



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 25 SEPTEMBER 2018
COMMENCING AT 5.04PM
IN COUNCIL CHAMBERS
YORK TOWN HALL, YORK**

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 25 SEPTEMBER 2018, COMMENCING AT 5.04PM IN COUNCIL CHAMBERS, YORK TOWN HALL, YORK

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

1. OPENING

1.1 Declaration of Opening

Cr David Wallace, Shire President, declared the meeting open at 5.04pm

1.2 Disclaimer

The Shire President advised the following:

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

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

1.3 Standing Orders

Nil

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Nil

1.6 Declarations of Financial Interest

Nil

1.7 Declarations of Interest that May Affect Impartiality

Cr Denis Warnick – SY116-09/18 – Access Options, 961 Talbot Road

2. ATTENDANCE

2.1 Members

*Cr David Wallace, Shire President; Cr Kevin Trent, Deputy Shire President;
Cr Denese Smythe; Cr Pam Heaton; Cr Jane Ferro; Cr Denis Warnick*

2.2 Staff

Suzie Haslehurst, A/Chief Executive Officer; Darren Wallace, Executive Manager Infrastructure & Development Services; Helen D'Arcy-Walker, Council and Executive Support Officer

2.3 Apologies

Paul Martin, Chief Executive Officer – Annual Leave

2.4 Leave of Absence Previously Approved

Cr Heather Saint – 17 September to 29 October 2018 Inclusive

2.5 Number of People in Gallery at Commencement of Meeting

There were 10 people in the Gallery at the commencement of the meeting

3. QUESTIONS FROM PREVIOUS MEETINGS

3.1 Response to previous public questions taken on notice

Ms Darlene Barratt

On Behalf of Mr Mario Ameduri

Mortlock River Bogling Road Culvert - Last year the shire fixed the culvert, I informed the workers for this to be done properly it needed 2 more culverts and concrete and rock on the right hand side, that the gravel would just wash away. The Shire put gravel and compacted, no concrete, it washed away. This year the same thing, informed the workers what was needed, it was again filled with gravel and yes it washed away.

The following week I again talked to the workers, told them what was needed, this time the council widened the road, they cut the trees down and they asked me if the trees could be put on my property and I could use them or just burn them to save cost in carting them away, which I wanting to do my bit and help the council save money agreed. At this time I said make another two culverts 800 to a meter, rocks and concrete and this job will last. Again it wasn't done and it washed away.

At this point I went to see Paul Martin, I said fantastic job but I would have done 2 more culverts and concrete and rocks where the water banks up. I even made a call to Councillor Wallace that was not returned. The rains came and washed it away again that's about 15 trucks of gravel now washed down the Mortlock River. The last attempt to fix the culvert, I saw the supervisor on the job, I asked him are you going to fix it this time, his reply was no we have to do a band aid job. They then took the gravel that was left on the top and pushed it into the culvert. The money for this work I have been told came from the government (Royalty's for Regions).

Question 1:

How much money has gone down the river while the shire has been band aiding this problem as this is the third time under the current CEO's watch? I would like to know the exact cost so far?

Response provided by the Executive Manager Infrastructure and Development Services:

In the 2016/17 financial year the Shire spent \$16,800 on Bogling Road including at the culvert, as a result of storm damage.

In the 2017/18 financial year the Shire spent \$149,000 on Bogling Road including at the culvert, following the declared storm event. Of that, \$112,000 is being claimed back from WANDRRA funding which means the Shire contributed \$37,000 towards the replacement resulting from the storm damage. Conditions of WANDRRA funding are that the road is reinstated to its original condition and no upgrading of the road occurs.

The most current wash away at the culvert is about 40m long and about 12m wide. The gravel washed away as a result of the recent heavy winter rain is about 300mm thick. This equates to less than \$2,000 worth of gravel and would cost about \$9,000 to replace. However, it is not anticipated to replace this gravel at this stage.

The road at the culvert has been graded utilising the existing gravel and is operational. These works have cost less than \$500.

Mr Mike Gill
On Behalf of Avon Civil Engineering

Question 5:

My question is to the CEO.

In your response to a question taken on notice, you state that you have recently surveyed the roads built under Contract 01-1617 as part of a Tender review, this would imply that no other post construction survey had been conducted. I therefore ask you to confirm that you did not carry out any surveys of these roads immediately following completion of the construction.

Response provided by the Chief Executive Officer:

The Senior Officer responsible for this tender no longer works at the Shire however the Shire can find no evidence of any post construction surveys being conducted immediately following completion of the construction.

Question 6:

My question is to the CEO.

In the Confidential Appendix of the February 2016 Ordinary Council Meeting, Point 4 of Section 6.1 Basis for Recommending a Tender clearly states 'as constructed drawings will be presented to the Shire for assessment against the design on completion of the construction.'

Can you confirm that 'As constructed' drawings were not prepared by any party following completion of the construction.

Response provided by the Chief Executive Officer:

There was no confidential appendix to the February 2016 Ordinary Council Meeting. It is presumed that you are referring to the Confidential Appendix to the Assessment of Tender 01 – 16/17 which was presented to the February 2017 Ordinary Council Meeting.

The Senior Officer responsible for Tender 01 – 16/17 no longer works at the Shire however the Shire can find no evidence of any "As constructed" drawings being prepared by any party following completion of the construction.

- 3.2 Response to unasked questions from the previous meeting
Nil

4. PUBLIC QUESTION TIME

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

6.7 Other procedures for question time for the public

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

Public Question Time Commenced at: 5.07pm

4.1 Written Questions – Current Agenda
Nil

4.2 Public Question Time
Nil

Public Question Time Concluded at 5.08pm as there were no questions received from the Gallery.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr Pam Heaton requested Leave of Absence from 22 October to 26 October 2018 inclusive

**RESOLUTION
010918**

Moved: Cr Trent

Seconded: Cr Ferro

“That Council approves Leave of Absence for Cr Pam Heaton from the 22 October to 26 October 2018 inclusive.”

CARRIED: 6/0

6. PRESENTATIONS

6.1 Petitions
Nil

6.2 Presentations

2018/19 Rates Incentive Scheme

First Prize: \$1,000 bank account provided by the Shire of York in conjunction with the York & Districts Community Branch of Bendigo Bank

Mr Malcolm Boladeros – York was winner of first prize but was unable to attend. (The Shire will ensure Mr Boladeros receives his prize)

Second Prize: A two night weekend stay at the Quality Hotel Ambassador Perth in a Premium Deluxe room with breakfast for two people each morning.

Property Adventures Pty Ltd – York was winner of second prize but was unable to attend. (The Shire will ensure Property Adventures Pty Ltd receives their prize)

Third Prize: Four tickets to the West Australian Symphony Orchestra – Asher Fisch Conducts Strauss & Bruckner on Saturday 10 November 2018 – Perth Concert Hall

Mr Lacklan Reed – Redcliffe was winner of third prize but was unable to attend. (The Shire will ensure Mr Reed receives his prize)

Fourth Prize: \$200 of Fuel donated by Fuel Distributors of Western Australia Pty Ltd

Mr Renato Bellot – York was winner of fourth prize but was unable to attend. (The Shire will ensure Mr Bellot receives his prize)

Ms Frances Kennedy arrived at the meeting at 5.12pm. Ms Kennedy had submitted a written public question, however as Public Question Time had closed, the Shire President advised that her submitted question would be responded to in the Agenda of the next Ordinary Council Meeting.

6.3 *Deputations*
Nil

6.4 *Delegates reports*
Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Minutes of the Ordinary Council Meeting held 27 August 2018

Confirmation

**RESOLUTION
020918**

Moved: Cr Trent

Seconded: Cr Heaton

“That the minutes of the Ordinary Council Meeting held 27 August 2018 be confirmed as a correct record of proceedings.”

CARRIED: 6/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION
Nil

9. OFFICER’S REPORTS

SY114-09/18 – S31 SAT Reconsideration – Planning Approval for Recreational Aviation and Five Hangar/Chalets at Lot 2308 Cameron Road, Malebelling

FILE REFERENCE: CA1.60838 & CA1.2131
APPLICANT OR PROPONENT(S): Andrew Cotterell
AUTHORS NAME & POSITION: Carly Rundle - Senior Planner
RESPONSIBLE OFFICER: Darren Wallace - Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL: SY027-03/18
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Council Minutes SY027-03/18

Nature of Council's Role in the Matter:

- Quasi-judicial

Purpose of the Report:

The purpose of this report is for Council to reconsider 'conditions' of development approval issued 13 April 2018 for 'Recreational Aviation and Five Hangar/Chalets' at Lot 2308 Cameron Road, Malebelling.

The planning approval is the subject of a State Administrative Tribunal (SAT) appeal, and the SAT has invited Council to reconsider its decision regarding the approval subject to conditions pursuant to Section 31(1) of the *State Administrative Tribunal Act 2004*.

Background:

Lot 2308 is zoned 'General Agriculture' and contains an existing private airstrip. One hangar/chalet for short stay accommodation was approved on the property in March 2016 and has since been constructed.

