



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 24 OCTOBER 2016
COMMENCING AT 5.02PM
AT GREENHILLS HALL
GREENHILLS, YORK**

Table of Contents

1. OPENING	5
1.1 Declaration of Opening	5
1.2 Disclaimer	5
1.3 Standing Orders.....	5
1.4 Announcement of Visitors	5
1.5 Declarations of Interest that Might Cause a Conflict	5
1.6 Declarations of Financial Interest	6
1.7 Declarations of Interest that May Affect Impartiality.....	6
2. ATTENDANCE	6
2.1 Members.....	6
2.2 Staff.....	6
2.3 Apologies.....	6
2.4 Leave of Absence Previously Approved.....	6
2.5 Number of People in Gallery at Commencement of Meeting.....	6
3. QUESTIONS FROM PREVIOUS MEETING	6
3.1 Response to previous public questions taken on notice	6
3.2 Response to unasked questions from the previous meeting	7
4. PUBLIC QUESTION TIME	8
4.1 Written Questions – Current Agenda.....	8
4.2 Public Question Time.....	8
5. APPLICATIONS FOR LEAVE OF ABSENCE	8
6. PRESENTATIONS	8
6.1 Petitions.....	8
6.2 Presentations.....	8
6.3 Deputations.....	8
6.4 Delegates reports.....	9
7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	9
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	9
9. OFFICER’S REPORTS	9
SY117-10/16 - P1051 – Development Application: Two Additional Open Bulkheads for Grain Storage on CBH Site (Rural Industry) – Lot 200 Knotts Road, York.....	11
SY118-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of Civil Construction Works.....	19
SY119-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of Gravel Supply	23
SY120-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of The Installation and Commissioning of the Synthetic Grass for Tennis Courts at the Forrest Oval Sports Precinct.....	27
SY121-10/16 – Disposal of Property – Existing Greenhills Fire Shed.....	31
SY122-10/16 – Trading in Public Places - Avon Minibus Hire	35
SY123-10/16 – Proposed Christmas Decorations 2016 - Recommendations from the Christmas Decorations Working Group	41
SY124-10/16 – Review of Planning Delegations	47

<i>SY125-10/16 – Review of Delegated Authority.....</i>	<i>49</i>
<i>SY126-10/16 – Update of Council Policies.....</i>	<i>57</i>
<i>SY127-10/16 – Shire of York Christmas Closure 2016.....</i>	<i>63</i>
<i>SY128-10/16 – Financial Report for September 2016.....</i>	<i>67</i>
<i>SY129-10/16 – Investments – September 2016.....</i>	<i>71</i>
<i>SY130-10/16 – Write-off Rates Interest.....</i>	<i>73</i>
<i>SY131-10/16 – Minutes of Audit Committee Meeting held 17 October 2016.....</i>	<i>77</i>
10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	79
11. QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	79
12. BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	79
13. MEETING CLOSED TO THE PUBLIC	79
13.1 <i>Matters for which the meeting may be closed</i>	<i>79</i>
<i>SY132-10/16 – Closing the Meeting to the Public & Press</i>	<i>81</i>
<i>SY133-10/16 – Cash-in-Lieu Carparking Debt – Settlers House Pty Ltd</i>	<i>83</i>
<i>SY134-10/16 - Legal Costs Write-off - A11360 - Lot 99 (5) Bouverie Road, York.....</i>	<i>85</i>
<i>SY135-10/16 - Chief Executive Officer – Completion of Probationary Period</i>	<i>87</i>
<i>SY136-10/16 – Opening the Meeting to the Public & Press.....</i>	<i>89</i>
13.2 <i>Public reading of resolutions to be made public</i>	<i>89</i>
14. CLOSURE	89



SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 24 OCTOBER, 2016, COMMENCING AT 5.02PM AT GREENHILLS HALL, GREENHILLS, YORK

The York Shire Council acknowledges the traditional owners of the land on which this meeting will be held.

1. OPENING

1.1 Declaration of Opening

Cr David Wallace, Shire President, declared the meeting open at 5.02pm and thanked the Greenhills Progress Association for a wonderful afternoon tea.

1.2 Disclaimer

The Shire President advised the following:

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

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

1.3 Standing Orders

The Shire President announced that the new Local Government (Council Meetings) Local Law 2016 came into effect for this meeting.

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Nil

- 1.6 Declarations of Financial Interest
Cr David Wallace – SY117-1016 – P1051 – Development Application. Two additional open bulk heads for grain storage CBH site
Cr Trevor Randell – SY133-10/16 – Cash in Lieu Carparking Debt – Settlers House Pty Ltd
Mr Paul Martin, CEO – SY135-10/16 – Chief Executive Officer – Completion of Probationary Period

- 1.7 Declarations of Interest that May Affect Impartiality
Nil

2. ATTENDANCE

- 2.1 Members
Cr David Wallace, Shire President; Cr Denese Smythe, Deputy Shire President; Cr Heather Saint; Cr Pam Heaton; Cr Jane Ferro; Cr Trevor Randell; Cr Tricia Walters;

- 2.2 Staff
Paul Martin, Chief Executive Officer; Paul Crewe, Executive Manager Infrastructure & Development Services; Carly Rundle, Senior Planner; Tabitha Bateman, Financial Controller; Helen D'Arcy-Walker, Executive Support Officer

- 2.3 Apologies
Nil

- 2.4 Leave of Absence Previously Approved
Nil

- 2.5 Number of People in Gallery at Commencement of Meeting
There were 5 people in the Gallery at the commencement of the meeting

3. QUESTIONS FROM PREVIOUS MEETING

- 3.1 Response to previous public questions taken on notice

Mr Patrick Tindal-Davies

Question 1:

Since April 2011 the Shire gave Laurelville Manor permission to have a Reception Centre, that is 5 years ago, what noise monitoring has been done by the Shire since then.

Response:

In reference to the noise monitoring that has been done in relation to the Laurelville Reception Centre, there has been a noise monitoring device supplied by DER on two occasions; once at a complainants dwelling on Panmure Road, and once at a complainants dwelling on Herbert Road.

The Shire has recently and will continue to undertake noise monitoring as deemed necessary by Officers to make decisions on matters regarding the above.

Question 2:

How is the Shire going to monitor the noise from now on and what is the Shires actions if they don't comply.

Response:

Laurelville Manor has an obligation through the approved Noise Management Plan to monitor noise emissions from events at certain intervals and can be provided to the Shire upon request. The approval of the Noise Management Plan as a condition of planning was on the basis that noise should be controlled to maintain amenity.

In the event of ongoing complaints being received, meaning amenity of adjoining landowners is not being maintained, the Noise Management Plan provides that this will trigger a revision of the Noise Management Plan to revise the controls and potentially reduce the db(A) to a level that will maintain amenity.

If operation occurs outside of the approved Noise Management Plan, the Shire could undertake compliance action, as this would be a breach of the planning consent, and a range of options would be open to the Shire to consider. Any action would need to be proportionate to the alleged offence, and follow procedures in accordance with the recently adopted Council Policy 1.5 Compliance and Enforcement and Environmental Protection (Noise) Regulations 1997.

Mr John Cole

Question 2:

Once the property is developed how is the Shire proposing to manage the additional water flow?

Response:

As noted in the WAPC conditions for the subdivision approval (Application No: 148659);

“CONDITIONS:

- 1. Prior to the Western Australian Planning Commission’s endorsement of a diagram or plan of survey (deposited plan) for the creation of lots proposed by this application, the lot that is the subject of this application being created on a separate diagram or plan of survey (deposited plan) and the plan being endorsed by the Western Australian Planning Commission. (Western Australian Planning Commission)*
- 2. The land being filled, stabilised, drained and/or graded as required to ensure that:
a) lots can accommodate their intended development; and
b) stormwater is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)*
- 3. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the Planning and Development Act 2005. (Local Government) “*

The Applicant is to demonstrate how the WAPC conditions have been met before the subdivision approval can be granted.

The Shire is more than happy to discuss the sub-division proposal with the applicant once he is confident that the conditions in the subdivision approval have been addressed.

- 3.2 Response to unasked questions from the previous meeting
Nil

4. PUBLIC QUESTION TIME

Public Question Time is conducted in accordance with the Act and Regulations and the Shire of York Local Government (Council Meetings) Local Law 2016.

Public Question Time commenced at: 5.06pm

4.1 Written Questions – Current Agenda

4.2 Public Question Time

As there were no questions received from the Gallery - Public Question Time concluded at 5.07pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr Pam Heaton

RESOLUTION 011016

Moved: Cr Saint

Seconded: Cr Ferro

<i>“That Council approve Leave of Absence for Cr Pam Heaton from the 15th November, 2016 to 5th December, 2016.”</i>

<i>CARRIED: 7/0</i>

6. PRESENTATIONS

6.1 Petitions

Nil

6.2 Presentations

- Best Decorated Business Competition & Perpetual Trophy – Mrs Roma Paton

Mrs Paton formally handed the Perpetual Trophy to the Shire President for the proposed Best Decorated Business Competition as recommended by the Christmas Decorations Working Group. The perpetual trophy is in the shape of a Christmas Bell. A small trophy was also presented for the winning business to keep as a memento. Mr Ron Macey hand crafted both trophies from timber originally in the now demolition building which was situated at 170 Avon Terrace and was once known as the York Hotel.

The Shire President accepted the trophy on behalf of the Council and thanked Mrs Paton for all her work on the Christmas Decorations Working Group.

6.3 Deputations

- Greenhills Heritage Walk Trails - Greenhills Progress Association – will make a presentation to Council at the next Council Briefing meeting.

- Mr Mark Duperouzel – Avon Mini Bus – Tours of the Town.

Mr Duperouzel gave an overview of his business venture including all permits and insurance, the route he would be taking once the tour was in place which would take approximately 1 hour. Mr Duperouzel stated that parking his vehicle outside the Bendigo Bank which is a central point plus has shelter for waiting patrons would be the most appropriate place for him to park.

6.4 Delegates reports

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Minutes of the Ordinary Council Meeting held September 19, 2016

Corrections

Confirmation

**RESOLUTION
021016**

Moved: Cr Smythe

Seconded: Cr Heaton

“That the minutes of the Ordinary Council Meeting held September 19, 2016 be confirmed as a correct record of proceedings.”

CARRIED: 7/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Shire President once again thanked the ladies of Greenhills for a wonderful afternoon tea.

9. OFFICER’S REPORTS

Disclosure of Interest – Cr David Wallace - Financial – Shareholder – Sell Grain through CBH. User of the facility

Shire President, Cr Wallace declared a Financial Interest to this item and left the room at 5.22pm
Deputy Shire President, Cr Denese Smythe took the Chair

SY117-10/16 - P1051 - Development Application: Two Additional Open Bulkheads for Grain Storage on CBH Site (Rural Industry) – Lot 200 Knotts Road, York

FILE REFERENCE: KN2.611
APPLICANT OR PROPONENT(S): Co-Operative Bulk Handling
AUTHORS NAME & POSITION: Carly Rundle, Senior Planner
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Cr David Wallace – Financial
APPENDICES:
A – Site Plan
B – Development Plans
C – Bushfire Management Plan

Nature of Council’s Role in the Matter:

Quasi-judicial.

Purpose of the Report:

The purpose of this report is to request Council to make a determination on an application for planning consent received for two additional open bulkheads for grain storage on CBH site (Industry-Rural) at Lot 200 Knotts Road, York.

A preliminary assessment of the application has been undertaken and the proposal is considered consistent with the Shire of York Town Planning Scheme No. 2 and *Planning and Development (Local Planning Schemes) Regulations*. It is therefore recommended to council that the application be conditionally approved.

Background:

Lot 200 Knotts Road is 18.56ha in area and located south of the York Townsite. The property is currently owned and operated by the Co-operative Bulk Handling (CBH) for bulk grain storage containing four open bulkheads and a number of enclosed grain storage facilities. Vehicular access to the property is directly from Knotts Road. A Site Plan is provided in **Appendix A**.

The property falls within two zones of the Scheme; with a portion of the property adjoining the railway zoned ‘Industrial’ and a portion zoned ‘General Agriculture’. The proposed bulkheads falls within the portion of the property zoned ‘General Agriculture’. Surrounding properties are zoned ‘General Agriculture’ to the north, west and south and Railway Reserve to the east. Land to the east via the railway reserve is currently vacant and zoned ‘Development’ (which the Scheme provides may be used for light industrial/showroom development) and General Agriculture’.

CBH anticipates that the upcoming harvest may produce higher than average yields and that the two additional open bulkheads are likely to be required, which will provide an additional 50,000 tonnes of grain storage. Each bulkhead is proposed to be 250m long and 35m wide. A copy of the development plans is provided in **Appendix B**.

The proposal was publically advertised in the Avon Valley Gazette for a period of 14 days ending on the 9 September 2016 and sent to landowners in proximity to the site for comment. No public submissions were received. The proposal was also referred to a number of statutory authorities and submissions received are discussed below.

Comments and details:

Development applications are required to be assessed in accordance with the Shire of York's Local Planning Scheme and Planning and Development (Local Planning Schemes) Regulations 2015 – Deemed Provisions.

York Town Planning Scheme No. 2 & Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 – Deemed Provisions

The property is partly zoned 'Industrial' and partly zoned 'General Agriculture' by Town Planning Scheme No. 2 (TPS2). The development is proposed in the portion of land zoned 'General Agriculture'.

The use of the property for bulk grain handling is an extension of the existing use on site and is consistent with the definition of 'Industry – Rural'. This is defined as:

"means an industry handling, treating, processing, or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality".

