statutory Environment:

Nil.

Policy Implications:

Nil.

Financial Implications:

There will be a cost associated with advertising the gazettal notices in the Government Gazette.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable.

Social Implications:

Potential improved customer service through the extended delegations of Authorised Officers.

Environmental Implications:

Not Applicable.

Comment:

Given the fact that local government is continually amending the various Acts and Regulations and that staff turnover is also frequently changing, it is recommended that a review be carried out on an annual basis and that the authorised officers for each Act be updated in February each year.

It is recommended that the Officers recommendation be accepted.

OFFICER RECOMMENDATION

Resolution

101007

MOVED Cr Delich seconded Cr Randell

“That Council:

- (1) ***Delete the current Appointment of Authorised Persons (published in the Government Gazette on the 31 March 2006) and replace the names with the updated list of Authorised Persons for the following Acts (as referred to in Attachment “B”):***

Caravan Parks & Camping Grounds Act 1995

***Control of Vehicles (Off-Road Areas) Act 1978
Litter Act 1979
Local Government (Miscellaneous Provisions) Act 1960
Dog Act 1976***

- (2) Undertake all statutory procedures for the amendment of the Authorised Persons.***
- (3) Undertake an annual review of the Authorised Persons in February each year.”***

CARRIED (6-0)

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.2 ALGA 10 Point Plan to Reinvigorate Local Communities

FILE NO:	OR.IGR.5
COUNCIL DATE:	15 October 2007
REPORT DATE:	28 September 2007
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	ALGA 10 Point Plan
DOCUMENTS TABLED:	Nil

Summary:

The WA Local Government Association requests Local Governments to support the plan to provide realistic funding levels and formal recognition of local government to provide better services to communities.

Background:

Funding for local government at the federal level is currently at 0.76% of total commonwealth taxation and this is expected to decrease to 0.73% in 2010-11 unless some adjustment is made. Coupled with this restricted funding is the cost shifting exercise between the other two tiers of government and increasing community expectations.

Consultation:

This issue has been subject to debate over an extended period with local government contending that a minimum of 1% of taxation revenue should be allocated to local authorities.

Statutory Environment:

Various pieces of Commonwealth and State legislation applies to funding to local governments and service delivery requirements.

Policy Implications:

Nil.

Financial Implications:

Nil at this stage.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Unless revenue growth and infrastructure cost support is guaranteed to local government the sustainability of Shires will remain in doubt. Rating to provide funding has limits and ultimately service delivery will be reduced.

Social Implications:

Local Government is the tier closest to the people and appropriate funding, support and recognition is needed for a cohesive and pro-active community.

Environmental Implications:

Lack of funding and enforced compliance with environmental standards will reduce resources for other areas of operations with the end result that the environment will also suffer.

Comment:

It is not practical or sustainable for local governments to be expected to do more with less, to meet community expectations and statutory requirements. Something will have to give and this may endanger the community, reduce services, engender division and eat away at good governance and forward planning strategies.

A basic question which needs to be asked is how would the Commonwealth and State Government provide services if local governments resolved to dissolve as their position and role is untenable.

OFFICER RECOMMENDATION

Resolution

111007

MOVED Cr Lawrance seconded Cr Boyle

“That Council:

- 1. Fully support the 10 Point Plan to Reinvigorate Communities, prepared by the Australian Local Government Association;***
- 2. Request Federal & State politicians to fully endorse and support the plan; and***
- 3. Prepare a summary of infrastructure requirements for existing and new services and lodge this with the Australian Local Government Association.”***

CARRIED (6-0)

9.3 Finance Reports

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.1 Financial Report September 2007

FILE NO: FI.FRP
COUNCIL DATE: 15 October 2007
REPORT DATE: 4 October 2007
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Graham Stanley, Deputy Chief Executive Officer
REPORTING OFFICER: Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST: No
APPENDICES: Yes
DOCUMENTS TABLED: Nil

Summary:

The Financial Report for the period ending 30 September 2007 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Bank Account Reconciliations
- Cheque drawings on the Municipal Account
- EFT drawings on the Municipal Account
- Cheque drawings on the Trust Account
- Reserve Accounts Balances Summary
- Payroll Direct Bank Debits
- Shell Card Statement
- Corporate Credit Card Statements

Consultation:

Department of Local Government and Regional Development.