An application for development approval on Lot 2308 Cameron Road for the construction of five additional aircraft hangar/chalets was submitted on 31 January 2017. The Shire requested additional information from the applicant 6 February 2017. Over the course of 2017, information and clarification was requested and provided. This resulted in an amended development application, which included the proposed use of the existing runway by the flight school on the adjacent Lot 8038, with necessary supporting documentation (acoustic assessment) being submitted by the applicant on 31 October 2017. The application proposes use of the existing airstrip for private recreation and flight school aviation and the construction of five additional aircraft hangars/chalets to expand niche aviation-based tourist accommodation on Lot 8038 Cameron Road, Malebelling.

Council considered the application at its Ordinary Council Meeting 26 March 2018 where it resolved to approve the application for 'Recreational Aviation and Five Hangar/Chalets' at Lot 2308 Cameron Road, Malebelling subject to conditions. Development approval was issued 13 April 2018 (**Appendix A**).

Conditions of approval include:

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) including any notes placed in red by the Shire and except as may be modified by the following conditions.*

3. *This approval relates to recreational aviation purposes only, including the storage of private aircraft and flying lessons, and does not include any other commercial aviation activities and movements.*
4. *The use of the runway strip on Lot 2308 shall not be used for any commercial aviation purposes, including tours and commercial flights.*
5. *Hours of operation/use of the runway strip on Lot 2308 shall be restricted to occur between 7am and 7pm Monday to Saturday and 9am and 7pm Sundays and Public Holidays.*
6. *The development approved is to be made available for short stay temporary accommodation only with no guest being accommodated for periods totalling more than 3 months in any 12 month period.*
7. *Prior to the commencement of works, Needling Hill Road is to be constructed in the location shown on the attached plan to the satisfaction of the Shire, at the cost of the applicant.*
8. *Prior to the commencement of aviation activities on the site, a noise management plan for recreational aviation is to be provided to the Shire for approval, and thereafter implemented. The noise management plan is to include:*
 - *Restriction of aircraft types and number of daily flights on the property to comply with the criteria of Australian Standard (AS) 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction. “Touch and gos” associated with flying lessons are to be defined as an individual flight for the purpose of compliance with the criteria.*
 - *Delineation of taxiing routes that do not pass the residence on 50 Russ Retreat.*
 - *Compliance monitoring and reporting.*
9. *A landscape plan is to be submitted to the Shire for approval prior to commencement of development. The landscape plan is to identify the location and species of vegetation to be used to screen the proposed buildings from the adjacent residential property. Screening vegetation in the approved landscape plan is to be planted within six months of the approval and thereafter maintained to the satisfaction of the Shire.*
10. *Prior to the commencement of works, the following plans or details are to be submitted to the Shire’s planning department and approved in writing:*
 - 10.1. *Details of a potable water supply, including water balance to demonstrate sufficiency of water tanks.*
 - 10.2. *Details of access routes to the units from Needling Hill Road and two car parking bays for each unit (inclusive of one disabled bay). Access ways [including crossover(s)] and parking areas shall be designed and constructed to the satisfaction of the Shire.*
 - 10.3. *A bushfire management plan demonstrating maintenance of asset protection zones around the development.*
11. *The approved development shall not be occupied or used until all plans and details required by Conditions 7, 8 and 9 have been implemented to the satisfaction of the Shire.”*

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: *With respect to Condition 7, the current requirement is for construction to a gravel standard. The applicant should liaise with the Shire to confirm construction requirements.*
- Note 5: *Existing runway 14 shown on the proposed site plans is not approved development. This runway is not to be used and is to be decommissioned. Any future runways on Lot 2308 in addition to runway 09-27 require development approval.*
- Note 6: *No fuel infrastructure is approved on the site. Any future fuel infrastructure will be subject to separate development approval that will consider the environmental and bushfire implications of fuel storage on site. The applicant is advised that further dangerous goods approvals may be required for bulk fuel storage.*
- Note 7: *The Landscape Plan should include a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.*
- Note 8: *The applicant is advised that this approval relates to recreational aviation use and five hangar/chalets only. Any further development or intensification of aviation and tourist uses on the site may require an amendment to the local planning scheme. The applicant should liaise with the Shire in relation to this matter.*
- Note 9: *In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a building permit must be submitted to, and approval granted by the Shire, prior to the commencement of the development hereby permitted.*

A SAT appeal on the planning approval was lodged 26 April 2018, and a copy received by the Shire on 1 May 2018 to:

- 1) Delete condition 5 and replace with the following condition:

5. *Hours of operation/use of the runways on Lot 2308 shall be restricted to occur between first light and last light seven (7) days per week.*

- 2) Delete condition 7 and replace with the following alternative condition 7:

7. *Prior to the commencement of works, the Applicant shall, at their cost either:*
 - *Enter into a legally binding agreement with the owner of Lot 8038 to provide access to Lot 2308; or*
 - *Construct Needling Hills Road in the location shown on the attached plan to the satisfaction of the Shire.*

3) Delete condition 8 and replace with the following condition:

8. *Prior to the use of the Hangars/Chalets an Operational Management Plan is to be provided to the Shire for information and thereafter implemented.*

4) Delete condition 10.2 and replace with the following alternative condition 10.2:

- 10.2. *Details of access routes to the units from Needling Hill road or via Lot 8038 and two car parking bays for each unit being shown. Access ways (including crossovers) and parking areas shall be designed and constructed to the satisfaction of the Shire.*

5) Delete Condition 11 and replace with the following:

11. *The approved Hangars/Chalets shall not be occupied or used until all plans and details required by Conditions 7, 8 and 9 have been implemented to the satisfaction of the Shire.*

The grounds for review submitted by the applicant provide the following justification for the appeal:

“Reason 1 – Runway Operating Hours

With respect to condition 5, the applicant does not accept the proposed operating time frame as being reasonable. The Acoustic Assessment prepared by Herring Storer Acoustics in July 2017 concluded that White Gum Air Park was not subject to any specific noise assessment criteria under the Environmental Protection (Noise Regulations 1997) As such, the application is seeking to be able to operate the runway in accordance with CASA Visual Flight Rules (Civil Aviation Regulations 1988), being between first light and last light. The amended operating hours as stated in proposed condition 5 generally reflect the requirements of the Civil Aviation Regulations.

On these same grounds, the requirement for Condition 8 for a noise management plan to be prepared and approved by the Shire and implemented in the view of the application is unreasonable. For this reason, an Operational Management Plan is proposed as an alternative to Condition 8 which could deal with various matters associated with the operation of the facility without specific focus on noise management, given the exemptions that apply to the use.

Reason 2 – Construction of Needling Hills Road

Condition 7 and 10.2 of the Respondents decisions both refer to the construction of Needling Hills Road to provide access to the subject site. The applicant considers that the proposed modifications to Conditions 7 and 10.2 provide reasonable flexibility that would allow the establishment of a legally binding agreement to provide access to the development via Lot 8038 (such as an easement), as an alternative to the construction of Needling Hills Road. Formalising access via Lot 8038 would reflect an existing arrangement between the owners of Lots 2308 and 8038. As part of reviewing Condition 10.2, the Applicant seeks clarification regarding the standard of construction of internal access ways required by the Shire.”

The matter has been subject to mediation within the SAT. This has resulted in additional information being made available for consideration, including an amended application to incorporate Lot 8038 into the approval and further detail regarding noise management and operating hours.

The SAT, pursuant to Section 31(1) of the *State Administrative Tribunal Act 2004* has invited the Shire to reconsider its decision at its meeting 25 September 2018.

Comments and details:

Condition 5 - Operating Hours

In Western Australia, the assessment of noise is undertaken using either the *Environmental Protection (Noise) Regulations 1997* or State Planning Policy 5.4 *Road and Rail Transport Noise and Freight Considerations in Land Use Planning*. Both the regulations and policy specifically exclude assessment of aircraft noise. The acoustic assessment provided to support the original application presents noise criteria based on Australian Standard (AS) 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction (AS2021:2015). The criteria provided are based on a small aerodrome with a small number of civil, non-jet aircraft movements. This is an appropriate standard to guide acceptable aircraft noise levels in this instance.

Condition 5 of the approval was included to limit operating hours of the runway strip to occur between 7am and 7pm Monday to Saturday and 9am to 7pm Sundays and Public Holidays, which aligned operating hours with corresponding allowable noise emissions to noise sensitive premises of the *Environmental Protection (Noise) Regulations 1997*. Whilst aircraft noise is specifically exempt from the *Environmental Protection (Noise) Regulations 1997*, they were used as a guide to inform appropriate operating hours for the development.

The applicant has sought a review of operating hours on the basis that the *Environmental Protection (Noise) Regulations 1997* do not apply, and that ability to operate a runway is provided in accordance with CASA Visual Flight Rules of the *Civil Aviation Regulations 1988*, being first light and last light. First light varies from 4.31am in December to 6.46am in July and last light from 5.42pm in July to 7.50pm in January.

As part of mediation proceedings in the SAT, additional information was provided by the applicant's acoustic consultant, Herring Storer Acoustics, on operating hours. The additional information advises that Appendix E of AS2021:2015 references operating hours, with a note stating that the forecast daily average number of aircraft flights affecting the site should be obtained from the aerodrome owner, however each night time flight between 1900 hours and 0700 hours is to count as four operations. The acoustic consultant has recommended that conditioning of operating hours is not required as the count of flights would be self-limiting by an overall number of flights permitted to occur.