The use of the site for bulk grain storage and handling is directly related to products grown and produced on rural land within the locality.

'Industry – Rural' is a permitted land use within the General Agriculture zone, meaning that it is an appropriate land use within this zone. Although the use is permitted, the development works are not exempt from approval and planning consent is required in accordance with Clause 67 of Schedule 2 of the Regulations.

The relevant provisions of the Scheme that apply to the development are as follows:

4.15 General Agriculture

4.15.1 Objectives:

- a) To ensure the continuation of broad-hectare agriculture as the principal land use in the district encouraging where appropriate the retention and expansion of agricultural activities;*
- b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment;*
- c) To allow for facilities for tourists and travellers, and for recreation uses;*
- d) To have regard to residential use of adjoining land at the interface of the General Agriculture zone with other zones to avoid adverse effects on local amenities.*

4.15.2 Development Standards

Having regard to the scenic values of the district and the views from roads the local government may refuse an application for planning consent if, in the opinion of the local government, the development if approved will have a detrimental effect on the rural character and amenities.

4.15.3 Site Requirements

The following minimum building setbacks shall apply:

Front: 15.0m

Side: 15.0m

Rear: 15.0m

The bulkheads are 1.27m high, which will be filled during harvest with grain to a height of approximately 10m. The development site is located within a cleared area to the south of existing bulkheads. The development site is located on a slope, which rises to a peak to the southwest of this site. Site works for the bulkheads will involve both cut and fill which will result in the bulkheads matching the ground level of existing development onsite. Due to the slope of the land, the development will have limited visibility from adjoining land to the north, west and south, although will be visible from Great Southern Highway and adjoining development to the east. The bulkheads will be consistent with established development on site and existing character of the area and is therefore anticipated to be consistent with the existing rural character and amenities of the surrounding locality.

The bulkheads are proposed to be setback 13.56m from the western boundary. A variation of 1.54m is requested. Variations are required to be assessed in accordance with Clause 4.6 of the Scheme, which provides the ability to modify development standards if the local government is satisfied that:

- a) *Approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- b) *The non-compliance will not have an adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality."*

The portion of the bulkhead within the setback is 1.27m high and will be a low structure which is not anticipated to impact on adjoining landowners or the amenities of adjoining landowners and meets clause 4.6 of the Scheme.

Clause 67 – Matters for Consideration (Regulations)

Local government is to give due regard to Clause 67 in the consideration of any planning application. The following are those most relevant to the application:

(c) Any approved State Planning Policy

The property is located within an area identified as Bushfire Prone. State Planning Policy 3.7 Planning in Bushfire Prone Areas applies to land which has a bushfire rating above BAL-LOW. The applicant has submitted a Bushfire Management Plan (**Appendix C**), which contained a Bushfire Attack Level Assessment (BAL), identifying that after the property is cleared for the development (removing crops from the development site classified as grassland) and establishing an Asset Protection Zone around the development (low fuel area), the development can achieve a BAL-29, which is a moderate bushfire risk and acceptable in accordance with SPP3.7.

The Bushfire Management Plan complies with provisions of SPP3.7, and the supporting Guidelines for Planning in Bushfire Prone Areas, and will supersede a previous Fire Management Plan adopted as part of subdivision works in July 2011. At the time of this subdivision a Section 70A notification was placed on the properties title to notify of the presence of a Bushfire Management Plan, and therefore is not required to be reconditioned as part of this application.

The proposed development was referred to the Department of Fire and Emergency Services (DFES) as part of the assessment process prior the submission of the Bushfire Management Plan. The following submission was received:

- i. *The proposed subdivision application is located in an areas designated as bushfire prone pursuant to the Fire and Emergency Services Act 1998 (as amended) and identified on the Map of Bush Fire Prone Areas, and as such, the provisions of State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7) applies.*
- ii. *In accordance with the requirements of SPP3.7, any subdivision application within a bushfire prone area is to be accompanied by a Bushfire Attack Level (BAL) contour map and/or Bushfire Management Plan (BMP), if the rating is 12.5 or above, prepared by an accredited Bushfire Planning Practitioner.*
- iii. *Given that the proposed subdivision application has the potential to increase the threat of bushfire to people, property and infrastructure, it is considered that it should not be supported until such time that the bushfire risk and hazard reduction measures are established and understood.*

Grain storage may also be considered a high risk land use (see section 5.6 of the Guidelines), the Shire of York should determine this in conjunction with the proponent, if it is considered to be a high risk land use then policy measures 6.6 applies. We recommend that this development application be deferred/refused to allow the proponent to submit a BAL contour map or BMP, prepared by an accredited bushfire practitioner and in accordance with the guidelines.

A Bushfire Management Plan was since been received which complies with SPP3.7 and is in accordance with DFES's submission on the proposal requesting one prior to approval.

As provided in the submission, it is at the Shire's discretion as to whether the use is considered a 'high risk land use'. A high risk land use is defined as:

“A land use which may lead to the potential ignition, prolonged duration and/or increased intensity of a bushfire. Such uses may also expose the community, fire fighters and the surrounding environment to dangerous, uncontrolled substances during a bushfire event. Examples of what constitutes a high-risk land use are provided in the Guidelines.”

The guidelines provide examples including service stations, landfill sites, bulk storage of hazardous materials, fuel depots and certain heavy industries such as military bases, power generating land uses, saw-mills, highways and railways (it is noted that the Public Transport Authority and Brookfield Rail have recently undertaken a bushfire risk management strategy for the adjoining railway).

On face value, the CBH site involves the storage of grain, which is not a hazardous substance, and grain dust in confined spaces which does propose a potential ignition source, although is already appropriately managed through the design of storage facilities, which includes mechanisms to put out fires in the event of ignition. The Bushfire Provisions are relatively new (came into effect October 2015) and there have not been other instances where a similar situation has arisen to provide guidance to the Shire. Officers have therefore sought further input from the Department of Planning, responsible for the formulation of SPP3.7 and associated guidelines who have advised that as the use does not contain hazardous materials it would not be classified as a ‘high risk land use’.

(m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.

The development is an extension of the existing CBH on site, and will be consistent with the established character of the site and surrounding locality.

(n) The amenity of the locality including the following –

- (i) environmental impacts of the development*
- (ii) the character of the locality*
- (iii) social impacts of the development*

There are no adverse impacts on amenity anticipated as a result of the proposed development.

(o) The likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource.

The applicant has provided preliminary details of drainage locations for the development on the submitted site plan. Additional information is required to demonstrate that drainage will be managed on site. There is sufficient space on site for drainage to be adequately managed and a Stormwater Management Plan can be required as a condition of approval.

(p) The adequacy of –

- (i) the proposed means of access to and egress from the site; and*
- (ii) arrangements for the loading and unloading, manoeuvring and parking of vehicles.*

The existing access to the site from Knotts Road is sufficient to accommodate the additional bulkheads. Internal access throughout the site is adequate.

(q) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

Advice was sought from the applicant about anticipated volumes of traffic from the additional storage areas. The applicant provided data on the 5 August 2016, which detailed volumes of traffic from previous seasons which indicated that the amount of traffic generated is dependent on the season and yields rather than the amount of storage available on site. It was also noted that in the event that additional storage is not available, there would be further pressure on out loading via rail should there be insufficient storage for grain.

It is not considered that the additional storage space will generate a significant additional traffic volumes that would warrant an assessment of the adequacy of the surrounding road network.

(x) Any submissions received on the application.

The application was referred to all adjoining landowners within 800m of the development site and publically advertised in the Avon Valley Gazette for 14 days, ending on the 9 September 2016. No public submissions were received.

(za) the comments of submissions received from any authority consulted under clause 66.

The proposal was referred to public authorities for comment on the 11 August 2016 including WaterCorp, Western Power, Department of Aboriginal Affairs, Telstra, DFES, Main Roads, Public Transport Authority (PTA), Brookfield Rail and Department of Water.

A submission was received from DFES (as detailed in (c) above), and Brookfield Rail. All other authorities provided that they had no objections to the proposal, with the exception of PTA, who did not provide a response, as they referred the proposal to Brookfield and the Shire have been liaising directly with Brookfield Rail on the proposal.

Brookfield Rail's latest response to the application received 7 October 2016 is as follows:

"Brookfield Rail has reviewed the above mentioned development application and has concerns regarding the outflow velocity of the discharge pipe from the detention basin which is likely to cause scouring of the railway corridor and formation as per the consultant's report provided by CBH. Brookfield Rail are willing to provide development approval for this development, however, based on the above concerns the below conditions are to be adhered to:

- No pipe flow drainage will be discharged onto the railway corridor;*
- Brookfield Rail requires that the discharge pipe culvert no. 3 (outlet of the detention basin) be a continuous pipe installed under the BR railway corridor to discharge water way from the railway corridor.*
- Alternatively another design in which there is no pipe discharge onto the railway corridor.*

The above mentioned discharge pipe will require the standard Third Party Service application process to be completed and be compliant to all relevant Australian Standards."

The applicant is currently working through the concerns raised by Brookfield, with an expectation that an amended stormwater plan will be submitted for the Shire's and Brookfield's review shortly. As stormwater is a management issue, which can be addressed post approval, it is appropriate to include as a condition of approval, and this approach has been supported by Brookfield Rail.

Implications to Consider:

Consultative:

Appropriate consultation was undertaken as part of the assessment process.

Policy Implication:

There are no policy implications associated with the proposal for the Shire.

Financial Implications:

There are no financial implications associated with this proposal for the Shire.

Strategic Implications:

The proposal is appropriately located in the existing CBH site, is consistent with the amenity of the area and facilitating the local economy by providing services to the rural locality. It is therefore considered that the proposal is consistent with the Shire of York's 2016-2026 Strategic Community Plan Theme 1: The Place to Live, Theme 2: A Leader in Cultural Heritage and Environment and Theme 3: Driving the York Economy Forward.

Legal and Statutory

The proposal has been assessed in accordance with the statutory framework set by the Scheme and Regulations.

Risk related

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

Voting Requirements:

Absolute Majority Required: No

RESOLUTION 031016

Moved: Cr Walters

Seconded: Cr Ferro

"That Council:

Approve the planning application for two additional bulkheads for grain storage on CBH site (rural industry) at Lot 200 Knotts Road, York, subject to the following conditions:

- 1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.***
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) and Bushfire Management Plan (enclosed), including any notes placed in red by the Shire and except as may be modified by the following conditions.***
- 3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the Shire's planning department and have been approved in writing:***
 - (i) A Stormwater Management Plan, to be approved by the Shire of York, in consultation with the Public Transport Authority and Brookfield Rail (Advice Note 4).***
- 4. The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2 and 3 have been implemented."***

ADVICE NOTES:

- Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2:** Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.
- Note 3:** If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.

Note 4: Brookfield's provided the following submission on the application:

Brookfield Rail has reviewed the above mentioned development application and has concerns regarding the outflow velocity of the discharge pipe from the detention basin which is likely to cause scouring of the railway corridor and formation as per the consultant's report provided by CBH. Brookfield Rail have provided that the following is required to be addressed prior to approval of a stormwater plan:

- *No pipe flow drainage will be discharged onto the railway corridor;*
- *Brookfield Rail requires that the discharge pipe culvert no. 3 (outlet of the detention basin) be a continuous pipe installed under the BR railway corridor to discharge water away from the railway corridor.*
- *Alternatively another design in which there is no pipe discharge onto the railway corridor.*

The above mentioned discharge pipe will require the standard Third Party Service application process to be completed and be compliant to all relevant Australian Standards."

If a discharge pipe is provided under the railway, the Shire requires consideration to be given to the impact on adjoining landowners where this is being discharged, and in this regard, stormwater shall not detrimentally affect the use of any adjoining property.

Note 5: The development is exempt from requiring a building permit, however, the building must still meet the requirements of the BCA 2015/2016 Edition Volume 1 and the respective relevant applicable Australian Standards.

CARRIED: 6/0

Cr Wallace returned to the room at 5.23pm and resumed the Chair.

Cr Smythe advised Cr Wallace of the Council decision.

SY118-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of Civil Construction Works

FILE REFERENCE:	AS.TEN. 52
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Paul Crewe, EMIDS
PREVIOUSLY BEFORE COUNCIL:	N/A
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Assessment Criteria and Weightings

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

Officers are seeking Council endorsement of the advertising of Tenders and the Selection Criteria for Civil Construction works in this years budget.

Background:

Following a review of the “Talis Report” (May 2016) Shire officers have been looking for efficiencies within this years capital works budget and would like to “test the market” on civil construction works with the re-construction works already endorsed by Council and allocated funding.

This will not include regular ongoing maintenance works, but seeks to capitalise on a slow civil construction industry market by advertising the following works for tender as a “market test”.

Officers are confident they will be able find some “economies of scale” given the size and nature of the civil construction works, and propose that the Tender be broken down into the following scopes of work, noting that normally bitumen reseals are already contracted out.