Statutory Environment:

Local Government Act 1996 (As Amended).

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

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 30 September 2007.

Sundry Creditors as per General Ledger	\$	7,275.87
Sundry Debtors as per General Ledger	\$	133,199.58
Unpaid rates and services current year (incl ESL)	\$	3,250,462.32
Unpaid rates and services previous years (incl ESL)	\$	146,800.04

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

A Financial Statement and variation report will be distributed prior to the meeting once all budgets have been entered into the computer system.

OFFICER RECOMMENDATION

Resolution
121007

MOVED Cr Fisher seconded Cr Delich

“That Council:

Receive the Monthly Financial Report and payments drawn from the Municipal and Trust accounts for the period ending 31 August 2007

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	<i>27326-27361</i>	<i>\$ 77,180.30</i>
<i>Electronic Funds Payments</i>	<i>3724-3800</i>	<i>\$ 354,468.21</i>
<i>Direct Debits Payroll</i>		<i>\$ 85,616.48</i>
<i>Bank Fees</i>		<i>\$ 470.84</i>
<i>Corporate Cards</i>		<i>\$ 3,642.82</i>
<i>Photocopier Lease</i>		<i>\$ 1037.22</i>
<i>Shell Cards</i>		<i>\$ 87.13</i>
<i>TOTAL</i>		<i>\$ 522,503.00</i>
TRUST FUND		
<i>Cheque Payments</i>	<i>3421-3426</i>	<i>\$ 4,245.00</i>
<i>Direct Debits Licensing</i>		<i>\$ 112060.40</i>
<i>TOTAL</i>		<i>\$ 116,305.40</i>
<i>TOTAL DISBURSEMENTS</i>		<i>\$ 638,808.40”</i>
		<i>CARRIED (6-0)</i>

Note to this item

The Chief Executive Officer has delegated authority under Delegation DE1 (Council Meeting 10 August 2006) to make payments from the Municipal and Trust accounts.

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.2 Packaging Conveyor Funding

FILE NO:	HS.WDL.3.1
COUNCIL DATE:	15 October 2007
REPORT DATE:	4 October
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Peter Stevens, EHO/ BS
DISCLOSURE OF INTEREST:	Cr Ashley Fisher - Financial
APPENDICES:	Yes
DOCUMENTS TABLED:	Nil

Summary:

Council has been successful (**Appendix A**) in an application for funding for a project from the National Packaging Covenant (**NPC**). The project relates to the purchase of a conveyor to assist Council in reducing the amount of packaging waste that goes to landfill. Council applied for \$30 000 for the purchase and installation of the conveyor and has been granted the full amount with no requirement for matched funding.

In order to expedite the project and allow the manufacture of the conveyor to commence prior to receiving the funding it is necessary to use Council funds to place a deposit with the manufacturer as there is a 10 week lead time.

Background:

The NPC has been the leading instrument for managing the environmental impacts of consumer packaging in Australia since 1999. It is the voluntary component of a co regulatory arrangement based on the principles of shared responsibility through product stewardship, between key stakeholders in the packaging supply chain and all spheres of government - Australian, State, Territory and Local.

Targeted funding is available to support projects that deliver the Covenant goals and targets. Projects that are consistent with the NPC's project priorities are given preference and any other projects put forward are considered on their merit.

Council applied for funding for a packaging and paper conveyor in June 2007 under the NPC scheme and received confirmation from the Department of Environment and Conservation (**DEC**) that it had been successful in October 2007. Council has been advised that a contract is being drawn up and that staged funding will become available as key milestones are achieved. The first key milestone is signing of the agreement between the Shire of York and the DEC.

In order to progress the project as quickly as possible it is necessary to place a deposit on the conveyor as soon as possible to allow manufacture to commence. A deposit of \$15 000 is required by the manufacturer with the balance due on pick up.

Details of the conveyor are displayed in **Appendix B**.

Avon waste will integrate the conveyor into their recycling process to assist in removing more packaging from the waste stream. Avon Waste have suggested a few minor design changes to the conveyor which has resulted in an increase in the price of the conveyor however they have agreed to fund any amounts due to design changes over the \$30 000 of funding. The expenditure on the conveyor was not accounted for in the annual budget and so a budget variation will need to be approved to proceed with the project.