The specification of 7am to 7pm in AS2021:2015, in officers' opinion, recognises times where there is potential for higher amenity impacts from operation, although recognises by applying a penalty that flights prior to 7am can be acceptable. The Shire sought a review of the advice provided by Herring Storer from a suitably qualified acoustic consultant. The peer review identified that the operation of AS2021:2015 does not limit the noise impact due to flights occurring before 7.00am, and a flight is potentially more disturbing to a neighbouring property at 4.30am as opposed to 7am.

For this reason, officers do not recommend accepting the applicant's proposed alternate condition for operation in accordance with first light and last light. However, there is potential for operation prior to 7am to occur in a manner which will maintain amenity; this is more appropriately identified through a noise management plan than a prescribed condition. Therefore, it is recommended that condition 5 be deleted, and that an ongoing noise management plan, which involves consultation with affected parties, sets parameters regarding appropriate hours of operation to maintain amenity of the adjoining residents. It is recommended that condition 8 requiring the noise management plan be updated to address operating hours and enable the deletion of condition 5.

Condition 8 – Noise Management

The acoustic assessment provided within the original application is based on 15-30 flights being acceptable in accordance with AS2021:2015, for noise levels up to 80db, with the levels modelled in the acoustic assessment being 71db. For over 30 flights, acceptable noise emissions to a receiving premise is to be no higher than 70db. The acoustic assessment identified that aviation activities on Lot 2308 can meet acceptable noise levels at the nearest sensory receptor, being the dwelling on adjoining Lot 50 Fuss Retreat, on the basis that there are not more than 30 flights per day. The acoustic assessment recommended a noise management plan be prepared by for the development. Condition 8 of the approval formalised this recommendation, and was designed to ensure operations occur within the parameters of noise modelling undertaken in the acoustic assessment.

An operational management plan to be provided to the Shire for advice, as recommended by the application, does not address the reasons for requiring the noise management plan or confirm that operation will occur in accordance with the acoustic assessment. Deletion of condition 5 also places a larger emphasis on management of noise and compliance and monitoring is a key part of the plan. It is recommended that condition 8 be retained and modified to include hours of operation as referred above.

A revised noise management plan has been provided by the applicant and is being reviewed by the Shire. The recommended retention and modification of Condition 8 will enable the Shire to continue to engage with the applicant and nearby residents to proactively manage noise associated with the operation of the airfield.

Conditions 7 and 10.2 - Access

Conditions 7 and 10.2 relate to the construction of Needling Hills Road. Legal access to Lot 2308 is currently via an easement across various lots linking west to Taylor Road and via the unconstructed Needling Hill Road reserve. The current access way to Taylor Road is not constructed within the legal easement area. The easement crosses six different lots and is approximately 3.5km in length to reach the boundary of Lot 2308.

In a previous development approval issued to Lot 2308 and Lot 8038 Cameron Road Malebelling, a condition required access be provided via either a constructed road in the Needling Hill Road reserve or an easement via Lot 8038. At the time of the current approval (lodged in October 2017), an access easement had not progressed and was not identified as an option by the applicant. The development application submitted for 'recreational aviation and five hangar/chalets' to October 2017 only related to Lot 2308 Cameron Road, Malebelling. Without inclusion of Lot 8038 on the completed development application form and landowners' consent being provided, Council was not able to consider conditioning an easement on Lot 8038 at the time of the decision as it would be:

- inconsistent with the *Planning and Development (Local Planning Schemes) Regulations*, which require submission of a completed development application form and landowners' consent to be provided;
- it would not be a valid condition as it does not fairly and reasonably relate to the development for which permission is given.

In accordance with Clause 5.5 of the Scheme relating to Development of Lots Abutting Unconstructed Roads, Council considered that provision of constructed access to the property required the construction of Needling Hills Road.

As a result of mediation proceedings in the SAT, the applicant submitted an amended application form on 6 September 2018, which has amended the application to include Lot 8038, with appropriate landowners' consent. It is considered that placing an easement to formalise use of the track to support this development application by an easement is consistent with clause 5.5 of the Scheme as it allows for permanent access to the satisfaction of the local government to be provided. It is recommended that condition 7 and 10.2 be amended to reflect that an easement can be entered into. The appropriateness of the easement for further development on the property will be assessed at the time any future applications are made.

It is not recommended to support the applicant's proposed alternative condition as it is uncertain what form of legally binding agreement would be proposed as part of this condition and may not be acceptable to the Shire. It is recommended that the conditions be amended as follows:

7. *Prior to the commencement of works, the applicant shall at their own cost, provide constructed access to the property through either of the following:*
 - (a) *Constructing Needling Hills Road in the location shown on the attached plan to the satisfaction of the Shire; or*
 - (b) *A right of carriage-way easement being placed over a constructed access way on Lot 8308 for the benefit of Lot 2308 in accordance with the provisions of the Transfer of Land Act 1893. A copy of the approved easement on the Deposited Plan shall be provided to the Shire.*
- 10.2. *Details of access routes to the units from Needling Hill road or via Lot 8038 and two car parking bays for each unit being shown. Access ways (including crossovers) and parking areas shall be designed and constructed to the satisfaction of the Shire.*

Condition 11 & Advice Note 5

The applicant proposes an amendment to Condition 11 replacing the word 'development' with 'hangars/chalets'. The modification to condition 11 is not supported by officers, as there are conditions recommended to be retained, such as the noise management plan, which are to be undertaken prior to operation of recreational aviation and flight school on the property prior to use of these elements. Officers do not recommend any modification to Condition 11.

With respect to Advice Note 5, the applicant has requested the wording more clearly refer to the north-south runway. This is considered an appropriate modification to enhance clarity of the advice.

Options:

The following options are also available to Council:

1. Council refuses the amendment and reconsideration and reaffirms its decision to SAT.
2. Council approves the amendment and reconsideration as proposed by the application, with or without modification.

Implications to consider:

- **Consultative**

The development when originally submitted was advertised from 3 November until 27 November 2017. An objection was received from the owners of the adjacent property. Key concerns raised in the submission, including noise impacts, visual impact, hours of operation, and fuel hazards have informed the assessment, and resulted in recommended conditions. Many concerns raised in the objection relate to ongoing compliance, and there will be a need for the Shire to actively ensure compliance of operations and development.

Submissions were received from the following government agencies; however no objections were made:

- Aboriginal Heritage Directorate of the Department of Planning, Lands and Heritage
- Australian Government Civil Aviation Safety Authority
- Department of Health
- Department of Water and Environmental Regulation
- Water Corporation
- Western Power

Further consultation is not required as a result of the amended application or SAT reconsideration.

- **Policy Implication**

Nil

- **Strategic Implications**

The development application, subject to appropriate conditions being implemented was not considered to have an adverse impact on the amenity of the locality and is consistent with the broad objectives of the Shire of York's 2018-2028 Strategic Community Plan. The amended application and officers recommendation are not considered to impact the strategic implications.

- **Financial Implications:**

There are no financial implications for the Shire associated with the officer's recommendation.

- **Risk related**

Following a Council decision, a further directions hearing is scheduled. The applicant retains the ability to continue with the appeal being determined by the State Administrative Tribunal. Whilst this is a risk that would also have associated workforce implications, Council needs to make orderly and proper planning decisions, and this should not influence decision making.

- **Workforce Implications**

There is the potential for greater workforce input into compliance and enforcement of the noise management plan.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
030918**

Moved: Cr Trent

Seconded: Cr Smythe

“That Council, pursuant to clause 77 of the Planning and Development (Local Planning Schemes) Regulations 2015 and section 31 of the State Administrative Tribunal Act 2004, in respect of SAT application DR97/2018, resolves to:

Reconsider its decision dated 13 April 2018 and approves the application to amend planning approval for Recreational Aviation and Five Hangar/Chalets at Lots 2308 and 8038 Cameron Road, Malebelling, subject to the following conditions:

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) including any notes placed in red by the Shire and except as may be modified by the following conditions.***
- 3. This approval relates to recreational aviation purposes only, including the storage of private aircraft and flying lessons, and does not include any other commercial aviation activities and movements.***
- 4. The use of the runway strip on Lot 2308 shall not be used for any commercial aviation purposes, including tours and commercial flights.***
- 5. The development approved is to be made available for short stay temporary accommodation only with no guest being accommodated for periods totalling more than 3 months in any 12 month period.***
- 6. Prior to the commencement of works, the applicant shall at their own cost, provide constructed access to the Lot 2308 through either of the following:***
 - (a) Constructing Needling Hills Road in the location shown on the attached plan to the satisfaction of the Shire; or***
 - (b) A right of carriage-way easement being placed over a constructed access way on Lot 8308 for the benefit of Lot 2308 in accordance with the provisions of the Transfer of Land Act 1893. A copy of the approved easement on the Deposited Plan shall be provided to the Shire.***
- 7. Prior to the commencement of aviation activities on the site, a noise management plan for recreational aviation is to be provided to the Shire for approval, and thereafter implemented. The noise management plan is to include:***
 - Restriction of aircraft types and number of daily flights on the property to comply with the criteria of Australian Standard (AS) 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction. “Touch and gos” associated with flying lessons are to be defined as an individual flight for the purpose of compliance with the criteria.***
 - Management of operation hours for use of the runway strip to maintain the amenity of adjacent residences to the satisfaction of the Shire.***
 - Delineation of taxiing routes that do not pass the residence on 50 Russ Retreat.***
 - Compliance monitoring and reporting.***
- 8. A landscape plan is to be submitted to the Shire for approval prior to commencement of development. The landscape plan is to identify the location and species of vegetation to be used to screen the proposed buildings from the adjacent residential property. Screening vegetation in the approved landscape plan is to be planted within six months of the approval and thereafter maintained to the satisfaction of the Shire.***