1. Gravel re-sheeting
 - a. Cameron Road (SLK 0.0 to 2.0)
 - b. Duck Pool Road (SLK 0.0 to 2.0)
 - c. Gwambygine East Road (SLK 10.7 to 12.7)
 - d. Piccadilly Road (SLK 1.0 to 3.0)
 - e. Talbot Hall Road (SLK 5.37 to 7.37)
 - f. Wambyn Road (SLK 0.0 to 2.0)
 - g. Wrights Road (SLK 0.28 to 1.93)

2. Bitumen Reseals
 - a. Penny Drive Reseal (SLK 0.25 to 3 - 13,750m²)
 - b. Qualen West road reseal (SLK 6.0 to 9.6 – 19,800m²)
 - c. South Street Asphalt overlay (SLK 0.0 to 0.61 – 4,600m²)
 - d. Spencers Brook Road Final Seal (SLK 1.6 to 3.6 – 14,000m²)
 - e. Talbot Road Final Seal (SLK 8.8 to 9.6 – 5,600m²)
 - f. Top Beverly Road Final Seal (SLK 11.78 to 14.08 – 16,100m²)
 - g. Ulster Road Reseal (SLK 0.0 to 2.52 – 17,000m²)

3. Road reconstruction works
 - a. Cut Hill Road (SLK 0.1 to 1.08)
 - b. Quellington Road (SLK 3.6 to 5.6)
 - c. Spencers Brook Road (SLK 0.0 to 1.6)
 - d. Talbot Road (SLK 4.4 to 5.9)
 - e. Top Beverly Road (SLK 9.78 to 11.78)
 - f. Berry Brow Road and Great Southern Highway Intersection

This Tender will also include the WANDRA funded projects including:

- a. Waterfall Road (SLK1.43 to 1.51)
- b. Waterfall Road (SLK 2.61 to 2.82)
- c. Waterfall Road (SLK 3.32 to 3.38)
- d. Waterfall Road (SLK 3.84 to 3.94)
- e. Attfield Road North (SLK 0 to 0.45)
- f. Chandos Road (SLK 0.88 to 1.86)
- g. Andrews Avenue (SLK 0 to 1)
- h. Lennard Road (SLK 0.07 to 0.17)
- i. Lennard Road (SLK 0.99 to 1.19)
- j. Lennard Road (SLK 1.86 to 2.2)
- k. Hammersley Siding road (SLK 5.59 to 6.02)

Following the advertising of Tenders, officers will report back to Council advising of the outcomes of the tenders and any efficiencies or savings found by tendering all or part of the Civil reconstruction works.

This report will also include a proposed methodology for re-directing any savings found into the maintenance budget, raising the levels of service in accordance with the objectives of Councils adopted "Corporate Business Plan".

The tender for re-construction works will include a completion date of June 2017.

Consultative

Officers have contacted several other local governments who have contracted out part of their civil works as a part of their civil works program.

Widely speaking, other councils contacted have been happy with the delivery, associated savings and raised maintenance levels achieved by tendering out re-construction works.

Strategic

N/A

Comment

The Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 state that tenders are to be publicly invited if the consideration under a contract is expected to be more than \$150,000 and prior to publicly inviting tenders, the Local Government must establish in writing the criteria for determining which tender should be accepted.

Legal and Statutory

Local Government Act 1995

3.57. Tenders for providing goods or services

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Local Government (Functions and General) Regulations 1996

Division 2 – Tenders for Providing Goods and Services (s.3.57)

11. When tenders have to be publicly invited

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless sub regulation(2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if—*
 - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or 12.*

Anti-avoidance provision for r.11(1)

If a local government enters into 2 or more contracts in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract, tenders are to be publicly invited according to the requirements of this Division before entering into any of the contracts regardless of the consideration.

[Regulation 12 amended in Gazette 2 Feb 2007 p.245-6.]

13. Requirements when local government invites tenders though not required to do so.

If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

14. Publicly inviting tenders, requirements for (1) when regulation 11(1), 12 or 13 requires tenders to be publicly invited, State wide public notice of the invitation is to be given.

- (2) *If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving State-wide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.*
- (2a) *If a local government —*
 - (a) *is required to invite a tender; or*
 - (b) *not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.*

Policy

The Shire of York Procurement Policy.

Financial

The Shire has budgeted these works in the 2016-17 financial year.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
041016**

Moved: Cr Smythe

Seconded: Cr Randell

“That Council:

- 1. Invites Public Tenders for the Civil Construction works as outlined in this report; and***
- 2. That the Council endorses the included assessment criteria and weightings as attached in “Appendix – A” in the Tender for the Civil Construction works.”***

CARRIED: 7/0

SY119-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of Gravel Supply

FILE REFERENCE:	AS.TEN. 53
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Paul Crewe, EMIDS
PREVIOUSLY BEFORE COUNCIL:	N/A
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Assessment Criteria and Weightings

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

Officers are seeking Council endorsement of the advertising of Tenders and the Selection Criteria for Gravel Supply for the Shire of York.

Background:

Following a review of the “Talis Report” (May 2016) Shire officers have been looking to implement recommendations found within the report, one of which (Section 5 (5.3.2)) is “Recommended Improvements to Practices” which includes the supply (and testing) of materials used in the construction process.

Shire officers have already sought quotes for testing the materials found within the existing Shire owned gravel pits, some of which have been exhausted, and others will require DEC approval to widen and clear to obtain the material resource. As officers are still tasked with the construction and maintenance capital works program, an alternative source of materials may need to be investigated for future capital works.

This years construction program approximates around 30,000 cubic meters (or 16,666 tonnes) required. The Gravel Supply Tender will set specifications of the gravel required in accordance with the AARB Group Guidelines, which describe design considerations for local government capital works.

Officers are seeking to have the gravel supply contract in place for one year with an option to extend for an additional year.

Following the advertising of Tenders, officers will report back to Council advising of the outcomes of the tenders and the affect these tenders have on the capital works program and budget.

Consultative

Officers have been in contact with both Main Roads and other surrounding local governments (Northam, Toodyay and Beverly) as a way to formulate a strategy towards implementing the objectives in the Talis report.

Strategic

N/A

Comment

The Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 state that tenders are to be publicly invited if the consideration under a contract is expected to be more than \$150,000 and prior to publicly inviting tenders, the Local Government must establish in writing the criteria for determining which tender should be accepted.

Legal and Statutory

Local Government Act 1995

3.57. *Tenders for providing goods or services*

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Local Government (Functions and General) Regulations 1996

Division 2 – Tenders for Providing Goods and Services (s.3.57)

11. *When tenders have to be publicly invited*

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless sub regulation(2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if—*
 - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or 12.*

Anti-avoidance provision for r.11(1)

If a local government enters into 2 or more contracts in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract, tenders are to be publicly invited according to the requirements of this Division before entering into any of the contracts regardless of the consideration.

[Regulation 12 amended in Gazette 2 Feb 2007 p.245-6.]

13. *Requirements when local government invites tenders though not required to do so.*

If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

14. *Publicly inviting tenders, requirements for (1) when regulation 11(1), 12 or 13 requires tenders to be publicly invited, State wide public notice of the invitation is to be given.*
- (2) *If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving State-wide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.*
- (2a) *If a local government —*
- (a) *is required to invite a tender; or*
- (b) *not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.*

Policy

The Shire of York Procurement Policy.

Financial

The Shire has budgeted these works in the 2016-17 financial year.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
051016**

Moved: Cr Saint

Seconded: Cr Randell

“That Council:

- 1. Invites Public Tenders for the Gravel Supply to the Shire of York as outlined in this report; and***
- 2. That the Council endorses the included assessment criteria and weightings as attached in “Appendix – A” in the Tender for the Gravel Supply.”***

CARRIED: 7/0

SY120-10/16 – Endorsement of Advertising and Qualitative Criteria for the Tender of The Installation and Commissioning of the Synthetic Grass for Tennis Courts at the Forrest Oval Sports Precinct

FILE REFERENCE:	AS.TEN. 54
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Paul Crewe, EMIDS
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Assessment Criteria and Weightings

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

Officers are seeking Council endorsement of the advertising of Tenders and the Selection Criteria for the synthetic grass courts at the Forrest Oval Sports Precinct.

Background:

The synthetic grass tennis courts at the Forrest Oval Sporting Reserve have been out of commission for some time due to risks associated with the court surfaces which have dilapidated over time rendering the court surfaces unplayable.

The tender to replace the synthetic grass material will provide new court surfaces for the Tennis Club and general public.

The current strategy for the works include:

1. Site preparation
 - a. Removal of the existing turf
 - b. An inspection of the Sub-base
 - c. Rectification of the sub base (if required)
2. Installation of new turf
 - a. The successful Tenderer will supply, install and commission the new synthetic turf.
3. Handover and maintenance
 - a. The successful tenderer will include a 12 months defects period to the installation of the turf (noting that the material used may have a warrantee of up to 5-10 years)
 - b. During this time they will be required to carry out monthly inspections and provide maintenance advice, training and instruction to both the Shire of York and the York Tennis Club.

Consultative

The Tennis Club has been kept up to date with the progress of the condition and rating of the synthetic grass courts over the past few years with 3 courts opening recently specifically for Junior and Tennis Club practice.

The Tennis Club will be kept informed throughout the tender, project planning and throughout the aforementioned strategy. It is the officer's intent to include the Tennis Club in finalising the scope of works for the Tenderer, and provide feedback on the synthetic turf recommended by the suppliers.

The comments and recommendations on the synthetic turf by the Tennis Club will be included in the Officer's Tender Recommendation Report for Councillor's information.

Strategic

N/A

Comment

The Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 state that tenders are to be publicly invited if the consideration under a contract is expected to be more than \$150,000 and prior to publicly inviting tenders, the Local Government must establish in writing the criteria for determining which tender should be accepted.

Legal and Statutory

Local Government Act 1995

3.57. *Tenders for providing goods or services*

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Local Government (Functions and General) Regulations 1996

Division 2 – Tenders for Providing Goods and Services (s.3.57)

11. *When tenders have to be publicly invited*

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless sub regulation(2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if—*
 - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or 12.*

Anti-avoidance provision for r.11(1)

If a local government enters into 2 or more contracts in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract, tenders are to be publicly invited according to the requirements of this Division before entering into any of the contracts regardless of the consideration.

[Regulation 12 amended in Gazette 2 Feb 2007 p.245-6.]

13. *Requirements when local government invites tenders though not required to do so.*

If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

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- (2) *If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving State-wide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.*
- (2a) *If a local government —*
- (a) *is required to invite a tender; or*
- (b) *not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.*

Policy

The Shire of York Procurement Policy.

Financial

The Shire has budgeted this item in the 2016-17 Financial Year.

Voting Requirements:

Absolute Majority Required: No

RESOLUTION 061016

Moved: Cr Heaton

Seconded: Cr Ferro

“That Council:

- 1. Invites Public Tenders for the Installation and Commissioning of the Synthetic Grass for Tennis Courts at the Forrest Oval Sports Precinct; and***
- 2. That the Council includes the assessment criteria and weightings as attached to this report as “Appendix A” in the tender for the Installation and Commissioning of the Synthetic Grass for Tennis Courts at the Forrest Oval Sports Precinct.”***

CARRIED: 7/0

SY121-10/16 – Disposal of Property – Existing Greenhills Fire Shed

FILE REFERENCE:	Gr3.31490 & RS.BFC.8
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Paul Crewe, EMIDS
PREVIOUSLY BEFORE COUNCIL:	N/A
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	N/A

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

Council endorsement is sought to dispose of the existing Greenhills Fire shed to the Greenhills Bush Fire Brigade (GBFB).

Background:

The Greenhills Fire Shed is located at 3 Greenhills Rd Greenhills and was constructed in 1998. The shed is a barn style construction with two forward facing hinged doors and currently has dirt base as floor. The shed has never been connected to mains power and presently has no plumbing or septic system.

The current shed is subject to flooding, and is not vermin free making the storage of PPE unviable. The doors on the shed are unsuitable and have the potential to cause injury to members and the existing fire appliance.

As the GBFB is a rural brigade and located within a small township which requires the brigade to be at operational readiness 24/7, the current fire shed with its limitation of having no power or plumbing not to mention the dirt floor makes for a less than ideal working environment.

The fire shed currently houses a 3.4 urban tanker and has been approved on the Emergency Services 2017/18 Capital Item – Appliance replacement program to receive a 4.4 Broadacre appliance.

Additional to this new appliance, the Greenhills Bush Fire Brigade have also received \$54,000 in funding through the “Emergency Services Levy (ESL) - Capital Grants Scheme” the on the promise of a \$10,000 Shire of York contribution towards constructing a new purpose build shed which will be connected to power and water services and make allowances for toilet facilities on site.

Comments and details:

The Site and project plan, prepared by the Department of Fire Emergency Services (DFES) (in consultation with the Shire of York and the GBFB) proposes this new shed facility on the site of the existing shed. The GBFB is not interested in retaining the shed on site, and it has little value to the Shire of York.

Officers are recommending that the Shed is disposed to the Greenhills Bush Fire brigade at no cost, on the condition that the removal of the shed from the site is the Bush Fire Brigades responsibility.

This disposal is in accordance with 3.58 of the Local Government Act, and will require public advertising and provides the community the opportunity to make submissions regarding this disposal.

Implications to consider:

- Strategic
The new facilities proposed in Greenhills will greatly enhance the safety, comfort and efficiencies of the Bush Fire Brigade.
- Legal and Statutory

Local Government Act 1995

3.58. Disposing of property

- (1) *In this section —*
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) *Except as stated in this section, a local government can only dispose of property to —*
(a) *the highest bidder at public auction; or*
(b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
(a) *it gives local public notice of the proposed disposition —*
(i) *describing the property concerned; and*
(ii) *giving details of the proposed disposition; and*
(iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
and
(b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
(a) *the names of all other parties concerned; and*
(b) *the consideration to be received by the local government for the disposition; and*
(c) *the market value of the disposition —*
(i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
(ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
(a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
(b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
(c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
(d) *any other disposition that is excluded by regulations from the application of this section.*

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

- Financial

There are no material financial implications affecting the Shire's budget, councillors should be aware that the building currently has an asset value of \$15,000 which will be removed from this year's register and replaced with the new shed value of \$54,000.