Agreement has been reached with Avon Waste on the use of the conveyor and this will be formalised with a terms of use agreement.

Consultation:

Department Of Environment & Conversation
Avon Waste
Construct Engineering

Statutory Environment:

Local Government Act

Policy Implications:

Nil.

Financial Implications:

Expenditure of \$43 000 capital which will be reimbursed fully from the NPC grant and Avon Waste.

Strategic Implications:

The Environment – Key Result Area 6
Resource Management – Key Result Area 8

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: N/A

Triple bottom Line Assessment:

Economic Implications:

Council will use its own funds to expedite the manufacture and purchase of the conveyor but all funds will be fully recovered from the grant funding and Avon Waste.

Cost benefit to Council due to more waste being diverted from landfill thus reducing cost to Council.

Social Implications:

Nil

Environmental Implications:

Improved recovery of waste packaging and paper products increases sustainability and reduces waste to landfill.

Comment:

Council has been granted funding under the NPC grant scheme and will be receiving \$30 000 for the manufacture and installation of the conveyor plus \$13 000 dollars from Avon Waste to meet the increased cost due to design changes for a total project cost of \$43 000 with a nil financial contribution from the Shire of York .

Once the contract is signed with the Department of Environment and Conservation staged return of funds will be made available after key milestones have been achieved.

The use of Council funds to expedite the project will have no overall effect on Councils fiscal position for the 07-08 budget as the project is to be fully funded by the NPC funds and Avon Waste. All additional cost to the project due to design changes will be met by Avon Waste. However the \$43 000 expenditure was not accounted for in the annual budget so a budget variation will need to be approved by Council in order to proceed with the project as soon as possible.

OFFICER RECOMMENDATION

Cr Fisher declared an interest in this item and left the meeting at 4.00pm.

Resolution
131007

MOVED Cr Boyle seconded Cr Randell

“That Council:

- 1. approve a budget variation of \$43 000 (revenue & expenditure) for the purchase of a waste packaging conveyor to be funded from a National Packaging Covenant grant and Avon Waste on the condition that a formal agreement is reached to the satisfaction of the Chief Executive Officer between the Shire of York and Avon Waste on the terms of use of the conveyor;***
- 2. additional costs due to design changes requested by Avon Waste to be met in full by Avon Waste; and***
- 3. approve pre-funding of a maximum of \$15 000 to enable manufacture to commence prior to income being received.”***

CARRIED (5-0)

Cr Fisher returned to the meeting, the time being 4.03pm.

9. OFFICERS' REPORTS
9.3 FINANCE REPORTS
9.3.3 Tender 07-06/07 Ride-On Mower

FILE NO:	AS.TEN
COUNCIL DATE:	15 October 2007
REPORT DATE:	8 October 2007
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Graham Stanley, Deputy CEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Tenders were called for the replacement of Council's John Deere Ride-on Mower in April 2007 and at the May 2007 meeting Council deferred consideration of the tenders to allow further research to be undertaken on the best options for the mower. Alternatives have been researched however the only firm that has shown a genuine commitment to winning Council's business is T-Quip who was also the only firm to submit a tender. This report gives a recommendation on the purchase of a replacement mower.

Background:

Council's John Deere Ride-on mower was due for replacement in the 2006/07 financial year. Tenders were called previously for the supply of a mower that had the capacity and attachments to be used as a road sweeper. In February a tender was accepted conditional upon the sweeper function of the machine being satisfactory to Council requirements. Following a demonstration in York it was decided that tenders should be recalled for a machine that was dedicated as a mower.

Tenders were called and closed on Thursday 10th May 2007. Only one company tendered, being T-Quip which was the only firm to tender on the previous occasion as well. At the May 2007 Council meeting Council deferred consideration of the tender whilst further research was carried out to be sure that Council would purchase a machine that best met Council's needs.

A number of alternative suppliers were contacted and requested to provide details of alternative machines available and to provide quotations. Apart from T-Quip most firms were slow to respond and the alternatives provided did not meet Council's needs. Due to the slowness of responses staff were not in a position to make a recommendation on a replacement machine to the June 2007 meeting. The focus on finding a replacement was then shifted to finalising and adopting the budget. Allowance for the replacement of the mower was then included in the 2007/08 budget.