9. *Prior to the commencement of works, the following plans or details are to be submitted to the Shire's planning department and approved in writing:*
- 9.1. *Details of a potable water supply, including water balance to demonstrate sufficiency of water tanks.*
 - 9.2. *Details of access routes to the units from Needling Hill Road or via Lot 8038 and two car parking bays for each unit being shown. Access ways (including crossovers) and parking areas shall be designed and constructed to the satisfaction of the Shire.*
 - 9.3. *A bushfire management plan demonstrating maintenance of asset protection zones around the development.*
10. *The approved development shall not be occupied or used until all plans and details required by Conditions 6, 7, 8 and 9 have been implemented to the satisfaction of the Shire."*

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:** *With respect to Condition 6, the current requirement is for construction to a gravel standard. The applicant should liaise with the Shire to confirm construction requirements.*
- Note 5:** *Existing north-south runway 14 shown on the proposed site plans is not approved development. This runway is not to be used and is to be decommissioned. Any future runways on Lot 2308 in addition to runway 09-27 require development approval.*
- Note 6:** *No fuel infrastructure is approved on the site. Any future fuel infrastructure will be subject to separate development approval that will consider the environmental and bushfire implications of fuel storage on site. The applicant is advised that further dangerous goods approvals may be required for bulk fuel storage.*
- Note 7:** *The Landscape Plan should include a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.*
- Note 8:** *The applicant is advised that this approval relates to recreational aviation use and five hangar/chalets only. Any further development or intensification of aviation and tourist uses on the site may require an amendment to the local planning scheme. The applicant should liaise with the Shire in relation to this matter.*
- Note 9:** *In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a building permit must be submitted to, and approval granted by the Shire, prior to the commencement of the development hereby permitted.*

CARRIED: 6/0

SY115-09/18 – Scheme Amendment No. 52: Foreman, Lewis and Red Swamp Precinct

FILE REFERENCE:	PS.TPS.52
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Carly Rundle – Senior Planner
RESPONSIBLE OFFICER:	Darren Wallace - Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	9.1.1 - 17 February 2014
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A – Scheme Amendment Documentation
	B – Schedule of Submissions
	C – Petition Received

Nature of Council's Role in the Matter:

- Legislative

Purpose of the Report:

For Council to consider submissions and determine whether to support Scheme Amendment No. 52 without modification, support with modification to address issues raised in the submissions, or not to support the amendment.

Background:

Scheme Amendment No. 52 (referred herein as the amendment) was initiated by Council at its Ordinary Meeting held on 17 February 2014.

The amendment proposes to rezone properties north of Lewis Road and east of Red Swamp Place (13 lots in total ranging in area from approximately 1ha to 1.3ha) from Rural Residential to Residential 5 (R5), Residential 2.5 (R2.5) and Reserve for Recreation and Open Space. A minimum lot size of 1ha applies to Rural Residential zoned lots in this area and lots do not currently have subdivision potential. A minimum lot size of 4,000m² applies to land zoned R2.5 and minimum lot size of 2,000m² applies to land zoned R5. The proposed rezoning would provide these properties with subdivision potential and is a logical extension of the zoning of York Estates to the south via Lewis Road. Properties in the York Estate are zoned R5/10 and R2.5/10 adjoining the Avon river. The dual coding provides for development to the higher density coding of R10 (average lot size of 1,000m²) subject to a reticulated sewerage system being extended to the site.

Land identified to be rezoned as Reserve for Recreation and Open Space applies to land already ceded as a reserve for this purpose from a previous subdivision and is correcting a zoning anomaly.

The Scheme Amendment Documentation containing a detailed overview of the proposal is attached in **Appendix A**.

The proposed rezoning was first considered by Council at its Ordinary Meeting 21 December 2013 in response to a request from the landowner of Lot 69 Lewis Road to rezone their property where it was resolved:

"That Council:

- 1. Advise the applicant that it supports the rezoning of Lot 69 Lewis Road, York and agrees in principle, to initiate a scheme amendment to the York Town Planning Scheme No.2.*

2. *Advises that the applicant is responsible for all costs associated with the rezoning, including preparation of scheme amendment documentation that meets the requirements of the York Local Planning Strategy and York Town Planning Scheme No.2.*

Notation: Letter to be sent to all neighbours to give them the opportunity to 'opt in' to the proposal.

A letter was sent to all 13 landowners requesting 'expressions of interest' to participate in the rezoning, including cost sharing to meet associated costs of the scheme amendment. Seven (7) positive responses were received from the 13 lots and no response from the remaining six (6) lots.

Council considered the proposal at its Ordinary Meeting held on 16 December 2013 where it resolved:

"That Council:

1. *Request Council's Planners to prepare the scheme amendment documentation required to rezone the Foreman, Lewis and Red Swamp Precinct from Rural Residential to R5/10.*
2. *That the affected landowners be advised of the resolution and be advised that the amendment once initiated will be advertised for community comment.*
3. *That a further report be received to formally initiate the amendment for the Precinct.*
4. *Not to prepare scheme amendment documentation for rezoning proposals associated with single lots or multiple lots in single ownership or lots that are not identified in the York Local Planning Strategy.:*

The Council report noted that financial implications associated with the proposal would be staff time and costs of advertising. Other costs that may be incurred such as the preparation of an Outline Development Plan which may require engagement of a specialist were to be borne by the applicant.

The scheme amendment documentation was prepared (with amendment to the original proposed coding of R5 to R5 and R2.5 for lots abutting the Avon River) and considered by Council at its Ordinary Meeting 17 February 2014:

"That Council resolve pursuant to Section 75 of the Planning and Development Act 2005 to:

1. *Initiate Scheme Amendment No. 52 to the York Local Planning Scheme No. 2 by:*
 - (a) *Rezoning the Foreman, Lewis and Red Swamp Road from Rural Residential to:*
 - i. *Residential R2.5 for properties abutting the Avon River (Lot 72 Red Swamp Place, Lots 72, 74, 75, 76 and 77 Foreman Road; and Lots 78 and 79 Lewis Road);*
 - ii. *Residential R5 for all other properties (Lots 67 and 68 Lewis Road; and Lots 69, 70 and 71 Foreman Road); and*
 - iii. *Reserve (Recreation and Open Space) for the portion of land vested in the Shire between the Avon River and the Precinct.*
 - (b) *Amending the Scheme Map accordingly.*
2. *Authorise the Shire President and the Chief Executive Officer to execute the relevant documentation;*

3. *Forward the Scheme Amendment to the Environmental Protection Authority and request permission to advertise;*
4. *Upon receipt of consent to advertise from the Environmental Protection Authority, advertise the Scheme Amendment for public comment for a period of 42 days in accordance with the Town Planning Regulations 1967.”*

The Environmental Protection Authority issued a decision not to assess the scheme amendment and the amendment was subsequently advertised for a period of 42 days.

Four submissions from landowners within the amendment area and a petition containing 32 names/owners/residents of Stage 1 and 2 of the York Estates was submitted objecting to the amendment based on detrimental impacts on amenity and rural lifestyle from subdivision into smaller lots, loss of diversity in lot sizes in the estate, that there is sufficient land zoned and subdivided at the smaller lot sizes already available, no planning need for their provision and concerns regarding uncertainty of the development including impact on roads, additional traffic and potential new roads, servicing, vegetation removal and drainage.

Notes on file from December 2014 indicate that because of the objections received, consideration of submissions and determination of the amendment by Council was deferred pending the review of the Local Planning Strategy being completed.

The amendment is now being presented to Council for determination for the following reasons:

- There is uncertainty for current landowners regarding future development of the area, where one landowner has advised it is impacting their decision to build or sell.
- A new draft Local Planning Strategy has been adopted by Council for the purposes of public advertising at Ordinary Council Meeting held on 25 June 2018.
- The *Planning and Development (Local Planning) Schemes Regulations 2015* (Regulations) came into effect, which introduces new requirements for processing of scheme amendments, and requires a local government to either resolve to support, support with amendment or not support an amendment within 60 days after the end of the submission period for the amendment.
- Since the amendment was advertised and no determination on the amendment made, changes in policy have occurred which is likely to impact on assessment of the scheme amendment.

Comments and details:

Following initiation of a scheme amendment, and public advertising, the Regulations require Council to give due regard to any submissions received during the advertising period and either resolve to support, support with modification or not to support the amendment. Submissions received generally objected to the proposal based on the following.

Detrimental impact on amenity and rural lifestyle

In regard to impacts on amenity, the rezoning will allow for subdivision to a minimum lot size of 4,000m² for R2.5 and 2000m² for R5 zoned lots. The creation of lots of this size and resulting development will be of a similar scale and amenity to that already developed or anticipated to be developed in the broader York Estates area (zoned R2.5/10 and R5/10) and will be compatible with the broader amenity and character of the locality.