- Risk related
N/A

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
071016**

Moved: Cr Walters

Seconded: Cr Saint

"That Council:

- 1. In accordance with 3.58(3) gives local public notice of its intention to dispose of the Greenhills Fire Shed to the Greenhills Bush Fire Brigade on the condition they remove it from the property.***
- 2. Invites submissions from the community on the disposal for a period of 2 weeks following the local public advertising date.***
- 3. If no submissions are received during the advertising period, delegate authority to the CEO to proceed with the disposal."***

CARRIED: 7/0

SY122-10/16 –Trading in Public Places - Avon Minibus Hire

FILE REFERENCE:	HS.ITL.5
APPLICANT OR PROPONENT(S):	Avon Minibus Hire Pty Ltd
AUTHORS NAME & POSITION:	Paul Crewe, EMIDS
PREVIOUSLY BEFORE COUNCIL:	N/A
DISCLOSURE OF INTEREST:	N/A
APPENDICES:	A – Site 1 – 114 Avon Terrace, York B – Site 2 – 93 Avon Terrace, York

Nature of Council's Role in the Matter:

Quasi-judicial

Purpose of the Report:

Avon Minibus Hire Pty Ltd (the applicant) has submitted a request to the Shire to operate a commercial business, being that of guided vehicle tours around town, from a designated parking bay on Avon Terrace in the Town Centre.

The applicant has also applied for an exemption of the associated traders permit fees and any other Shire of York fees that may be incurred from operating this business.

Council is requested to the considered the application as proposed.

Background:

Avon Minibus Hire has submitted an application to the Shire of York to operate a commercial business, consisting of a local tour bus service, from a designated parking bay on Avon Terrace, York.

The applicant proposes to pick up tourists and locals from a designated area in the town centre, and undertake guided tours around York, focusing on tourist and heritage sites as areas of interest. The vehicle (Minibus) proposed to be used by the applicant is a total length of 5.7m, can hold 11 passengers and has approval for 4 child seat restraining points.

The applicant has advised that the preferred location for pick-up and drop-off for the guided tours is to be located at the front of the Bendigo Bank (Lot 19 (Hse 114) Avon Terrace) to allow access to the ATM's for the tourists, to provide a sheltered environment from the weather and which is a location highly visible to tourists and locals. The applicant has a letter of consent from Bendigo Bank, indicating they have no objections to the use of a bay in front of the bank on Saturdays and Sundays.

It has been proposed by the applicant that they will require one parking bay on an approximate cycle of 30 minutes to 1 hour at a time in the parking bay, then moving to conduct the tour for around an hour and return to the bay again.

Hours of operation are proposed to vary based on demand, the applicant envisages that the tours will operate for between 3 hours per day, to all day long.

To promote the applicant's business and notify of the timings for tours occurring, the applicant has also requested that witches hats and signage in the form of an "A-frame blackboard" is placed in the reserved parking bay while the tour is taking place.

Comments and details:

The operation of the proposed use requires the issuing of a permit in accordance with the Shire of York Activities on Thoroughfares and Trading Thoroughfares and Public Places Local Law (referred herein as the Local Law).

The proposed use reasonably falls within the definition of 'Trading' and subsequently requires the issuing a Traders permit under the Local Law to operate in a thoroughfare. Section 6.5 of the Local Law outlines relevant considerations in determining an application for a permit and requires local government to give regard to the following:

(a) any relevant policies of the local government;

The location of the proposed use in front of the Bendigo Bank (see Site Plan in Appendix A) is located within the 'Parking Region' and also subject to the Shire of York Parking and Parking Facilities Local Law.

The applicants preferred bay in front of the Bendigo Bank are parallel parking bays of 6.6/6.7m long. The parking bays along Avon Terrace, within the Parking Region (bound by South Street to the south) have been designated by the Shire via signposting to allow 2hr parking from 8am to 5pm Monday to Friday, and 8am to 12pm Saturdays.

There are no restrictions on the applicant parking within the bay under the Parking and Parking Facilities Local Law, provided that the parking of the vehicle can comply with the provisions of the Parking and Parking Facilities Local Law (and subject to approval to trade in that location). In this regard, it requires a person parking a vehicle to park:

- So that it is entirely within the confines of any parking stall marked on the carriageway;
- So that it is not less than 1.2m from any other vehicle, except a motorcycle without a trailer, or a bicycle in accordance with this Local Law;
- Does not exceed the time limitation as signposted.

The applicant has provided that the vehicle is 5.7m long and approximately 1.9m wide. The on street bays are designed in accordance with Australian Standards AS2890.5 – 1993, which recommends a length of 6 - 6.7m depending on parking turnover and traffic volume. A high parking volume is recommended to have a space length of up to 8m. The bays along Avon Terrace are representative of medium turnover at 6.6/6.7m and based on a vehicle of up to 5.2m in length.

It is likely that the applicant will be able to fit the minivan of 5.7m in length within the bay of 6.6m/6.7m, although the length represents a higher potential for conflict between other vehicles and the require a tighter turning circle in and out of the bay than recommended by Australian Standards. The size of the vehicle is also likely to result in less than the recommended 1.2m of space between parked vehicles which is likely to result in increased vehicular conflict from less manoeuvring space.

The proposed times for the traders permit on Saturdays and Sundays would overlap with times where signposting applies. The time of parking is calculated based on the time period a vehicle is parked for, and the vehicle must be removed from the thoroughfare for a period of two hours before this restarts. Therefore, the use of the bay is likely to exceed the 2hr time restriction if it operated all day. The blocking of the bay with witch's hats is also an obstruction of the bay, and, although not covered by time restrictions of parking, this is dealt with by the Thoroughfares Local Law, and requires a permit to be issued to obstruct a thoroughfare.

(b) the desirability of the proposed activity;

The proposed business will provide a service for tourists and locals that is not currently available, will not detract from the operation of other businesses located in the town centre, and has potential to positively promote heritage, as well as encouraging tourism to the town. It is considered this is a desirable activity, and is therefore supported by officers.

(c) the location of the proposed activity;

Officers consider the proposed location in front of the Bendigo Bank is not an ideal location, and represents a potential for conflict with other vehicles to occur due to the size of the vehicle proposed to park in this location, and potential to reduce manoeuvring space of adjoining vehicles.

It is also considered that timed parking along Avon Terrace, has an important function for business owners in the main street, providing convenient short term parking for surrounding business owners, with a regular turnover of parking users.

It has been noted that the applicant proposes to operate for the entire day from the proposed parking bay on Saturdays and Sundays, which conflicts with timed parking on 8am to 12pm Saturdays.

Officers therefore consider that alternative locations would be more appropriate, and these would include (but not be limited to):

1. the existing bus bay in front of 93 Avon Terrace, York (in front of the CRC), as the use is consistent with the definition of a bus within the Parking and Parking Facilities Local Law. This area is also outside of the 'parking region' and not subject to timed parking.

It is understood that this bay is used on an infrequent basis by tourist buses on weekends already. This bay is 23m long, and considered that this could accommodate for both tourist buses (9m in length) and mini-van when required.

This parking space would allow the applicant the opportunity to use the parking space at any time without affecting the local traders and in a location in proximity to the middle of the town centre. It is also a location which is in between the town centre and visitor centre and highly visible to tourists entering York.

2. Another option is the "Trans WA" bus stop, located in close proximity to the main street on Joaquina Street, which is signposted and used by Trans WA for stops. Verbal discussions with the Public Transport Authority have indicated that they have no issues with the use of this bay if the use does not conflict with Trans WA stop times.
3. Other options along Avon Terrace within the Town Centre.

The applicant has been consulted on these options, and would still prefer to be located in front of the Bendigo Bank, as this area does not conflict with other Busses or Coaches which make use of these designated areas.

As officer's are of the opinion that the location would be more appropriate outside the parking region, although are yet to identify an exact location with the applicant, it is considered Council's direction on identifying a preferred location is required at this stage.

Once a preferred location is established, (and an exact space can be identified) officers would then undertake consultation with surrounding land owners and business operators that may be affected. The officer's recommendation is therefore to issue an 'in-principle' approval which will be subject to determination of an exact location outside the parking region and subject to the additional conditions.

Should Councillors be of the opinion that the location on Avon Terrace, in front of the Bendigo Bank, is appropriate there is the ability to approve the operation.

(d) Any other considerations the local government thinks relevant;

The applicant has proposed that an A-Frame sign be left in the allocated space to notify that the use is operating from this location. A portable sign can be approved in conjunction with the traders permit and is considered that it is a reasonable request that signage is required to notify tourists of the location of the tour bus and times for pick-up in absence of the vehicle being on site. In accordance with the local law, one sign, which can only be used in conjunction with the approved use during times of operation is recommended to be supported as a condition the permit which will be restricted to being located so as to:

- be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
- be secured in position in accordance with any requirements of the local government;
- not exceed 1m in height;
- not exceed an area of 1m² on any side;
- relate only to the business activity described on the permit;
- contain letters not less than 200mm in height;

Implications to consider:

- Consultative

Approval has been received by the applicant from Bendigo Bank to operate in front of their shop Saturday's and Sunday's while they are closed.

In negotiating the final location for the applicants operations, local and surrounding landholders and business owners will be consulted.

The approval will be on a trial basis and consultation can be undertaken on renew of the application to gauge whether there has been any unanticipated impacts from the use.

Should council consider it appropriate, (and through the Health Local Law) council could choose to publically advertise the applicants proposal. The application has not been advertised to date.

- Strategic

Supporting the proposal is consistent with the Shire of York's 2016-2026 Strategic Community Plan, and in particular

- Theme 2: A leader in Cultural Heritage and Environment

2.2 Public and privately owned heritage buildings are adequately maintained and protected for the future and the Shire leads the way in innovative promotion of the historic character.

- Theme 3: Driving the York Economy Forward

- 3.1 Visitor based economic activity is flexible, self-supporting, resilient, innovative and growing.

- Policy related

The application has been considered in accordance with the Shire of York Parking and Parking Facilities Local Law, and Shire of York Activities on Thoroughfares and Trading Thoroughfares and Public Places Local Law.

- Financial

The applicant has requested that any fees associated with the proposal be waived. An application would generally incur an application fee of \$44, and application fees of \$11 per day, \$121 per month or \$1,202 per year.

It is proposed that a one off “per annum” fee will be applied.

Section 6.7 (3) of the Local Law provides the local government the ability to waive the fee. Officers have not recommended that the fee be waived in this instance, however this option is available to Council.

- Legal and Statutory

The recommendation is consistent with the provisions of the Shire of York Thoroughfares Local Law and Parking and Parking Facilities Local Law.

- Risk related

A risk assessment of the proposal has been undertaken, and there were no medium to high risks identified with the proposal that warrant further discussion. As this is a relatively new proposal, and different to those usually received it is recommended that approval be issued as a ‘trial’ for twelve months, so that a review can occur, and any unanticipated issues addressed prior to renewal.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION

Moved: Cr Randell

Seconded: Cr Walters

“That Council:

1. *Request the CEO to approve the operation of Avon Minibus Hire Pty Ltd to operate guided tours, for a period of 12 months from the date of issue of the traders permit, (and permit the obstruction of a thoroughfare), subject to its operation occurring in accordance with the following conditions;*
 - a) *The final location for the operation of the business is from a designated location to be determined by the CEO following negotiations with the proponent and discussions with surrounding businesses and landowners;*
 - b) *One Portable Sign is approved for use in accordance with the following:*
 - (i) *The sign to be located on the thoroughfare during the operation of the use only and must relate to the business subject of this approval;*
 - (ii) *The sign is to be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person, with the exception of the bay approved for use, subject of this approval;*
 - (iii) *The sign shall not exceed 1m² in height, shall not contain letters more than 200mm in height and not exceed 1m² on any side;*
 - (iv) *The sign shall be secured in position in accordance with any requirements of the local government;*
 - c) *Public Liability insurance of a minimum of \$10 million is to be maintained by the registered business.*
 - d) *The permit gives approval to operate on Saturdays, Sundays and any Public Holidays. Operation outside of these hours may be permitted subject to prior written consent being received from the Shire.*
 - e) *Any equipment used to ‘reserve’ the use of the bay for the use hereby approved, are to be removed anytime the use is not in operation. “*

LOST: 4/3

RESOLUTION

081016

Moved: Cr Saint

Seconded: Cr Smythe

“That Council:

Defer this item for further clarification on some points from Councillors and Public enquiries.”

CARRIED: 7/0

Reason – Councillors would like more clarification on this matter.

SY123-10/16 – Proposed Christmas Decorations 2016 - Recommendations from the Christmas Decorations Working Group

FILE REFERENCE: CS.CEV.8.1
APPLICANT OR PROPONENT(S): N/A
AUTHORS NAME & POSITION: Esmeralda Harmer, Community Economic Development Officer
PREVIOUSLY BEFORE COUNCIL: N/A
DISCLOSURE OF INTEREST: N/A
APPENDICES: Proposed 2016 York Christmas Decorations

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

This report presents for Councils consideration and approval the recommendations from the Christmas Decorations Working Group for Christmas 2016.

Background:

Council at the Ordinary Council meeting held on 22 August 2016 resolved as follows:

RESOLUTION 150816

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council

- 1. Appoints the following people to the Christmas Decorations Working Group:*
 - Bernie Finestone – Children’s Christmas Party*
 - Sandra Paskett – Avon Valley Tourism Association*
 - Roma Paton – Community Representative*
 - Alison Matheson – Community Representative*
 - Leigh Thompson – York Volunteer Workers Association*
 - Duncan Steed – York Society*
 - Ken Emberson – Artist*
- 2. Notes that given no nominations were received from Business Owners/Operators the Working Group will need to engage with this section of the community separately.”*

CARRIED: 6/0

The objectives of the working group in accordance with the Terms of Reference adopted by Council are as follows:

1. Prepare for Council consideration a plan for the staged implantation of Christmas Decorations in the Shire cognisant of budget limitations.
2. Once approval of plan is obtained work with the Shire staff on purchase and installation of decorations.
3. Provide advice to Council on any community events or any other recommendations for activities to be held as part of the festive season.