Consultation:

Works staff, other local government authorities, various machinery dealers.

Statutory Environment:

Local Government Act 1995 S.3.57 Local Government (Functions and General) Regulations Part 4.

Policy Implications:

Falls within Council's purchasing policy guidelines.

Financial Implications:

Budget for Replacement of Ride On Mower	\$55,000
Less Budgeted Trade –in	<u>\$10,000</u>
Balance available	\$45,000

The net changeover after GST credits have been claimed fall within Council's budget allowance. The recommended machine will come in with a saving of almost \$7,000 on the budget.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken:

Not applicable.

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

Due to the time elapsed since the tender closed the tender provided by T-Quip has expired and therefore there is now no valid tender that Council can accept. T-Quip has since provided a new quotation on the machines that they tendered. The price on one of the models that they tendered, the Gianni Ferrari T4, was unchanged because they have a machine in stock. The other two options the T1 and the T2 have had price increases of \$1,300 plus GST as an order will have to be placed with the factory. The trade-in price offered on Council's existing John Deere machine has remained unchanged and considering that we have had an additional 5 months use from the machine it is a bonus. At various times T-Quip have brought all three machines to York and demonstrated them. Following a recent demonstration of a machine Council's Works Supervisor and Gardening staff confirmed that the machines performed very well and meet Council's needs. The design of the machine should result in less wear in the pick-up system than with the John Deere machine.

The machine performed well in mowing parks and ovals and also handled long grass, including wild oats, very well.

T-Quip claims to be WA's largest dedicated commercial mowing equipment outlet and they are well known in Local Government and parks and gardens circles. Their clients include the Kings Park Board and a large number of metropolitan and country local authorities. Positive feedback has been received from other Councils on the service provided by T-Quip. Details of the 3 machines quoted by T-Quip are listed below. No other supplier put forward a machine that was deemed suitable by Council's Works Supervisor to meet our needs. The Turbo 2 (T2) is the machine recommended by Council's Works Supervisor and Council's Gardener as being the machine that best meets our requirements.

OPTION 1

ITEM DESCRIPTION	BRAND NAME/ITEM CODE/MODEL NO	PRICE QUOTED (EX GST)	GST COMPONENT	PRICE QUOTED (INC GST)
Ride on Mower	Gianni Ferrari T1 (see attached quote for details)	\$49,934.00	\$4,993.40	\$54,927.40
Less Trade	John Deere 1445 with collection attachment	\$13,000.00	\$1,300.00	\$14,300.00
Net Price Delivered		\$36,934.00	\$3,693.40	\$40,627.40

OPTION 2

ITEM DESCRIPTION	BRAND NAME/ITEM CODE/MODEL NO	PRICE QUOTED (EX GST)	GST COMPONENT	PRICE QUOTED (INC GST)
Ride on Mower	Gianni Ferrari T2 (see attached quote for details)	\$51,026.00	\$5,102.60	\$56,128.60
Less Trade	John Deere 1445 with collection attachment	\$13,000.00	\$1,300.00	\$14,300.00
Net Price Delivered		\$38,026.00	\$3,802.60	\$41,828.60

OPTION 3

ITEM DESCRIPTION	BRAND NAME/ITEM CODE/MODEL NO	PRICE TENDERED (EX GST)	GST COMPONENT	PRICE TENDERED (INC GST)
Ride on Mower	Gianni Ferrari T4 (see attached quote for details)	\$56,268.00	\$5,626.80	\$61,894.80
Less Trade	John Deere 1445 with collection attachment	\$13,000.00	\$1,300.00	\$14,300.00
Net Price Delivered		\$43,268.00	\$4,326.80	\$47,594.80

Technical Details are as follows:

- (1) Gianni Ferrari Turbo 1
- 28Hp liquid cooled 3 cylinder Kubota diesel engine (D1105)
 - 25 litre fuel capacity
 - Two (2) wheel drive with diff lock
 - Hydraulic Grammar seat
 - Ergonomically designed operator station
 - RC 150cm (60in) Mower –deck
 - 800 litre Grass catcher with audible alarm
 - Hydraulic elevator to 210cm
 - ROPS and canopy
 - Tool Box
 - Orange Beacon
 - Fire Extinguisher
 - Full Road Lighting
 - Operator Training on delivery
 - Warranty – twelve months on prime mover and two years on engine and transmission.
- (2) Gianni Ferrari Turbo 2
- 33Hp liquid cooled 4 cylinder Kubota diesel engine (D1505)
 - 40 litre fuel capacity
 - Two (2) wheel drive with diff lock
 - Hydraulic Grammar seat
 - Ergonomically designed operator station
 - RC 150cm (60in) Mower –deck
 - 1100 litre Grass catcher with audible alarm
 - Hydraulic elevator to 210cm
 - ROPS and canopy
 - Tool Box
 - Orange Beacon

- Fire Extinguisher
 - Full Road Lighting
 - Operator Training on delivery
 - Warranty – twelve months on prime mover and two years on engine and transmission.
- (3) Gianni Ferrari Turbo 4
- 33Hp liquid cooled 4 cylinder Kubota diesel engine (D1505)
 - 40 litre fuel capacity
 - Four (4) wheel drive with diff lock
 - Hydraulic Grammar seat
 - Ergonomically designed operator station
 - RC 150cm (60in) Mower –deck
 - 1100 litre Grass catcher with audible alarm
 - Hydraulic elevator to 210cm
 - ROPS and canopy
 - Tool Box
 - Orange Beacon
 - Fire Extinguisher
 - Full Road Lighting
 - Operator Training on delivery
 - Warranty – twelve months on prime mover and two years on engine and transmission.

Option 1, the Turbo 1 (T1), complied with the tender specifications apart from the capacity of the grass catcher, which is 800 litres compared with the specified minimum capacity of 1,000 litres. It is a 4 wheel drive model however when comparing it with the 2 wheel drive Turbo 2 (T2) it only has a 3 cylinder 28 Hp engine and a 25 litre fuel tank compared to the T2 which has a 33 Hp four cylinder engine and a 40 litre fuel tank. The T2 has a 1,100litre catcher. The larger capacity catcher, fuel tank and motor should make the T2 a more efficient machine as it will require fewer stops to refuel and empty the catcher and the larger engine should not have to work as hard and should therefore last longer.

The Turbo 4 (T4) is a 4wheel drive version of the T2 with virtually the same specifications as the T2. Council's gardener has advised that 4 wheel drive capability is not required as he has never needed to use that feature on Council's current mower. Last year a T2 was demonstrated to council staff and they were impressed with its performance. Although a 4-wheel drive mower will have a better re-sale the additional cost between the T2 and the T4 is not warranted when considering Council's requirements.

OFFICER RECOMMENDATION

Resolution
141007

MOVED Cr Randell seconded Cr Lawrance

“That Council:

- 1. Council does not award any tender for Tender 07- 06/07; and***
- 2. Accepts the quotation from T-Quip to supply one only Gianni Ferrari Turbo 2 mower at the quoted price of \$56,128.60 including GST less the trade-in of Council’s John Deere 1445 mower with collection system for \$14,300 Inc GST; resulting in a changeover of \$41,828.60 including GST.”***

CARRIED (6-0)

9.4 Confidential Reports

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Application for Community Sport and Recreation Facilities Fund Grant in 2008/2009

FILE NO:	FI.FAG.6
COUNCIL DATE:	15 October 2007
REPORT DATE:	12 October 2007
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	York Bowling Club Inc
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Graham Stanley, Deputy CEO
DISCLOSURE OF INTEREST:	Cr Lawrance - Financial
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Council is to consider:

- (1) Supporting the application from the York Bowling Club for Community Sporting and Recreation Facilities Fund 2008/2009 funding round to replace the existing bowling greens with synthetic turf; and
- (2) Approve an allocation of \$80,500.00 excluding GST in the Shire of York's 2008/2009 budget.

Background:

Earlier this year the York Bowling Club submitted a Water Grants application to replace the existing grass greens at the Bowling Club with synthetic turf greens. As part of the application they indicated that they would submit an application to the Community Sporting and Recreation Facilities Fund (CSRFF) to help fund the replacement of one of the greens. They have now submitted that application for Council's consideration.