Rezoning of the land from Rural Residential to Residential has potential to impact the existing amenity of landowners of properties subject to rezoning, as the change of zone impacts permissibility of semi-rural/hobby farm land uses such as keeping of animals and will have visual impacts from the increased density and resulting permitted development. The initial consultation indicated over half of the landowners were supportive of the proposal, and advertising resulted in an objection from one of the landowners being received in 2014. Approximately four lots in the amendment area have changed ownership since this time. There is no recent information indicating the level of support of the current landowners for the rezoning.

Loss in diversity of lot sizes and that there is already sufficient land zoned and developed for low density residential purposes (no demand for rezoning)

The zoning of land as Rural Residential and Residential with varying density codes by the Scheme, sets minimum site areas for lots that apply should a landowner subdivide their property. The zoning and density of land in a scheme is applied to ensure that there is an adequate land supply and diversity of land/housing to meet needs of the community. Land use planning to determine community needs into the future is set out in a Local Planning Strategy, which plans for a period of approximately 10 years. The strategy analyses existing land supply, development potential, housing stock, population projection, affordability etc, to determine future needs of the community, and land use/planning provisions to guide development in a sustainable manner that will meet these needs. These planning principles for development and land supply are set out in the State Planning Policies No. 1 *State Planning Framework* and No. 3 *Urban Growth and Settlement*.

At the time Council initiated the amendment, Council considered the amendment was consistent with the current Shire of York Local Planning Strategy (2007) which identified the land within an area for 'Future Residential Development (east of the Avon River)'. The objective of this area is to ensure any further residential development is compatible with existing development patterns and does not compromise the short and long-term residential objectives for west of the Avon River. As a result of objections received querying demand, and impact on diversity of lot sizes, the amendment was then deferred by officers at that time, pending the review of the Local Planning Strategy.

The draft Local Planning Strategy adopted by Council for the purposes of public advertising at Ordinary Council Meeting held on 25 June 2018, generally identifies that there is sufficient land zoned Rural Residential and Residential land, of varying sizes to meet future land use planning needs over the lifetime of the draft Local Planning Strategy and therefore identified the scheme amendment area as being retained for Rural Residential. The proposed rezoning is no longer planned for in the draft local planning strategy.

As the amendment was initiated in 2014 and the draft Strategy has not yet been publicly advertised or endorsed by the WAPC, the amendment application is to be assessed on its merit, although a high level of regard is to be given to the draft Local Planning Strategy which presents an up to date analysis of land supply and demand to inform decisions in accordance with State Planning Policy.

Concerns regarding uncertainty of development relating to new roads, impacts of additional traffic on existing roads, services, effluent, clearing, vegetation removal and drainage.

The Scheme Amendment Report in **Appendix A** provides information on development potential, vegetation, drainage, servicing, traffic, fire management and roads proposing that consideration of these matters be addressed in further detail at subdivision stage.

In review of the amendment documentation and gazettal of State Planning Policy 3.7 *Planning in Bushfire Prone Areas* on 7 December 2015 a Bushfire Attack Level Assessment or Bushfire Hazard Level Map mapping the bushfire risk to the site (as a minimum) is likely to be required by the WAPC to support the amendment. It is anticipated that costs associated with the assessment will range from \$500 to \$5,000 although is dependent on the BAL rating assigned to the property as to the level of information to be provided. Officers anticipate information required will be at the lower end.

Summary

In summary, it is considered that approval of the amendment, which is not planned for in the current draft Local Planning Strategy would be unorderly and there is additional information required to support the amendment. On this basis, officers are recommending that the amendment not be supported.

The draft Local Planning Strategy (on receipt of necessary approvals to advertise) will be publicly advertised, and it is recommended that notification to landowners be undertaken advising of the proposed change of future land from the current strategy so landowners are;

- aware of the implications of the draft local planning strategy proposing that the land be retained as Rural Residential; and
- informed of their opportunity to make a submission/objection for Council's consideration if they are not supportive of the future land use being retained as Rural Residential.

Should there be any objections or submissions received, Council may consider the submissions and support a modification for the land to remain identified as future residential. It should be noted that there is no guarantee a modification by Council will be supported by the Western Australian Planning Commission.

Should a modification to the draft Local Planning Strategy be supported for the land to remain for future residential, and landowners still wish to progress the amendment, a new scheme amendment could be proposed, and it would be reasonable that Council consider providing similar assistance in preparation of the amendment as previously provided.

Options:

The following options are also available to Council:

3. Approve with amendment and require the provision of information to satisfy State Planning Policy 3.7 *Planning in Bushfire Prone Areas*.
4. Defer determination of the amendment, pending new 'Expressions of Interest' to gauge the level of support of landowners for the amendment and whether there is commitment to meet the costs associated with obtaining information to satisfy State Planning Policy 3.7 *Planning in Bushfire Prone Areas*. A further report could then be presented back to Council. Council should note that the WAPC/Minister for Planning will determine the amendment and there is no guarantee that the amendment would be supported.

Implications to consider:

- **Consultative**

The scheme amendment was advertised for a period of 42 days ending 26 May 2014 by:

- Sending letters to affected and adjoining landowners and government authorities including Department of Water (now Department of Water and Environmental Regulation (DWER)), Western Power, Heritage Council of Western Australia, Telstra, Fire and Emergency Services Authority (now Department Fire and Emergency Services (DFES)), Department of Health, Main Roads Western Australia and Department of Mines and Petroleum (now Department of Mines, Industry, Regulation and Safety).

- Advertising Notices placed on the website, Avon Valley Gazette and the front counter at the Shire Offices.

Six (6) submissions were received from government authorities raising no objections to the proposal. Four (4) submissions were received from the public, and a petition was submitted by residents of the York Estates objecting to the amendment. The petition contained 32 names of residents of the York Estates (some of whom had submitted a separate objection above). The petition advises that it was presented to 40 houses of Stage 1 and 2 of York Estates (in 2014), where 27 houses agreed with petition, 9 houses did not have anyone home to contact, 1 was a rental and 3 agreed but would not sign petition. The matters raised by objections are discussed above.

Of the four submissions received objecting to the amendment, one was from a landowner within the amendment area, and one signatory within the petition objected to the rezoning, although has since sold the property. A Schedule of submissions is provided at **Appendix B**.

- **Policy Related**

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

- **Strategic Implications**

Consistency with the Shire of York's Local Planning Strategy (2007) and Shire of York draft Local Planning Strategy adopted for the purposes of public advertising by Council at its Ordinary Council Meeting 25 June 2018 is discussed above.

- **Financial Implications:**

The officer's recommendation does not contain any financial implications. Should an alternative option be progressed by Council, consideration should be given to any financial implications.

- **Legal and Statutory**

The amendment was initiated and advertised in 2014 in accordance with the *Town Planning Regulations 1967*, which had effect at that time. This was replaced by the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) gazetted 25 August 2015 and taking effect on 19 October 2015. The Regulations include new statutory requirements for scheme amendments, such as requiring a local government to determine if an amendment is a 'basic', 'standard' or 'complex' amendment, and including processing timeframes for actions to be undertaken.

Scheme Amendment No. 52 best fits within the category of a 'standard' amendment as it relates to the rezoning of an area of land from Rural Residential to Residential and is not classified as a basic or complex amendment in accordance with regulation 34(g).

The Regulations require a local government, within 60 days after the end of the submission period for the amendment (or a day approved by the Commission) to consider submissions made during the advertising period, and determine either to support the amendment with modification, support the amendment with proposed modification to address issues raised in the submissions; or not to support the amendment. The local government may decide to advertise a modification to a standard modification, if the modification is in response to submissions and the local government is of the opinion the modification is significant.

After passing a resolution the local government is required to provide the amendment to the Commission for assessment, and determination by the Minister.

- **Risk related**

There are no medium to high risks associated with the officers recommendation.

Voting Requirements:

Absolute Majority Required: **Yes**

RESOLUTION

040918

Moved: Cr Smythe

Seconded: Cr Trent

“That Council:

1. Resolves pursuant to regulation 50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 not to support Scheme Amendment No. 52 to Shire of York Town Planning Scheme No. 2 for the following reasons:

(a) That the amendment is not planned for in the Shire of York’s draft Local Planning Strategy, adopted by Council at its Ordinary Meeting 25 June 2018 which identifies the land as Rural Residential;

(b) That the amendment does not contain information to demonstrate that it can comply with the provisions of State Planning Policy 3.7 Planning in Bushfire Prone Areas.

2. Pursuant to regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that the amendment is a standard amendment for the following reasons:

(a) It is an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission; and

(b) It is an amendment that is not a complex or basic amendment.

3. Authorises the Chief Executive Officer to forward the necessary information and executed documents to the Western Australian Planning Commission in accordance with regulation 53 of the Planning and Development (Local Planning Schemes) Regulations 2015.”