Since this time the group has formally met on four occasions and developed a plan for Christmas Decorations for this year. The details on this are now presented for Councils consideration.

Comments and details:

The recommendations from the Working Group are detailed as follows:

Main Street Banners – Three double sided street banners with images selected from the Residency Museum collection of Christmas cards are proposed to be installed on existing street banner poles along Avon Terrace.

Bin Surrounds – Images sourced from the Residency Museum collection will be replicated in paired images to appear on nine bin surrounds each panel along Avon Terrace. Two images per bin replicated over the four panels is proposed to provide visual continuity and Christmas appeal to the main street scape. Bin replacement is not included within this budget and is suggested to be costed to the beautification of York project budget.

Christmas Cards – Three life size (approx. 1.8m) Christmas greeting cards as statement pieces unique to York are proposed to be constructed. In planning the suggested locations include the Imperial Hotel grassed area, atop the Heritage Wagon at the town entrance and Settlers courtyard. An acknowledgement of the image origins and heritage significance is suggested for inclusion on the back of the card. Structures and fixings are organised for secure installation of the cards.

Christmas Tree – It is proposed to purchase a 6m Christmas tree with LED lighting to be located at the recess / alcove between the York Courthouse Complex and York Motor Museum. The tree will arrive in segments with assembly instructions included.

Business Laser lighting rebate would be established – Businesses would be encouraged to purchase and install laser lighting for their shopfronts to add interest and decoration to the main street. A rebate of 50% to offset the costs of purchasing and installing the lights would be available on application and proof of receipts provided within the rebate application process.

Best Decorated Business Competition - It is proposed that the Shire will run a competition for Best Decorated Business with an indication of over 15 businesses wanting to participate. This will be in the place of the previously run Business Lights Competition. It is proposed to allocate some of the funds from the budget for prize money. If Council is supportive it would be recommended that nominations close 24 November. Judging would take place in week commencing 12 December for a week. It would then be proposed that the winner of the competition is announced at the Ordinary Council meeting on the 19 December.

A perpetual trophy for the best decorated business is proposed to be awarded with a local volunteer designing a small trophy to be inscribed with each consecutive winning businesses name to be included.

Children's Christmas Walk – Maps will be available at the Visitors Centre for children and their families to 'look' for a series of local stops in the CBD 'find' the animal hidden at the location to complete the map. Completed entries can be returned to the Visitors Centre with a winner drawn at the Ordinary Council Meeting 19 December.

Further detail on the images proposed to be used can be located at Appendix 1. It is proposed to use the most Christmas orientated images from the Residency Museum Christmas card collection as the theme. Officers consider that should this be acceptable and enjoyed by the community further Christmas orientated images of similar cards could be sourced over the coming years to add to the range of images. This theme will be uniquely York and reflects the focus on heritage interpretation the Shire is using as a tourism platform.

A detailed budget has been prepared for these items and is outlined below which includes material and in-kind works of Shire outside workforce as required.

The group considered conducting a street parade however determined that there was insufficient time to arrange for this year. Officers are aware that a member of the community is proposing to arrange a street parade and they have been encouraged to make application to the community sponsorship program for any financial assistance which may be required.

	Description/Comment	Labour Costs	Budget	Separate
			16/17	
Main Street banners	3 Double sided street banners		\$1,200	
	Installation and disassemble (2 shire workers @5 hrs)	\$660		
Christmas Tree	6m Tree with lighting & decorations		\$14,990	
	Installation and disassemble (3 shire workers @12 hrs)	\$2,376		
	Barriers and security installations around tree.		\$1,500	
Laser lighting	Estimated to be 60 businesses @ \$50 each for rebate		\$3,000	
	Installation of Laser Lights in parks in CBD	\$1,000	\$1,000	
Bin surrounds	9 removable bin panels designed and manufactured		\$4,320	
	*Supply of 9 bins costed to Beautification of York project			*\$16,200
	Labour Supply - removal of existing and installation of new bins (3 shire workers @ 3 hours per day)	\$1,782		
Christmas Cards	Three life size cards custom manufactured including artwork & graphics		\$4,245	
	Installation, disassembly and storage	\$2,376		
Best Decorated Business Competition	Prize money of \$500 for the winner and \$250 for runner up.		\$750	
Children's Walk	Artwork, design & printing of walk maps		\$400	
	Toy Animals for purchase (6 animals @ \$30 each)		\$180	
	Prize for winner		\$150	
Total		\$8,194	\$31,735	
Total Budget including labour costs				\$39,929
	*Costing associated with beautification of York project			*\$16,200

The group also explored the interaction with the existing Children's Christmas Party and is recommending that the plans as per previous years remain the same with the expectation of the best decorated business lights competition being replaced by the above mentioned Best Decorated Business Competition being run by the Shire. The organisers of the Children's Christmas Party will continue to organise the Children's Christmas Party and the Residential Lights competition using the funds already allocated separately in the Shire's budget.

Implications to consider:

- Consultative
The working group has developed the concepts outlined above. In addition to this significant consultation has taken place with all businesses in the Shire to determine their involvement in the best business decorations competition and to also make them aware of other aspects being considered by the group.
- Strategic
The installation of Christmas Decorations was identified as priority in the Major Strategic Review and is identified as an action in the Shire's Corporate Business Plan.
- Policy
The Shire's Procurement Policy will be adhered to in the sourcing of goods and services.
- Financial
The amount of \$40,000 is included in the 2016/17 FY budget. A detailed budget which identifies materials and shire staff time has been prepared as is included within this report.

The working group is recommending that new street bins are installed in the main street and parks. It is proposed that the costs of this aspect would be allocated to the beautification of York project.

- Legal and Statutory
Officers have liaised with LGIS (Councils insurer) to determine our liability surrounding the purchase and installation of laser lighting by the Shire of York, for the use of participating businesses with the following comment received:

The shire may wish to provide some assistance to these groups/business owners in other ways. I'm not sure if the Shire has something in place like making funding (monetary contribution) available to community groups to assist them financially however this could possibly be a consideration if the Shire wishes. For example: the business owner purchases the decorations, pays for installation – on proof of receipt/purchase to the Shire, some rebate contribution can be offered.

- Risk related
Nil

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
091016**

Moved: Cr Heaton

Seconded: Cr Ferro

“That Council:

1. Approves the concepts developed by the Christmas Decorations Working Group as outlined in the agenda report including the following:

- ***Main street banners to be purchased and designed utilising images from the Residency Museum Christmas card collection***
- ***Purchase of bin panels designed using the Residency Museum Christmas card theme, with bin replacement costs to be allocated to the beautification of York project.***
- ***Christmas Tree purchase and installation at the York Courthouse complex recessed area.***
- ***Installation of three life sized Christmas cards at Settlers courtyard, Imperial Hotel grassed area and the Heritage Wagon.***
- ***Laser lighting rebate available to all businesses who wish to purchase and install laser lighting for the purpose of shopfront decorating, to the rebate value of \$50.00***
- ***Best Decorated Business Competition for all businesses in the Shire including a perpetual trophy***
- ***Children’s Christmas walk encouraging children and their families to look and find designated animals and locations within the York CBD***

2. Thank the working group for their time and contribution and looks forward to the concept being future developed for the 2017 Financial Year.”

CARRIED: 7/0

SY124-10/16 – Review of Planning Delegations

FILE REFERENCE:	OR.CMA
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Paul Martin, CEO
PREVIOUSLY BEFORE COUNCIL:	Previous review endorsed 18 June 2007
DISCLOSURE OF INTEREST:	N/A
APPENDICES:	Appendix 1 – Existing Planning Delegations Appendix 2 – Proposed Planning Delegations

Nature of Council’s Role in the Matter:

To review the delegations attached to this report.

Purpose of the Report:

To consider a review of Council’s delegations of authority to the Chief Executive Officer (CEO) in relation to planning matters.

Background:

The current planning delegations were endorsed by Council at its Ordinary Council meeting held on 18 June 2007.

The *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations) came into effect on 19 October 2015. These regulations include “deemed provisions” which are automatically read into all planning schemes within Western Australia. These deemed provisions introduced uniform provisions for structure plans, local development plans, activity centre plans, heritage protection and development applications.

There is a need to review the delegations in light of recent regulatory changes in the planning environment. A review of the delegations also provides an opportunity to review the efficiency and efficacy of the existing delegations and responsiveness to emerging issues.

Statutory:

The *Local Government Act 1995* (the Act) gives local governments the ability to delegate to the Chief Executive Officer any of its powers and duties under the Act, other than those prescribed under section 5.43.

The Act requires local governments to keep a register of its delegations and review it once every financial year.

Clauses 82, 83 and 84 of the new deemed provisions of the Regulations allow local governments to delegate to the Chief Executive Officer the exercise of any of the local government’s powers or the discharge of any of the local government’s duties under the local planning scheme. The Chief Executive Officer can similarly delegate to employees within the Shire.

Comments and details:

The aim of delegated Authority is to assist in timely decision making within the constraints allowed by relevant legislation. Without delegated authority, most decisions of the Shire would need to be made by Council at its ordinary meetings. Having appropriate delegations in place allows day to day decisions to be made by the Chief Executive Officer, who in turn can sub-delegate to other staff as appropriate.

In reviewing the delegations, an audit of local planning policies was undertaken to identify what issues, if any, are arising in the application of the current delegations. As part of this audit it was ascertained that the Outbuildings in Residential Zones Policy requires review to clarify the objectives and intent of the policy. It is not the intent of this report to review the Outbuildings in Residential Zones Policy. The review of this policy will, however, be prioritised when the local planning policy framework is reviewed as part of the review of local planning scheme.

The revisions to the delegations include:

- Removal of references to the mandatory provisions of local planning policies as local planning policies are “due regard” documents and cannot therefore impose mandatory requirements;
- Clarification of the delegations in relation to advertising of proposals and the notification of elected members;
- The inclusion of new delegations addressing structure plan and local development plan provisions introduced by the deemed provisions of the Regulations;
- The inclusion of limits for subdivision delegations;
- Clarification of use of delegations associated with enforcement, appeals and legal proceedings;
- Updating of legislative/statutory references and removal of delegations which are obsolete.

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
101016**

Moved: Cr Ferro

Seconded: Cr Saint

“That Council:

1. Revokes the following Delegations of Authority (Appendix 1):

DE5 Approval of Statutory Planning

2. Adopts the attached Delegation of Authority (Appendix 2).

3. Notes that a review of the local planning policy framework will be undertaken as part of the local planning scheme review, with priority given to the review of the Outbuildings in Residential Zones Policy.

4. That the Chief Executive Officer (in consultation with the President) be authorised to make any required minor editorial amendments to finalise the documents and that Councillors be advised accordingly.”

CARRIED: 7/0

SY125-10/16 – Review of Delegated Authority

FILE REFERENCE: OR.CMA.1
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Mark Dacombe, Acting Executive Manager
Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL: Resolution 020416 - 18 April 2016
DISCLOSURE OF INTEREST: Nil
APPENDICES: Delegations Register

Nature of Council's Role in the Matter:

- Legislative

Purpose of the Report:

To consider the second phase of the review of Council's delegations of authority to the Chief Executive Officer (CEO) pursuant to Section 5.46(2) of the *Local Government Act 1995* ("the Act").

Background:

The Council is required to review its delegations of authority to the CEO once in each financial year. The CEO is also required to review his delegations to Council officers each year. The current review was commenced by the adoption of a package of delegations, by the Council at the Ordinary Meeting held on 18 April 2016. At that time it was indicated that further work was required to complete a full review. This work has now been completed and is incorporated in this report and delegation manual.

Statutory Requirements:

The Local Government Act provides for the Council to delegate certain powers and duties to the CEO. The CEO in turn can sub-delegate those powers and functions to other employees unless specifically prohibited by law or Council direction not to on-delegate any specific delegation.

Section 5.46 of the Act requires the CEO to keep a record of the delegations adopted by the Council and on-delegated by the CEO.

Section 5.46(2) of the Act requires the Council to carry out a review of its delegations at least once in every financial year.

Comments and details:

On 18 April 2018 the Council adopted a core set of delegations. This report completes the package of delegations so that the CEO has comprehensive authority to manage the operations and regulatory functions of the Shire while remaining fully accountable to the Council.

Since the delegations were adopted in April there have been some changes in the organisation structure. These changes have necessitated some minor amendments to the delegations which have also been incorporated.

All delegations from the Council to the Chief Executive Officer are now presented in a single register.

The following is a complete list of the delegations in the register with brief comments regarding the content incorporated:

Part 1 Functions of Local Governments

DE1-1 Closing Certain Thoroughfares to vehicles (Exceeding 4 Weeks). This is a delegation adopted on 18 April 2016 and requires the CEO's delegate to be changed to the Executive Manager Infrastructure and Development Services (EMIDS)

DE1-2 Closing Certain Thoroughfares to Vehicles (Not Exceeding 4 Weeks)

In accordance with Section 3.50(1) of the Local Government Act 1995, a local government may close a thoroughfare to vehicles wholly or partially, for a period not exceeding 4 weeks.