The total project is for the replacement of two greens however they have applied to the water grants scheme for funding of 50% which will be the cost to provide one synthetic green. The second green is proposed to be funded by \$80,500 from CSRFF, \$80,500 from the Bowling Club and \$80,500 from the Shire.

Consultation:

York Bowling Club Inc
Department of Sport and Recreation

Statutory Environment:

Local Government Act Section 6.2

Policy Implications:

Nil

Financial Implications:

This will be a one-off allocation of \$80,500.00 excludes GST in 2008/09, on the condition that the York Bowling Club application is approved by the Department of Sport and Recreation

Strategic Implications:

KRA 7 – Objective 1

“To meet community needs in terms of physical infrastructure.”

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

The installation of the proposed synthetic greens will result in a significant savings of water. It will also result in significantly less greens maintenance costs for the York Bowling Club eliminating the need for the Bowling club to employ a green keeper and eliminating the need for chemicals and fertilisers. The Bowling club has estimated annual savings of \$35,000 in green keepers' wages, \$8,000 in water costs and \$6,000 in Fertiliser, chemicals and equipment costs. These savings will be used to fund future replacements of the greens.

Social Implications:

The new greens will enable bowls to be played year round, greatly increasing participation levels and enabling the club to provide quality facilities for York Bowling Club members and visitors alike. There is potential for the Bowling Club to benefit from the proposed retirement village in the vicinity and having access to synthetic greens with the capacity for year round bowls may be an attraction to retirees to come to York.

Environmental Implications:

The proposed greens will save substantial amounts of water and reduce the amount of chemicals and fertilisers that can get into the environment.

Comment:

The CSRFF process requires Council to indicate its support or otherwise for funding applications and to rank them in order of preference. Applications are then forwarded to the Regional Office of The Department of Sport and Recreation in Northam who add their assessment before they go before the State Panel of CSRFF. It is Council's usual practice to provide a one third contribution to the projects that it supports if they receive State approval.

The York Bowling Club has undertaken considerable research in preparing this grant application and has complied with all the requirements specified by the Department of Sport and Recreation. The Bowling club has researched the various types of synthetic surfaces available, consulted with a number of other bowling clubs and obtained a copy of a water grants application and advice from an Eastern States club that was successful with its application. The new greens will help the Bowling Club to be a lot more viable in the future with reduced greens maintenance costs, less need for volunteers and the capacity to operate for 12 months of the year instead of 6-7 months as is currently the situation.

The club has also indicated that should they be unsuccessful with their water grant application they will not proceed with this application and will prepare a new application for water grant funding prior to resubmitting a future CSRFF application.

OFFICER RECOMMENDATION

Cr Lawrance declared an interest in this item and left the meeting, the time being 4.05pm.

Resolution

151007

MOVED Cr Delich seconded Cr Fisher

“That Council:

- (1) Support the application by the York Bowling Club for Community Sporting and Recreation Facilities Fund for funding in the 2008/09 financial year to “Replace Grass Bowling Green with Synthetic Turf”.***
- (2) Approve the funding of one third (1/3) towards the project in the 2008/2009 financial year to a maximum of \$80,500.00 excl GST subject to the application being approved by the Department of Sport and Recreation.***
- (3) That the final design of the synthetic greens to be dependant on the Forrest Oval Recreational Development Plan.***

Note: No further contribution above the indicated \$80,500 will be considered irrespective of the outcome of other funding applications.”

CARRIED (5-0)

Cr Lawrance returned to the meeting, the time being 4.13pm.

10. NEXT MEETING

Resolution
161007

MOVED Cr Delich seconded Cr Boyle

“That Council:

- 1. Hold a Special Council Meeting to swear in the newly elected Council Members on Monday 22nd October 2007, commencing at 9.30am in Pavilion, Forrest Oval, York.”***

- 3. Hold the next Ordinary Meeting of the Council on Monday 19th November 2007, commencing at 3.00pm in the Lesser Hall, York.”***

CARRIED (6-0)

11. CLOSURE

There being no further business, the President closed the meeting at 4.14pm.

Certification of Minutes

The minutes were confirmed by the Council as a true and accurate record of the Council Meeting.

PRESIDENT

Date