CARRIED BY ABSOLUTE MAJORITY: 6/0

Disclosure of Interest – Cr Warnick – Impartial – The property adjoins my parents property

Cr Warnick read the Impartiality Declaration - ... With regard to Access Options – 961 Talbot Road the matter in Item SY116-09/18 I disclose that I have an association with the applicant (or person seeking a decision). The association is the property adjoins my parents’ property. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

SY116-09/18 – Access Options, 961 Talbot Road

FILE REFERENCE:	TA2 60726, TA2 627
APPLICANT OR PROPONENT(S):	Vincent Green
AUTHORS NAME & POSITION:	Darren Wallace - Executive Manager Infrastructure & Development Services
RESPONSIBLE OFFICER:	Darren Wallace - Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Map of Access Options

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

To seek Council’s approval to evaluate the access options for 961 Talbot Road.

Background:

Mr Vincent Green, 961 Talbot Road, on behalf of the affected landowners, has requested Shire assistance in the provision of access to his property via current gazetted road reserves instead of the current mixture of “right of carriageway” and road reserve.

Currently up to 5 properties use a “right of carriageway” easement off Talbot Road and then Road reserve no 3979 to access their properties.

The map at appendix A shows the existing access and the 2 options.

Option A: Develop the road reserve adjacent to the easement to where it meets the existing used road reserve 3979.

Option B: Develop road reserve 3979 from Talbot Road to where it meets the existing used section of road reserve 3979.

Mr Green has offered to sustainably build the new road access. His preference is for Option B.

Comments and details:

The request does appear to have some merit, but a thorough evaluation of the options is required before a firm decision is made. This includes the option of “do nothing”.

The Shire currently maintenance grades the access to 961 Talbot Road. Although the Shire has no responsibility to maintain the “right of carriageway” we are responsible for the maintenance of the open section of road reserve 3979.

The open section of road reserve 3979 is on the Shire's road inventory and therefore the Shire does receive minimal state and federal funding for the maintenance of the road. The Shire does not receive any funding for the "right of carriageway". If either of the alternative access road reserve were open and we included them on the Shire's road inventory they would increase the Shire's as of right road funding. However, the increase would be minimal and nowhere near enough to maintain the road.

There are many issues that need to be considered when evaluating the access options; road safety, initial development cost, ongoing maintenance costs, environmental issues and effect on adjacent landowners are the main ones.

However before any meaningful evaluation can take place the exact location of road reserve 3979 needs to be established. This will cost approximately \$2,000 and can be funded from existing budgets.

It is therefore recommended that if Council considers the issue is worth pursuing further, a survey of road reserve 3979 is undertaken and a further report be presented to Council on the various access options.

Options:

- Not precede with actioning Mr Green's request and he continues with the existing access arrangements.
- After establishing the boundaries of road reserve 3979 that a further report on the various access options for 961 Talbot Road, including the existing arrangement, be presented to Council for consideration.

Implications to consider:

- **Consultative**

There has been some preliminary consultation with the affected landowners which has indicated that the majority, but not all are in favour of the access being changed.

However, further consultation as part of the full evaluation is recommended.

- **Strategic**

The provision of Rural Roads would be consistent with the Shire of York Strategic Community Plan Theme 4: Building Resilience, and in particular theme 4.4 Rural roads are safe and easy to use."

- **Policy related**

There are no policy implications as a result of the officers recommendation.

- **Financial**

To allow a complete evaluation of the proposed access options a survey of road reserve 3979 will be required at an approximate cost of \$2,000, which is available in existing budgets.

Both short term development and long term maintenance costs will be explored as part of a full evaluation.

- **Legal and Statutory**

The Shire has road maintenance and management functions as per the *Local Government Act 1995* and its subsidiary legislation.

- **Risk related**

There are no medium to high risks that have been identified with the proposal that warrant further discussion.

- **Workforce Implications**

There are no additional workforce implications as a result of the recommendation of this report.

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION

“That Council agrees to progress the evaluation of options for access to 961 Talbot Road and requests officers, after obtaining a road reserve survey at the Shire’s cost, to provide a further report to Council detailing the access options and the short term and long term cost and service implications of each option.”

CARRIED: 6/0

RESOLUTION

050918

Moved: Cr Ferro

Seconded: Cr Trent

1. ***Agrees to progress the evaluation of options for access to 961 Talbot Road and requests officers, after obtaining a road reserve survey at the Shire’s cost, to provide a further report to Council detailing the access options and the short term and long term cost and service implications of each option.***
2. ***The report on the options is to be presented to Council on or before the March 2019 Council Meeting.”***

CARRIED: 6/0

Reason: The period of up to 6 months will allow necessary consultation to take place and a report prepared for Council’s consideration

SY117-09/18 – Avon Terrace Proposed Trial of Alfresco Dining Areas

FILE REFERENCE: AV1, HS.ITL.6.1.2
APPLICANT OR PROPONENT(S): Shire of York
AUTHORS NAME & POSITION: Darren Wallace - Executive Manager Infrastructure & Development Services
RESPONSIBLE OFFICER: Darren Wallace - Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL: 9.22 - 20 April 2009
SY000-07/12 24 July 2017
SY002-02/18 26 February 2018
DISCLOSURE OF INTEREST: N/A
APPENDICES: Nil

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

To consider progressing of a two year trial for alfresco dining spaces at Mad Mo's Café on Avon Terrace or alternatively the provision of a permanent paved alfresco area.

Background:

At the council meeting on 28 February 2018 it was resolved:

"That council:

- 1. Agrees with the two year trial period for the installation of alfresco dining areas at Mad Mo's Café and Botanicalia Café on Avon Terrace subject to:*
 - a. The business owners/applicant requesting the temporary alfresco dining area meeting all costs; and*
 - b. The business owners are requested to submit a design and management plan for the temporary alfresco area, and*
 - c. The owners agreeing to the two year trial period, during which, or at the completion of the trial period, the owner may be requested to modify or remove their temporary alfresco structure and /or associated items, and*
 - d. Further consultation occurring with the business owners to confirm their ongoing support for the provision of a temporary alfresco dining areas, as a result of (a),(b) and (c) above; and*
 - e. If continued support is given by the business owner for an alfresco space and once a design and management plan has been received and approved by the Shire, a public consultation period of no less than 21 days being undertaken, and a further report being reared and presented to council for consideration of submissions and recommendations.*
- 2. If support is indicated by a business owner for a temporary alfresco space, a draft policy to guide their design, construction and process for installation being prepared during the 2 year trial period and presented to Council for consideration and process for installation*
- 3. Notes the cost to the shire of installing Bollards and wheel stops is set at a maximum of \$8,000*

The Shire has since received confirmation from the owners of Mad Mo's Café that they request a temporary alfresco dining area and will meet all costs. We have also received a copy of a design and some indication as to the proposed management.

Comments and details:

During this process it has become obvious that there is a level of disconnect between the standard and detail of the design and management plans required and anticipated costs to the applicant. To this end and to reduce red tape, an alternative approach to the previous Council resolution to deal with the two current requests for temporary alfresco areas is recommended.

There are 3 existing permanent, kerbed and brick paved Alfresco dining areas in the parking bays on Avon Terrace between South Street and Macartney Street. Two are situated on the river side of Avon Terrace and one on the other side.

It is considered that it would be in keeping with the current Avon Terrace streetscape to install a fourth permanent alfresco area in front of Mad Mo's Café (The non-river side of Avon Terrace). This would be a kerbed, brickpaved area with bollards similar to the other Avon Terrace alfresco areas. A big positive is, that it would allow the Shire to plant two additional street trees in keeping with those planted at the other alfresco areas. The lack of street trees has been previously identified as one of the detracting features along Avon Terrace.

The applicant would still be required to provide tables and chairs as well as café screening and possibly additional landscaping. They would also require a permit for the alfresco dining.

The cost of developing the permanent alfresco area is \$12,500, which is not significantly more than the \$8,000 estimated Shire cost for the temporary alfresco area.

To reduce the cost and red tape for future temporary alfresco applicants, it is also recommended the Shire works with the other original temporary alfresco applicant, the Botanicalia Café to develop a suitable design and design variation guide together with a Management Plan and a draft policy. It is envisaged that the design would incorporate features that reduced the possible Shire cost to support the temporary installation. Therefore, it is not considered unreasonable that the Shire contributes up to \$2,500 to the development of an acceptable generic design and design variation guide.

It is anticipated that the policy/style guide would be used when considering other alfresco areas outside the Avon Terrace, South St – Macartney St area.

Options:

Council has the following options:

1. Advertise the temporary alfresco plans and management plan submitted by the owners of Mad Mo's Café,
2. Request a more detailed design and management plan from the owners of Mad Mo's or
3. Agree to install a permanent alfresco area to cater for Mad Mo's and work with the owners of the Botanicalia Café in developing an acceptable design guide, management guidelines and a workable policy.

Options 1 & 2 are in keeping with the previous Council resolution.

Implications to consider:

- **Consultative**

Consultation has been ongoing between the owners of Mad Mo's Café and the Botanicalia Café.

The possible loss of 2 parking bays near Mad Mo's has been previously advertised with limited comment received. If the recommendation of this report is adopted, It may be desirable to advertise this again.

- **Strategic**

The provision of alfresco spaces would be consistent with the Shire of York Strategic Community Plan Theme 3: Driving the Economy Forward, and in particular theme 3.6 'The town of York's main street looks prosperous and cared for at all times.'

- **Policy related**

A draft policy with guidelines for design and process for construction and management will need to be prepared for consideration by Council at the end of the 2 year trial period or sooner.