DE1-3 Closing Certain Thoroughfares to Vehicles (Revocation)

In accordance with Section 3.50(6) of the Local Government Act 1995, an order to close a thoroughfare may be revoked by the local government.

DE1-4 Partial Closure of Thoroughfare For Repairs and Maintenance

In accordance with Section 3.50A of the Local Government Act 1995, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure is for the purpose of carrying out repairs or maintenance and is unlikely to have a significant adverse effect on users of the thoroughfare.

DE1-5 Notices pursuant to Leases, Licences and Land Contracts

Delegates to the CEO the exercise and enforcement of rights under, and to issue notices pursuant to the following documents,

1. Lease or licence of:
 - Freehold land owned by the local government; or
 - Crown land managed by the local government; and
2. Contract for the sale or purchase of land by the local government.

DE1-6 Public Thoroughfares – Fixing or Altering Levels or Alignments or Drainage onto Adjoining Land

Previously DE27 (2012)

DE1-7 Development Application or Building Application on Council Owned Land or Land in the Control of the Shire

Delegates to the CEO the authority to sign a Development Application or Building Application as landowner so that the application can be submitted to Shire Planning Officers for consideration. This delegation is to be limited to applications that are consistent with the relevant lease and the use of the property.

The CEO will inform the Council when this delegation is exercised preferably before an application is signed or if this is not practicable then as soon as possible after an application is signed.

DE1-8 Notices Pursuant to the Land Administration Act 1997

Delegates to the CEO the authority to issue notices and infringements pursuant to the *Land Administration Act 1997 (WA)*.

DE1-9 Power to Remove and Impound Goods

Previously DE19 (2012)

DE1-10 Declaring a Vehicle to be an Abandoned Vehicle Wreck

In accordance with Local Government Act 1995 section 3.40A(4) if after seven days from the removal of a vehicle deemed to be an abandoned wreck the owner of the vehicle has not been identified or after seven days from the giving of a notice the owner has not collected the vehicle the local government may declare that the vehicle is an abandoned vehicle wreck.

DE1-11 Disposing of Confiscated Goods

In accordance with Section 3.47(1) of the Local Government Act 1995, the local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43 of the Act.

DE1-12 Disposing of Uncollected Vehicle

In accordance with Section 3.47(2) of the Local Government Act 1995, the local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck.

DE1-13 Disposing of Uncollected Impounded Goods

In accordance with Section 3.47(2a) of the Local Government Act 1995, the local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in section 3.47(2b) of the date a notice is given under sections 3.42(1)(b) or 3.44 of the Local Government Act 1995.

DE1-14 Disposal of Sick or Injured Impounded Animals

In accordance with Section 3.47A(1) of the Local Government Act 1995, if an impounded animal is ill or injured to such an extent that treating it is not practicable, the local government may humanely destroy the animal and dispose of the carcass.

DE1-15 Disposing of Property (Public Auction or Public Tender)

A local government can only dispose of property to the highest bidder at public auction or the most acceptable public tender.

Subject to the disposal being identified in the Shire's Annual Budget and the value of the property being less than \$50,000.

DE1-16 Disposing of Property (Private Treaty)

A local government can dispose of property by private treaty but the sale is subject to the requirements of section 3.58(3) and (4) of the Local Government Act 1995.

Subject to the disposal being identified in the Shire's Annual Budget. Delegation applies to:

- a) All transactions to a maximum value of \$50,000 where no public submissions are received in response to public advertising as required by Section 3.58(3)(a).
- b) Any other transactions to a maximum value of \$50,000

DE1-17 Recovery of Impounding Expenses

In accordance with Section 3.48 of the Local Government Act 1995, if goods are removed and impounded under section 3.39 of the Act and the offender is convicted, the local government may, if the goods are not sold, recover any expenses incurred in removing and impounding the goods and disposing of them.

DE1-18 Powers of Entry

Authority to:-

1. enter on to land to perform any function of the local government under the Act. [refers s.3.28]
2. give notice of entry. [s.3.32].
3. seek and execute an entry under warrant. [s.3.33].
4. execute an entry in an emergency, [s.3.34].
5. give notice and effect entry by opening a fence [s.3.36]

Part 2 Administration

DE2-1 Appointment of Acting Chief Executive Officer (For periods of 10 days or less)

Reviewed April 2016

DE2-2 Delegation of the Powers and Duties of the Local Government Act 1995 to the Chief Executive Officer

New April 2016

DE2-3 Councillors Recognition of Service

Reviewed April 2016

DE2-4 Training Travel and Accommodation – Elected Members

To allow for the participation of elected members in professional development by the attendance at training courses and conferences and to approve the associated travel and accommodation costs.

Delegation subject to Policy Nrs G1.1 and G1.2.

DE2-5 Use of the Crest and Corporate Logo

Approval of use by the CEO.

Delegation subject to Policy Nr CP1.2

DE2-6 Appointment of Authorised Persons to Execute Documents on Behalf of Council

Signing of various classes of documents on behalf of Council.

Delegation is subject to Policy Nr CP1.1

DE2-7 Appointment of Authorised Persons under the Local Government Act 1995 Appointment of Authorised Persons

Authority to appoint persons or classes of person for the purpose of fulfilling prescribed functions within the Local Government Act 1995

Persons to be authorised for the purposes of the following sections of the Local Government Act 1995:

- s.3.25 Certain provisions about land
- s.3.39(1) Remove and impound goods
- s.3.40A(1) Remove and impound an abandoned vehicle wreck
- s.9.13 Onus of proof in vehicle offences may be shifted
- s.9.16 Giving a notice (infringement notice)
- s.9.17 For the purposes of receiving payment of modified penalties
- s.9.19 Extension of time (to pay)
- s.9.20 Withdrawal of notice (infringement notice)
- s.9.38 Evidence of documents coming from the Shire

Previously DE4 (2012)

DE2-8 Commissioning of Legal Advice
Reviewed October 2016 – Previously DE30 (2012)

DE2-9 Insurance – Public Liability Claims
Previously DE29 (2012)

DE2-10 Issuing Licences, Approvals and Permits – Local Laws
Previously DE35 (2012)

Part 3 Financial Management

DE3-1 Authority to Make Payments from Trust and Municipal Funds
To make payments from the municipal fund or Trust Fund, subject to Regulation 12 (1) of the Local Government (Financial Management) Regulations 1996 and Council Policy F1.5

All authorities for payment to be signed by the CEO or Executive Manager Corporate and Community Services and one of the following Officers:

- Financial Controller
- Executive Manager Infrastructure and Development Services

Access to electronic funds transfer software passwords and encryption information is restricted to the following officers:

- Chief Executive Officer
- Executive Manager Corporate and Community Services
- Financial Controller

DE3-2 Invest Money Held in Municipal and Trust Funds
Previously DE16 (2012)

DE3-3 Agreement as to Payment of Rates and Service Charges
Make an agreement to accept payment of a rate or service charge due and payable by a person.

DE3-4 Write Off Monies Owing (Not Rates or Service Charges)
Reviewed April 2016

DE3-5 Consider Objection to the Rates Record
Reviewed April 2016

DE3-6 Extension of Time for objection to the Rate Record
The local government may, on application by a person proposed to make an objection to the rate record, extend the time for making the objection for such period as it thinks fit.
Reviewed October 2016

DE3-7 Concession for Minor Charges
Reviewed April 2016

DE3-8 Rates or Service Charges Recoverable in Court
To determine that court action will be taken if a rate or service charge remains unpaid after it becomes due and payable.
Reviewed October 2016

DE3-9 Require Lessee to Pay Rent in Satisfaction of Rates or Service Charge

If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge. Reviewed October 2016

DE3-10 Recover Amount of Rates or Service Charge from Lessee

The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.
Reviewed October 2016

Part 4 Miscellaneous Provisions

DE4.1 Private Works On, Over or Under Public Land

Reviewed April 2016

DE4-2 Crossovers

Previously DE26 (2012)

Part 5 Local Government (Functions and General) Regulations 1996

DE 5-1 Determining That Tenders do not have to be Invited for the Supply of Goods and Services

Reviewed April 2016

DE5-2 Tender Evaluation Criteria

Reviewed April 2016

DE5-3 Minor Variation for Goods and Services

Reviewed April 2016

DE5-4 Expressions of Interest

Reviewed April 2016

DE5.5 Tenders to be invited for certain contracts

Determining, in writing, of the criteria for deciding which tender should be accepted prior to tenders being publicly invited; and publicly inviting tenders before entering into a contract for the supply of goods or services if the consideration under the contract is, or is expected to be, worth more than \$150,000.

Subject to:

Tenders only to be invited for those goods and services identified in the Annual Budget, Corporate Business Plan or separately approved by Council, and acceptance of the most advantageous tender is subject to Section 3.57(1) of the Local Government Act 1995, Regulation 11(1) of the Local Government

(Functions and General) Regulations 1996 and Delegation 6.3.

Subject to the requirements and conditions of Council's Purchasing Policy.

Acceptance of any tender to be by way of recommendation to the Council for decision.

Part 6 Other legislation

Building Act 2011

DE6-1 Building Act 2011 – All Matters

Amend to replace Manager Development Services with Executive Manager Infrastructure and Development Services

Bush Fires Act

DE6-2 Bush Fires Act 1954 – Powers and Duties
Reviewed April 2016

DE6-3 Bush Fires Act 1954 – Prohibited Burning Times
Reviewed April 2016

DE6-4 Bush Fires Act 1954 - Infringements
Reviewed April 2016

DE6-5 Bush Fires Act 1954 - Prosecutions
Reviewed April 2016

Food Act 2008

DE6-6 Food Act 2008 – Appointment of Authorised Officers
Reviewed April 2016

DE6-7 & 6-8

Amend to replace Manager Development Services with Executive Manager
Infrastructure and Development Services

DE6-9 Food Act -Issue of Prohibition Orders

Serve a prohibition order on the proprietor of a food business In accordance with Section
65 of the Food Act 2008

Instigate proceedings against an alleged offender for breach of the Food Act 2008.in
accordance with Section 125 of the Food Act 2008

**DE6-10 Issue a Certificate of Clearance in accordance with Section 66 of the Food Act
2008.**

Give written notification to the proprietor of a food business on whom a prohibition order
has been served of the decision not to give a certificate of clearance after an inspection
under Section 66 or 67 of the Food Act 2008.

DE6-11 Food Act - Registrations

The power to grant, apply conditions, refuse, vary or cancel registration of a food business
in accordance with sections 110 and 112 of the Food Act 2008

Dog Act 1976

DE6-12 Approval to Keep More Than Two Dogs

The grant of an exemption to particular premises for the keeping of more dogs than is
allowed under the Shire's local laws pursuant to section 26(3) of the Dog Act 1976.

Cat Act 2011

DE6-13 Appointing Authorised Persons

Re-number

Health Act 1911

DE6-14 Appointment and Authorisation of Deputy

The Shire's deputy for the purpose of discharging its powers and functions as a local
government under the Health Act 1911.

The signing of such documents and initiation of appropriate legal action on behalf of the
Shire in relation to the Health Act, subsidiary legislation and the Shire's Health Local Laws
2000.

To administer the provisions of the Health Act 1911 and regulations made there under and the Shire's Health Local Law 2000, including signing approvals and licenses relating to the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

DE6-15 Authorisation of Senior Environmental Health Officers

Administer the provisions of the Health Act 1911 and regulations made there under and the Shire's Health Local Law, including signing approvals and licenses relating to the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 and the signing of notices and approvals under Part VI (Public Buildings) of the Health Act 1911.

DE6-16 Approval of Camping Other than at A Caravan Park or Camping Ground

Previously DE21

DE6-17 Strata Titles Act 1985 – Approval of Strata Applications/Certificates

Previously DE8 (2012)

DE6-18 Health Local Law – Keeping of Animals

Previously DE14 (2012)

DE7-1 Statutory Planning

The Delegations Manual included the revised Statutory Planning Delegations to be adopted by separate report at this meeting

Voting Requirements:

Absolute Majority Required: Yes

RESOLUTION

111016

Moved: Cr Saint

Seconded: Cr Heaton

“That Council:

- 1. Notes that the annual review of its Delegations of Authority in accordance with Section 5.46(2) of the Local Government Act 1995, was conducted in April 2016***
- 2. Notes that further work has been undertaken on the delegations since April 2016***
- 3. Delegates to the Chief Executive Officer the authorities as set out in this report and the attached Delegations Manual dated 24 October 2016***
- 4. Rescinds the delegations contained in the Shire of Delegation Manual adopted on 17 September 2012 Minute number 090912, these delegations have been replaced or included in the new manual.***
- 5. That the Chief Executive Officer (in consultation with the President) be authorised to make any required minor editorial amendments to finalise the documents and that Councillors be advised accordingly.”***

CARRIED: 7/0

SY126-10/16 – Update of Council Policies

FILE REFERENCE: OR.CMA.4
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Mark Dacombe, Acting Executive Manager
Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL: Resolution January and February 2016
DISCLOSURE OF INTEREST: Nil
APPENDICES: Policy Manual

Nature of Council's Role in the Matter:

- Legislative

Purpose of the Report:

A key mechanism for the Council to direct the Shire organisation and provide guidance to the community is through the adoption of policies which set out courses or principles of action. The development and management of Council policy is an ongoing process. It is important that the Council policies are kept up to date on a regular basis.

Background:

The Council's role to determine the policies of the Local Government is set out in the Local Government Act 1995 (S2.7).

The Council undertook major policy development work in January and February 2016 and adopted a package of policies that were aimed at representing good governance practices in guiding decision-making and operational matters and establishing appropriate standards of governance and probity.

Statutory Requirements:

Section 2.7 of the Local Government Act 1995 provides the statutory authority.