- **Financial**

It is the officer's recommendation a permanent alfresco area at Mad Mo's Café be constructed as a matter of priority at a cost of \$12,500 in lieu of the originally estimated \$8,000 cost to support a temporary alfresco area installed at the owners cost. The business owner will still be required to provide seats, tables and café screening as well as possibly additional landscaping.

It is also recommended that Shire Staff work with the Botanicalia Café in the development of suitable plans and specifications for temporary alfresco and management guidelines at an allocated cost of \$2,500.

An ongoing annual permit for the operation of an alfresco area is required to cover inspection at a cost of \$29 per year which includes two tables and eight chairs. An additional \$10 fee applies for every extra table and four chairs.

- **Legal and Statutory**

Shire of York Parking and Parking Facilities Local Law.

The Local Law provides for the ability for Council, by resolution, to designate an area as "no parking" by erecting appropriate signage, or through the use of clearly identifying the areas for Alfresco Dining.

Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law Each Business with an associated outdoor eating facility requires a permit to trade within a public place by the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. The permit process has a number of requirements and responsibilities that the business owner are to comply with, including insurances, numbers, keeping the footpath clear, rubbish etc; which is addressed as part of the application process. The provisions within the Local Law are considered outdated, and do not specifically relate to 'alfresco dining'. A review of the provisions relating to alfresco/outdoor dining is recommended.

- **Risk related**

There are no medium to high risks that have been identified with the proposal that warrant further discussion.

- **Workforce Implications**

Nil for officer's recommendation. Should temporary alfresco spaces be a preferred option by business owners, a policy will need to be prepared setting out their installation/construction process to establish the likely impact on workforce.

Voting Requirements:
Absolute Majority Required: Yes

**RESOLUTION
060918**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council

- 1. Agrees to install a permanent alfresco area in front of Mad Mo’s Café. In keeping with the existing alfresco areas, it would be a kerbed, brickpaved area with bollards and trees. And allocates \$12,500 to the project. With funding source to be confirmed in the mid-year budget review.***
- 2. Requests the Chief Executive Officer to work with the owner of the Botanicalia Café to develop a suitable design and design variation guide together with a Management Plan and a draft policy. And allocates \$2,500 to the project. With funding source to be confirmed in the mid-year budget review.”***

CARRIED WITH ABSOLUTE MAJORITY: 6/0

SY118-09/18 – Trading in Public Places – Avon Valley Motor Museum Association (Inc) Horse Drawn Carriage Rides

FILE REFERENCE:	HS.ITL.5
APPLICANT OR PROPONENT(S):	Avon Valley Motor Museum Association (Inc)
AUTHORS NAME & POSITION:	George Johnson, Environmental Health Officer
RESPONSIBLE OFFICER:	Darren Wallace, Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	23 July 2018
DISCLOSURE OF INTEREST:	N/A
APPENDICES:	A – Site 1 – 116 - 122 Avon Terrace, York B – Photos of Carriage C – Summary of Submissions

Nature of Council's Role in the Matter:

- Quasi-judicial

Purpose of the Report:

The proposal from Avon Valley Motor Museum Association (Inc) (the applicant) to operate a commercial business, being that of horse drawn carriage rides around town, from two (2) designated parking bays on Avon Terrace in the Town Centre was sent out for public comment for a period of 4 weeks commencing on 1 August 2018.

Council is requested to consider the application as proposed.

Background:

Avon Valley Motor Museum Association (Inc) applied to the Shire of York to operate a commercial business, consisting of a local horse drawn carriage ride, from two (2) designated parking bays on Avon Terrace, York.

Council considered the application at its Ordinary meeting 23 July 2018 and resolved as follows;

"That Council requests the Chief Executive Officer to: 1. Advertise for a period of four weeks the application from Avon Valley Motor Museum Association to operate horse drawn carriage rides in Avon Terrace in front of their premises on Saturdays from 1pm to 4pm, Sundays from 10am to 4pm and any Public Holidays from 10am to 3pm. 2. Present a report to Council following the advertising period with any submissions received for consideration."

As detailed in the previous report, 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 horse drawn carriage proposed to be used by the applicant is a total length of 6m including the horse and can hold up to ten (10) passengers.

The applicant advises that the preferred location for pick-up and drop-off for the carriage rides would be located at the front of the Motor Museum (Lot 13 & 17 (116 - 122) Avon Terrace, York) which is a location highly visible to tourists and locals.

The applicant will require two (2) parking bays between the hours of operation on Saturday afternoons from 1.00pm until 4.00pm, Sundays from 10.00am until 4.00pm and Public Holidays between 10.00am until 3.00pm.

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 issue of 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 Motor Museum (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 applicant's preferred parking bays in front of the Motor Museum 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 bays 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;
- 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 carriage is 6m long including horse and approximately 1.7m wide. The on-street bays are designed in accordance with Australian Standard 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.

The applicant will be able to fit the horse drawn carriage of 6m in length within two (2) bays of 6.6m/6.7m each.

The proposed times for the trader's permit may overlap with times where signposting applies only on Public Holidays. 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 bays 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 Motor Museum to be an appropriate location as it would complement the applicant's business being the Motor Museum.

The applicant will be responsible for the ongoing removal or clean-up of any manure / waste generated by the horse carriage rides. It is suggested that a standard manure catcher be attached to the horse and harness.

Options

Council could approve the application to operate horse drawn carriage rides around town, from two (2) designated parking bays at the front of the Motor Museum (Lot 13 & 17 (116 - 122) Avon Terrace, York

Alternatively, Council could approve the application to operate horse drawn carriage rides around town, from two (2) designated parking bays in an alternative location as deemed appropriate.

Implications to consider:

- **Consultative**

The application has been advertised for a period of 4 weeks commencing on 1 August 2018 providing an opportunity for comment from the community and businesses.

The general consensus of opinion from submissions are of a positive nature with 6 for and 2 against the proposal. This is not including the overwhelming support on the Shire of York social media accounts.

Four of the positive submissions thought that the carriage rides would add to the overall tourist experience provided in York. Two did not state a reason for their support.

One of the against submissions was concerned that the York Motor Museum received funding from the Shire as it is a "not for profit" but now wanted to run a commercial business. They further raised concerns about their high financial risks. Offering carriage rides is not out of keeping with fund raising activities undertaken by many not for profit organisations, and is a method of adding to their income stream.

The second objection raises a number of valid issues. They have been considered by the report author.

Likening the harsh environment of inner city Melbourne to York is not a direct comparison. Therefore, the animal welfare issues are not considered to be significant enough to not approve the permit.

The health issues have been considered and again not deemed to be detrimental to approving the proposal.

The risk of a "horse bolting" has been considered, however it is considered unlikely and as such not considered a reason for not approving the proposal.

A summary of the comments received is attached at Appendix A.

All submitters will be notified of the date for Council consideration of this matter, except for the longer submission, where no contact details, other than a name, were given.

The WA Police Department has advised that there are no restrictions on the use of a horse and carriage as long as they obey all of the road rules.

- **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**

An application generally incurs an application fee of \$44, and application fees of \$11 per day, \$60 per week, \$122 per month or \$1,214 per year.

- **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.

Should Council approve the application, a traders permit will be issued under delegation DE2-10.

- **Risk related**

A risk assessment of the proposal has been undertaken, and there was 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 Council could issue an approval for a 'trial' for twelve months, so that a review can occur, and any unanticipated issues addressed prior to renewal. There may be a slight disruption to traffic when the horse and carriage are in progress through the streets due to a reduced speed of the horse and carriage. The 2 parking bays will not affect the alfresco dining on the east side of Avon Terrace, the closest alfresco dining is 4 bays away. There is alfresco dining opposite the 2 parking bays on the west side of Avon Terrace, however this should not be affected.

The applicant will require a minimum \$10 million public liability insurance at all times whilst operating carriage rides.

LGIS was consulted in relation to the public liability and advised that the Shire of York will need to be included as an interested party on the public liability insurance certificate.