Comments and details:

Current Policies

The Chief Executive Officer has made changes to the organisation structure. To ensure the policies remain relevant and consistent the changes need to be included where appropriate in the policies. The opportunity has also been taken to present the policies in the format of a consolidated manual.

Most of the policies in the manual have had minimal amendment. The comments in the list below summarise changes. The detailed changes are highlighted in the attached Policy Manual.

Community Policies

C 1.1 Freeman of the Shire of York

No change to policy content - administrative update

C 1.2 Australia Day Awards

No change to policy content - administrative update

C1.3 Community Funding: Donations, Grants, Sponsorship and Waiver of Fees

No change to policy content - administrative update

C1.4 Sponsorship of Tourism Events

No change to policy content – Administrative update

Corporate policies

- CP 1.2 Use of the Shire of York Crest and Logo
No change to policy content - administrative update
- CP 1.1 Execution of Documents and Use of the Common Seal
No change to policy content – position titles updated
- CP 1.3 Commissioning of Legal Advice
No change to policy content - administrative update
- CP 1.4 Local Government Resource Sharing
No change to policy content - administrative update
- CP 1.5 Compliance
No change to policy content – position titles updated

Finance policies

- F1.1 Revenue Collection
No change to policy content - administrative update
- F1.2 Procurement
No change to policy content – deletes previous positions and replaces with new positions and introduces dollar cap
- F1.3 Significant Accounting Policies
No change to policy content - administrative update
- F1.4 Investment
No change to policy content - administrative update
- F1.5 Authority to make payments from trust and municipal funds
No change to policy content – deletes previous positions and replaces with new
- F1.6 Corporate credit card policy
No change to policy content – deletes previous positions and replaces with new

Governance policies

- G 1.1 Code of Conduct: Councillors, Committee Members and Employees
No change to policy content - administrative update
- G 1.2 Councillors: Professional Development
Minor wording improvement, no change to policy content.
- G 1.3 Councillors: Travel and Accommodation
Minor wording improvement, no change to policy content, administrative update
- G 1.4 Council Delegates: Roles and Responsibilities
Minor wording improvement, no change to policy content, administrative update
- G 1.5 Induction for Councillors
No change to policy content - administrative update
- G 1.6 Provision of Governance Services
No change to policy content - administrative update
- G 1.7 Councillors: Recognition of Service
Minor wording improvement, no change to policy content, update job titles

- G 1.8 Councillors: Record Keeping
No change to policy content - administrative update
- G 1.9 Payment of Legal Costs for Councillors
Minor wording improvement, no change to policy content
- G 1.10 Workforce and Human Resources
Minor wording improvement, no change to policy content
- G 1.11 Organisation Structure and Designation of Senior Employees
No change to policy content - administrative update
- G 1.12 Civic Functions and Hospitality
No change to policy content - administrative update
- G 2.1 Comprehensive Complaints Response
no change to policy content - administrative update
- G 2.2 Community Access to Information
No change to policy content, removes old position titles and replaces with new
- G 2.3 Disruptive Behaviour at Council Meetings
No change to policy content - administrative update
- G 2.4 Petitions
Updated to reference new local law (council meetings) 2016
- G 2.5 Reference Groups
No change to policy content - administrative update
- G 2.6 Public Question Time
No change to policy content - administrative update
- G 2.7 Conduct of Council Forums
No change to policy content - administrative update
- G 2.8 Currently Unused
- G 2.9 Community Engagement and Consultation
No change to policy content - administrative update
- G 2.10 State Administrative Tribunal
No change to policy content - administrative update
- G 3.1 Public Interest Disclosure
No change to policy content - administrative update
- G 3.2 Fraud, Corruption and Misconduct Prevention
No change to policy content - administrative update
- G 4.1 Integrated Planning and Reporting: (Planning)
No change to policy content - administrative update
- G 4.2 Integrated Planning and Reporting: (Reporting)
no change to policy content - administrative update
- G4.3 Financial Planning and Sustainability
No change to policy content - administrative update
- G4.4 External Grants: Procurement & Management
No change to policy content - administrative update
- G 4.5 Asset Management
No change to policy content - administrative update
- G 4.6 Risk Assessment and Management
No change to policy content - administrative update

Policy Program

There is still Policy work to be undertaken. This work falls into four categories:

- a) Some pre-2016 policies to be reviewed. These policies remain in place for the time being and are incorporated into the Policy Manual:
 - SEAVROC Corporate Governance
 - Vandalism of Council Property
 - Gates across reserves
 - Western Power Distribution Lines
 - Onsite Effluent Disposal
 - Contractor Management -OSH
 - Volunteer Management
 - Events for York (Detailed procedures for conducting events)
 - Temporary Accommodation Policy
 - Staff Superannuation Policy

- b) Human Resource Policies that should become HR Management Procedures. The CEO intends to modernise Human Resource Practices and Procedures consistent with *Council Policy G1.10 Workforce and Human Resources*. It is proposed to rescind the following policies as Council Policies and refer them to the CE) for incorporation as appropriate in the new Practices and Procedures:
 - Defence Reservist Leave
 - Payments to Employees in addition to Contract or Award
 - Staff Development
 - Staff EEO Statement
 - Health and Well-being
 - Employee Recognition
 - Bullying in the workplace
 - Injury Management and Rehabilitation
 - OSH
 - Workplace noise

- c) Review of Town Planning Policies
The following Town Planning Policies remain in place for the time being and are incorporated in the Policy Manual. It is intended that these be reviewed as part of the review of the Local Planning Strategy and Town Planning Scheme:
 - Heritage Precincts and Places
 - Restriction on Building Materials
 - Sea Containers
 - Advertising Signage
 - Retrospective Planning Applications
 - Outbuildings in residential zones
 - Relocated second hand buildings
 - Heritage Management – Interpretive signage
 - Extractive Industries – Road Maintenance
 - Developer Contributions for Road and Footpath Upgrading
 - Barn Style Shed Houses
 - SEAVROC – Tree topping

The Council's policy on Compliance CP1-5 is an integral part of ensuring a properly planned Shire. Compliance is an area that requires constant attention to ensure that appropriate levels of compliance are achieved in a manner that respects individuals and maintains and enhances the reputation of the Council. This will also be a consideration through the review of the Local Planning Strategy and Town Planning Scheme.

d) On-going Policy Development

Policy development is a dynamic process. Areas that require Council policy attention will be identified over coming months as the new management team takes up the reins and these will be discussed with the Council.

Voting Requirements:

Absolute Majority Required: Yes

RESOLUTION

121016

Moved: Cr Smythe

Seconded: Cr Randell

“That Council:

1. *Adopts the following policies as amended and included in the Shire of York Policy Manual:*

C 1.1 *Freeman of the Shire of York*

C 1.2 *Australia Day Awards*

C1.3 *Community Funding: Donations, Grants, Sponsorship and Waiver of Fees*

CP 1.2 *Use of the Shire of York Crest and Logo*

CP 1.1 *Execution of Documents and Use of the Common Seal*

CP 1.3 *Commissioning of Legal Advice*

CP 1.4 *Local Government Resource Sharing*

CP 1.5 *Compliance*

F1.1 *Revenue Collection*

F1.2 *Procurement*

F1.3 *Significant Accounting Policies*

F1.4 *Investment*

F1.5 *Authority to make payments from trust and municipal funds*

F1.6 *Corporate credit card policy*

G 1.1 *Code of Conduct: Councillors, Committee Members and Employees*

G 1.2 *Councillors: Professional Development*

G 1.3 *Councillors: Travel and Accommodation*

G 1.4 *Council Delegates: Roles and Responsibilities*

G 1.5 *Induction for Councillors*

G 1.6 *Provision of Governance Services*

G 1.7 *Councillors: Recognition of Service*

G 1.8 *Councillors: Record Keeping*

G 1.9 *Payment of Legal Costs for Councillors*

G 1.10 *Workforce and Human Resources*

G 1.11 *Organisation Structure and Designation of Senior Employees*

G 1.12 *Civic Functions and Hospitality*

G 2.1 *Comprehensive Complaints Response*

G 2.2 *Community Access to Information*

G 2.3 *Disruptive Behaviour at Council Meetings*

G 2.4 *Petitions*

G 2.5 *Reference Groups*

G 2.6 *Public Question Time*

G 2.7 *Conduct of Council Forums*

G2.8 *Currently Unused*

G 2.9 *Community Engagement and Consultation*

G 2.10 *State Administrative Tribunal*

G 3.1 *Public Interest Disclosure*

G 3.2 *Fraud, Corruption and Misconduct Prevention*

- G 4.1 *Integrated Planning and Reporting: (Planning)***
- G 4.2 *Integrated Planning and Reporting: (Reporting)***
- G4.3 *Financial Planning and Sustainability***
- G4.4 *External Grants: Procurement & Management***
- G 4.5 *Asset Management***
- G 4.6 *Risk Assessment and Management***

2. *Notes the following Miscellaneous Policies remain in force and will be reviewed over the next 12 months:*

- ***SEAVROC Corporate Governance***
- ***Vandalism of Council Property***
- ***Gates across reserves***
- ***Western Power Distribution Lines***
- ***Onsite Effluent Disposal***
- ***Contractor Management – OSH***
- ***Volunteer Management***
- ***Events for York***
- ***Temporary Accommodation Policy***
- ***Staff Superannuation Policy***

3. *Rescinds the following Human Resources Policies and the content referred to the Chief Executive Officer for consideration in the establishment of the Human Resources Practices and Procedures Manual:*

- ***Defence Reservist Leave***
- ***Payments to Employees in addition to Contract or Award***
- ***Staff Development***
- ***Staff EEO Statement***
- ***Health and Well-being***
- ***Employee Recognition***
- ***Bullying in the Workplace***
- ***Injury Management and Rehabilitation***
- ***OSH***
- ***Workplace Noise***

4. *Notes that Town Planning Policies listed in the report will be reviewed as part of the program for the review of the Local Planning Strategy and Town Planning Scheme.*

5. *Notes that the Policy development work is ongoing and the CEO will continue to discuss policy priorities with the Council.*

6. *That the Chief Executive Officer (in consultation with the President) be authorised to make any required minor editorial amendments to finalise the documents and that Councillors be advised accordingly."*

CARRIED: 7/0

SY127-10/16 – Shire of York Christmas Closure 2016

FILE REFERENCE: OR.CMA
APPLICANT OR PROPONENT(S): N/A
AUTHORS NAME & POSITION: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: N/A
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

This report recommends the Christmas Closure of Shire services and facilities for 2016 for Councils consideration.

Background:

Each year Council considers the days which Shire facilities will be closed over the Christmas and New Year period.

Comments and details:

Officers are proposing the following closures:

Facility/Service	Proposed Closure Period	Comments
Shire Offices and Library	12 noon Friday 23 December 2016 reopening Monday 2 January 2017.	This is the standard public holidays plus three days.
Shire Depot including Ranger	From 4.30pm Friday 23 December 2016 reopening Monday 2 January 2017	Staff phone numbers will be given out for call outs over this period.
Swimming Pool	Closed Christmas Day, Boxing Day and New Years Day.	The standard public holidays.
Waste Collection	As normal	Christmas Day falls on a Sunday, no collections were planned
Transfer Station	Closed Christmas Day	
York Recreation and Conventions Centre	Closed 24 th December reopening Wednesday 4 th January 2017.	The only change to this will be if the Bowling Club wants to have a New Years Eve Party in which case the centre will open for this to occur.
Residency Museum	19 December to 1 January inclusive.	Last day of opening Sun 18 Dec, first day of reopening Mon 2 January [the Public Holiday]. Previous years show very low visitation in the week prior to Christmas.
Visitors Centre	12 noon Friday 23 December 2016 reopening Monday 2 January 2017.	This is the standard public holidays plus three days.

Staff will take leave for those days which are not public holidays when the organisation is closed.

Implications to consider:

- Consultative
Officers have been consulted to develop this list of Christmas Closures.
The public will be advised of the closures agreed upon by Council.

- Strategic
Nil.

- Policy related
Nil.

- Financial
Nil

- Legal and Statutory
Nil

- Risk related
The main risk during this time is responding to emergencies or undertaking maintenance or essential services. The Chief Executive Officer will ensure that a skeleton staff is in place during this period to respond to any emergencies, essential services and maintenance. The Chief Executive Officer will also ensure a Senior Officer is in town at any given day during this period.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
131016**

Moved: Cr Heaton

Seconded: Cr Walters

“That Council:

1. Approves the proposed Christmas Closure for 2016 as per the following table:

Facility/Service	Proposed Closure Period	Comments
Shire Offices and Library	12 noon Friday 23 December 2016 reopening Monday 2 January 2017.	This is the standard public holidays plus three days.
Shire Depot including Ranger	From 4.30pm Friday 23 December 2016 reopening Monday, 2 January 2017	Staff phone numbers will be given out for call outs over this period.
Swimming Pool	Closed Christmas Day, Boxing Day and New Years Day.	The standard public holidays.
Waste Collection	As normal	Christmas Day falls on a Sunday, no collections were planned
Transfer Station	Closed Christmas Day	
York Recreation and Conventions Centre	Closed 24th December, 2016 reopening Wednesday 4th January 2017.	The only change to this will be if the Bowling Club wants to have a New Years Eve Party in which case the centre will open for this to occur.
Residency Museum	19 December, 2016 to 1 January, 2017 inclusive.	Last day of opening Sunday 18 December, 2016 first day of reopening Monday 2 January, 2017 [the Public Holiday]. Previous years show very low visitation in the week prior to Christmas.
Visitors Centre	12 noon Friday 23 December, 2016 reopening Monday 2 January, 2017.	This is the standard public holidays plus three days.

2. Notes that the Chief Executive Officer will ensure a skeleton staff are in place over this period.”

CARRIED: 6/1

Cr Smythe requested that she be recorded as voting against this motion

Note: The date identified for re-opening of the Shire Offices, Library and Shire Depot including the Ranger in the table above is Monday, 2nd January, 2017 which is a Public Holiday. The Shire Offices, Library, Depot and Ranger will open the next day being Tuesday, 3rd January, 2017. This will be identified in the Agenda for the November Council Meeting when Council considers the adoption of the Minutes of the October Council Meeting.

SY128-10/16 – Financial Report for September 2016

FILE REFERENCE:	FI.FRP
APPLICANT OR PROPONENT(S):	Not Applicable
AUTHORS NAME & POSITION:	Tabitha Bateman, Financial Controller
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Monthly Statements
	List of Creditors Payments
	Corporate Credit Card Transaction Listing

Purpose of the Report:

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

Background:

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

Comments and details:

The Financial Report for the period ending 30 September 2016 is presented for consideration and includes the following;

- Monthly Statements for the period ended 30 September 2016
- List of Creditors Payments
- Corporate Credit Card Transaction Listing

The following information provides balances for key financial areas for the Shire of York's financial position as at 30 September 2016;

Outstanding Rates and Services

Total outstanding rates as at 30 September 2016 are \$3,506,072 compared to \$5,875,742 as at 31 August 2016.

Previous Years

3 years and over	\$187,693.48	5.35%	of rates outstanding
2 years and over	\$138,016.12	3.94%	of rates outstanding
1 year and over	\$375,685.11	10.72%	of rates outstanding
<u>Total Prior Years outstanding</u>	<u>\$701,394.71</u>	20.01%	of rates outstanding
Current Rates	\$2,804,677.63	79.99%	of rates outstanding
<u>Total Rates Outstanding</u>	<u>\$3,506,072.34</u>		

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 30 September 2016 are \$338,574 compared to \$373,879 as at 31 August 2016.

90 days and over	\$313,051.59	92.46%	of sundry debtors outstanding
60 days and over	\$4,814.00	1.42%	of sundry debtors outstanding
30 days and over	\$8,204.30	2.42%	of sundry debtors outstanding
Current	<u>\$12,504.17</u>	3.69%	of sundry debtors outstanding
Total Debtors Outstanding	<u><u>\$338,574.06</u></u>		

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
141016**

Moved: Cr Smythe

Seconded: Cr Saint

“That Council:

Receive the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 30 September 2016 as summarised below:

Sep-16	
MUNICIPAL FUND	AMOUNT
Cheque Payments	20,830.52
Electronic Funds Payments	378,411.01
Payroll Debits	164,818.41
Payroll Debits - Superannuation	33,488.05
Bank Fees	1,914.28
Corporate Cards	371.40
Fuji Xerox Equipment Rental	86.20
Fire Messaging Service	118.36
TOTAL	600,038.23
TRUST FUND	
Electronic Funds Payments	1,709.33
Cheque Payments	0.00
Direct Debits Licensing	104,359.10
TOTAL	106,068.43
TOTAL DISBURSEMENTS	706,106.66 ”

CARRIED: 7/0

SY129-10/16 – Investments – September 2016

FILE REFERENCE: FI.FRP
APPLICANT OR PROPONENT(S): Not Applicable
AUTHORS NAME & POSITION: Tabitha Bateman, Financial Controller
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: Investment Portfolio

Purpose of the Report:

To report to Council the balance of investments held by the Shire of York as at 30 September 2016.

Background:

The investment policy requires Council to review the performance of its investments on a monthly basis. In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York.

Comments and details:

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

- a) Council's Investments as at 30 September 2016
- b) Application of Investment Funds
- c) Investment Performance

Voting Requirements:

Absolute Majority Required: No

RESOLUTION 151016

Moved: Cr Randell

Seconded: Cr Ferro

“That Council:

Receive the Shire of York Investment Portfolio attached to this report.”

CARRIED: 7/0

SY130-10/16 – Write-off Rates Interest

FILE REFERENCE: FIDRS.3
APPLICANT OR PROPONENT(S): Various Ratepayers
AUTHORS NAME & POSITION: Anneke Birleson (Rates Officer)
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

This report seeks to:

- Provide Council with background information in relation to interest that has accrued on rates and charges for a number of properties.
- Seek approval for the interest amounts to be written off.

Background:

Under Section 6.51 of the *Local Government Act* 1995, interest is imposed on any rate, service charge or cost of proceedings to recover any such charge that is overdue. Interest accrues daily at a rate of 11% per annum until the balance is paid.

There are a number of reasons why an outstanding balance occurs, and thus interest accrues. Most recently the Shire has received a number of enquiries in relation to the following:

Final Instalment Date 2015/16 – Printing Error

The final instalment date on the first notice for the 2015/16 rating year was incorrectly entered in the system as 23 May 2016. It should have been 23 February 2016, in accordance with Council Resolution 230615.

The error was corrected and advertised on the Shire of York website on 17 August 2015. In addition, instalment reminders were sent on 25 January 2016, in accordance with Section 6.41(2)(b) of the *Local Government Act* 1995, being not less than 28 days before the due date.

Property Settlement

All outstanding rates and charges are to be paid at settlement, leaving a balance of zero (\$0.00). Settlement agents are provided rates information through an Account Enquiry, usually lodged through Landgate. From time to time, the balance may not be paid in full or on time, resulting in the accrual of interest.

Reference on Direct Bank Transfers

On occasion a direct payment into the Shire of York Municipal Account cannot be identified and therefore, can remain unallocated to a property assessment for some time. Depending on when the payment becomes identified, interest may accrue when in fact the ratepayer had made a timely payment.

Comments and details:

The following table identifies properties where the ratepayer has requested the interest be written off. The interest amounts provided are as at 7 October 2016 and may differ at the time of write-off, if approved.

Assessment Number	Background Information	Interest as at 06/09/2016
A581	Instalment payments were set up as bank transfers for the 2016/17 rates. However, the incorrect bank account details were entered by the ratepayer resulting in non-payment. The ratepayer then promptly paid the amount on 20 September 2016, 7 days after the due date.	\$ 24.73
A720	Instalment payments were set up as bank transfers for the 2016/17 rates. However, the incorrect bank account details were entered by the ratepayer resulting in non-payment. The ratepayer then promptly paid the amount on 20 September 2016, 7 days after the due date.	\$ 23.28
A1621	Settlement agent telephoned the Shire on 19/09/2016 to confirm the outstanding amount and even added a couple of days extra interest. However, the cheque took 8 days to be received by the Shire resulting in more interest. It was a mortgagee sale so no more funds are available from the seller.	\$ 10.26
A2400	Payment was received on 8 September 2016 but remained unidentified due to lack of information of bank transfer reference. The ratepayer contacted the Shire after receiving a final notice and provided the necessary information to show they had made the payment.	\$ 13.27
Estimated Total to be Written Off		\$71.54

Implications to consider:

- Policy related
There is currently no policy or delegation for the write-off of outstanding rates and related charges.
- Financial
The financial implications associated with this item would result in a reduction in income of approximately \$71.54 and is considered immaterial.

Year-to-date interest write-offs approved by Council as at 24/10/2016: \$ 261.45.

- Legal and Statutory
Section 6.12(1)(c) of the Local Government Act permits the Council to write off any amount of money, which is owed to the local government

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
161016**

Moved: Cr Smythe

Seconded: Cr Walters

“That Council:

Approve the write-off of interest accrued in relation to the reasons provided in the report, on the following properties:

- ***A581***
- ***A720***
- ***A1621***
- ***A2400”***

CARRIED: 7/0

SY131-10/16 – Minutes of Audit Committee Meeting held 17 October 2016

FILE REFERENCE: FI.FRP.6
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Paul Martin, CEO
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: Audit Committee Meeting Minutes of 17 October 2016

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

To accept the Minutes of the Audit Committee Meeting held on Monday, 17th October, 2016.

Background:

There is a need to report on the results of the Request for Quotation from consultants to undertake the review of the Shire Financial Systems, Risk Management, Internal Control and Legislative Compliance; and to Appoint an Auditor to undertake the 2016/17 Financial Audit.

Voting Requirements:

Absolute Majority Required: Yes

RESOLUTION

171016

Moved: Cr Saint

Seconded: Cr Ferro

“That Council:

Accepts the recommendations of the Audit Committee as detailed in the Minutes of the Audit Committee Meeting held on Monday, 17 October, 2016 as follows:

- 1. ACCEPTS the proposal from Moore Stephens to undertake the package of work as follows:***
 - Review of Financial Management systems and procedures pursuant to Regulation 5 of the Local Government (Financial Management) Regulations 1996 for the sum of \$7,000***
 - Review of Risk Management, Internal Control and Legislative Compliance***
 - Pursuant to Regulation 17 of the Local Government (Audit) Regulations 1996 for the sum of \$10,000***
 - Undertake the 2016/17 statutory financial audit for the sum of \$20,000***
- 2. APPOINTS Moore Stephens as the Shire auditor to undertake the 2016/17 Financial Audit pursuant to Section 7.3 of the Local Government Act 1995***
- 3. AMENDS the CEO’s KPI related to the submission of the report on Financial Management Systems to 30 June 2016.”***

CARRIED: 7/0

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

13. MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the meeting may be closed

SY132-10/16 – Closing the Meeting to the Public & Press

FILE REFERENCE:

APPLICANT OR PROPOENT(S): Paul Martin, CEO

AUTHORS NAME & POSITION: Paul Martin, CEO

PREVIOUSLY BEFORE COUNCIL: No

DISCLOSURE OF INTEREST: Nil

Statutory Environment:

Local Government Act 1995 – Part 5 – Division 2 – Section 5.23:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

181016

Moved: Cr Walters

Seconded: Cr Randell

“That Council:

Close the meeting to members of the public and the press to deal with matters affecting an employee or employees; and the personal affairs of any person; and legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.”

CARRIED: 7/0

Note to this Item: The Gallery left the meeting at 5.51pm

The doors were Closed at 5.52pm

Disclosure of Interest – Cr Trevor Randell - Financial

Cr Trevor Randell declared a Financial Interest to this item and left the room at 5.52pm

SY133-10/16 – Cash-in-Lieu Carparking Debt – Settlers House Pty Ltd

FILE REFERENCE: FI.DRS.PPO.10623
APPLICANT OR PROPONENT(S): Price Sierakowski
AUTHORS NAME & POSITION: Anneke Birleson (Rates Officer)
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Cr Randell - Financial
APPENDICES: Nil

**RESOLUTION
191016**

Moved: Cr Ferro

Seconded: Cr Heaton

“That Council:

Request the Chief Executive Officer to engage Price Sierakowski Corporate to initiate negotiations with Corser & Corser Lawyers in relation to a possible commercial settlement for the outstanding cash-in-lieu car parking payments owed by Settlers House Pty Ltd and report back to Council.”

CARRIED: 6/0

Cr Randell returned to the room at 5.57pm

Cr Wallace advised Cr Randell of the Council decision

***SY134-10/16 - Legal Costs Write-off - A11360 - Lot 99 (5) Bouverie Road,
York***

FILE REFERENCE: FI.DRS.3
APPLICANT OR PROPONENT(S): Robert James Sims
AUTHORS NAME & POSITION: Anneke Birleson (Rates Officer)
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil

**RESOLUTION
201016**

Moved: Cr Saint

Seconded: Cr Walters

“That Council:

Approve the write-off of \$487.40 in legal costs on A11360.”

CARRIED: 7/0

Disclosure of Interest – Mr Paul Martin, Chief Executive Officer – Financial – Relates to my Employment

*Mr Paul Martin, CEO declared a Financial Interest to this item and left the room at 6.02pm
All staff, except Helen D’Arcy-Walker left the room at 6.02pm*

SY135-10/16 - Chief Executive Officer – Completion of Probationary Period

FILE REFERENCE: P287
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Mark Dacombe, Acting Executive Manager Corporate and Community Services
PREVIOUSLY BEFORE COUNCIL: SY016-02/16 Appointment of Chief Executive Officer
DISCLOSURE OF INTEREST: Paul Martin, CEO - Financial
APPENDICES: Nil

**RESOLUTION
211016**

Moved: Cr Walters

Seconded: Cr Ferro

“That Council:

Pursuant to Clause 2.3 of the Employment Contract confirm the employment of Mr Paul Martin as Chief Executive Officer following the very satisfactory completion of his probationary period.”

CARRIED: 7/0

Mr Paul Martin, CEO returned to the room at 6.04pm

All staff returned to the room at 6.04pm

Cr Wallace advised Mr Paul Martin of the Council decision

SY136-10/16 – Opening the Meeting to the Public & Press

FILE REFERENCE:

APPLICANT OR PROPOENT(S): Paul Martin, CEO
AUTHORS NAME & POSITION: Paul Martin, CEO
PREVIOUSLY BEFORE COUNCIL: No
DISCLOSURE OF INTEREST: Nil

Statutory Environment:

Local Government Act 1995 – Part 5 – Division 2 – Section 5.23:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

221016

Moved: Cr Smythe

Seconded: Cr Randell

“That Council:

Open the meeting to members of the public and the press.”

CARRIED: 7/0

Note to this Item:

The doors were Opened at 6.05pm

13.2 Public reading of resolutions to be made public

The Gallery did not return to the meeting, therefore the Shire President did not read aloud the Council Resolutions from behind closed doors

14. CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 6.06pm.