Voting Requirements:
Absolute Majority Required: No

OFFICER RECOMMENDATION

“That Council approves the proposal from Avon Valley Motor Museum Association (Inc) (the applicant) to operate a commercial business, being that of horse drawn carriage rides around town for a 12 month trial period providing the following is adhered to;

- 1. The business is operated from two (2) designated parking bays at the front of the Motor Museum (Lot 13 & 17 (116 - 122) Avon Terrace, York between the hours of operation on Saturday afternoons from 1.00pm until 4.00pm, Sundays from 10.00am until 4.00pm and Public Holidays between 10.00am until 3.00pm;*
- 2. Minimum \$10 million public liability insurance is provided with the Shire of York noted as an interested party on the certificate;*
- 3. Either a manure catcher is provided for the horse and harness or the applicant collects the manure / waste immediately after the fact.”*

**RESOLUTION
070918**

Moved: Cr Ferro

Seconded: Cr Smythe

“That Council approves the proposal from Avon Valley Motor Museum Association (Inc) (the applicant) to operate a commercial business, being that of horse drawn carriage rides around town for a 12 month trial period providing the following is adhered to;

- 1. The business is operated from two (2) designated parking bays at the front of the Motor Museum (Lot 13 & 17 (116 - 122) Avon Terrace, York between the hours of operation on Saturday afternoons from 1.00pm until 4.00pm, Sundays from 10.00am until 4.00pm and Public Holidays between 10.00am until 3.00pm;***
- 2. Minimum \$10 million public liability insurance is provided with the Shire of York noted as an interested party on the certificate;***
- 3. Either a manure catcher is provided for the horse and harness or the applicant collects the manure / waste immediately after the fact.***
- 4. The relevant animal welfare legislation is to be complied with at all times.”***

CARRIED: 6/0

Reason: To highlight the importance of considering the safety and the needs of the horse at all times

SY119-09/18 – Proposal for Council to Consider Commencing the Local Law Making process for the Shire of York Cat Amendment Local Law 2018

FILE REFERENCE:	RS.ANC.4
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	John Goward, Ranger
RESPONSIBLE OFFICER:	Darren Wallace Executive Manager Infrastructure and Development Services
PREVIOUSLY BEFORE COUNCIL:	26 February 2018 25 June 2018
DISCLOSURE OF INTEREST:	N/A
APPENDICES:	A - Shire of York Cat Local Law 2017 B - Proposed Shire of York Cat Amendment Local Law 2018

Nature of Council's Role in the Matter:

- Legislative

Purpose of the Report:

This item proposes that Council resolves to commence the local law-making process for the Shire of York Cat Amendment Local Law 2018 including the amendments required by the Joint Standing Committee on Delegated Legislation as resolved by Council at its Ordinary Meeting of 25 June 2018.

Background:

The *Interpretation Act 1974* s42 notes the authority of each House of Parliament to review subsidiary legislation and pass a resolution disallowing that legislation if appropriate. There is a considerable amount of legislation throughout the State, and Parliament has appointed a Standing Committee to undertake the overseeing role on its behalf.

The Joint Standing Committee on Delegated Legislation (the Committee) reviews all regulations, rules, bylaws, local laws and other subsidiary legislation subject to s42 of the *Interpretation Act 1984* and has authority to recommend disallowance to Parliament if appropriate.

The local law was gazetted on 16 March 2018 and the Shire sent all documentation regarding the process to the Committee for review as required.

The Committee reviewed Shire of York Cat Local Law 2017 and on 17 May 2018 the Shire of York received a letter from the Committee (confidential under Parliamentary privilege) noting issues with the Shire of York Cat Local Law 2017.

The Committee requested a Letter of Undertaking from Council by Friday 8 June 2018 which was extended at the Shire's request to 30 June 2018.

At its ordinary council meeting of 25 June 2018 Council considered the undertaking requested by the Joint Standing Committee on Delegated Legislation and resolved the following:

The Council of the Shire of York resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. *Within six months, the Shire will make an amendment local law to:*
 - (a) *amend clause 3.1(3) of the Shire of York Cat Local Law 2017 by deleting the words 'or until the local government withdraws the notice' and replacing them with 'which period shall not exceed 28 days'*
 - (b) *delete clause 6.2 OR, if the Shire wishes to keep clause 6.2, amend clause 6.2 by:*
 - i. *moving the phrase 'the provisions of Division 5 of Part 4 of the Act apply to that decision' to the next line*
 - ii. *deleting the words 'Division 5 of Part 4 of the Act and replacing them with 'Part 9, Division 1 of the Local Government Act 1995'*
 - iii. *inserting the following words immediately after the phrase 'apply to that decision.':*

The person specified in that decision is an affected person for the purposes of Part 9, Division 1 of the Local Government Act 1995.
 - (c) *amend the definition of 'permit in clause 1.4 by deleting 'clause 2.6' and replacing it with 'clause 2.4'*
 - (d) *if the Shire wishes to keep clause 4.3(3), amend the clause by replacing 'identified' with 'unidentified'*
 - (e) *amend clause 6.3(2) by deleting the words 'Section 84' and replacing them with 'section 62'*
 - (f) *amend Schedule 2 by deleting '[Clause 7.3]' and replacing it with '[clause 6.3]'*
 - (g) *amend Schedule 2, item 2 by deleting '2.6(c)' and replacing it with '2.6(l)(e)'.*
2. *Until the Shire of York Cat Local Law 2017 is amended in accordance with undertaking 1, the Shire will:*
 - a) *not enforce that local law in a manner contrary to undertaking 1*
 - b) *where that local law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.*
3. *Adopts the Shire of York Cat Local Law 2017 incorporating the above amendments and authorises the Shire President to inform the Joint Standing Committee on Delegated Legislation of Council's decision.*
4. *Authorises the common seal to be affixed to the Shire of York Cat Local Law 2017."*

The requested letter of undertaking was signed by the President and forwarded to the Committee on 3 July 2018.

Council is now requested to commence the process of making an amendment local law.

Comments and details:

This item proposes that Council resolves to commence the local law making process for the Shire of York Cat Amendment Local Law 2018 including the amendments required by the Joint Standing Committee on Delegated Legislation as resolved by Council at its Ordinary Meeting of 25 June 2018.

The *Local Government Act 1995* (the Act) empowers Council to make local laws. These pieces of delegated legislation allow a local government to control and regulate activities within district boundaries to ensure good governance over matters of municipal concern

The process of making a local law is prescribed in detail, and must follow precise statutory requirements. Failure to follow the required procedures in the correct sequence may result in the Joint Standing Committee on Delegated Legislation recommending that the local law be disallowed by Parliament.

Section 3.12(2) of the Act requires that the first action in the process of making a local law is for the President to give notice to the Council meeting of the purpose and effect of that local law.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* states that this can be achieved by ensuring that;

- (a) The purpose and effect of the proposed local law is included in the agenda of that meeting; and
- (b) The minutes of the meeting of council include the purpose and effect of the proposed local law

Accordingly, the statements of purpose and effect for the proposed Shire of York Cat Amendment Local Law 2018 are provided as follows:

Purpose	Effect
Shire of York Cat Local Law Amendment 2018	
Amend clause 3.1(3) of the <i>Shire of York Cat Local Law 2017</i> by deleting the words ' <i>or until the local government withdraws the notice</i> ' and replacing them with ' <i>which period shall not exceed 28 days</i> '	This amendment would strike an appropriate balance between providing the Shire with a mechanism to stop a nuisance with immediate and ongoing effect and providing the notice recipient with a reasonable amount of time to rectify the nuisance behaviour of the cat.
Delete clause 6.2	The local law does not deal with this as the Cat Act deals with the keeping of more than 2 cats on premises and permits for cat management facilities operated by persons other than the Shire of authorised persons.
Amend the definition of ' <i>permit</i> ' in clause 1.4 by deleting ' <i>clause 2.6</i> ' and replacing it with ' <i>clause 2.4</i> '	Corrects drafting error.
Amend clause 4.3(3) by replacing ' <i>identified</i> ' with ' <i>unidentified</i> '	Corrects drafting error.
Amend clause 6.3(2) by deleting the words ' <i>Section 84</i> ' and replacing them with ' <i>section 62</i> '	Corrects drafting error.
Amend Schedule 2 by deleting ' <i>[Clause 7.3]</i> ' and replacing it with ' <i>[clause 6.3]</i> '	Corrects drafting error.
Amend Schedule 2, item 2 by deleting ' <i>2.6(c)</i> ' and replacing it with ' <i>2.6(l)(e)</i> '.	Corrects drafting error.

Notice of motion to disallow:

It is noted that the Committee also resolved to give a notice of motion in the Legislative Council to disallow the Local Law. The Notice was given on 17 May 2018.

The reasons for giving notice are to protect the Parliament's right to disallow the Local Law should the Committee recommend disallowance and to provide the Committee with additional time to scrutinize the Local Law and, if necessary, obtain further information. The giving of the notice should not be taken as indicating that the Committee has resolved to recommend disallowance at this stage.

Implications to consider:

- **Consultative**

In accordance with s3.12 of the *Local Government Act 1995*, the Shire will give local and state-wide public notice of the proposed Shire of York Cat Amendment Local Law 2018, inviting submissions over a period of six weeks. All submissions received at the end of that time will be presented to Council.

- **Strategic**

Theme1: The place to live. 1.8 The Shire has a clear, nuisance free and safe living environment. Theme 5: Strong lead and governance. 5.4 There is a major focus on systems which improve, maintain accountability and transparency.

- **Financial**

Direct costs associated with this report are limited to staff time to draft the amendment Local Law, advertising, correspondence and reports. These costs will be borne via budgeted expenditure.

Once adopted the Shire will incur gazettal costs, as all local laws need to be published in the government gazette. The current gazettal cost for bulk notices is approximately \$268.50 per page, however, as an amendment only, the total gazettal pages will be minimal. The Shire must also give local public notice of the adoption in a publication circulating in the Shire to satisfy the Act requirements following the adoption.

As no asset/infrastructure is being created, there are no long term financial implications relevant to this matter.

- **Policy related**

No current policy exists however this item is progressing with the development of a Local Law for Cats.

- **Legal and Statutory**

In accordance with s.3.12 of the Local Government Act 1995, the following steps of the process need to be carried out:

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) The local government is to —*
 - (a) give Statewide public notice stating that —*
 - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*

- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

and

- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
- * Absolute majority required.*

- **Risk related**

If the advice of the Joint Standing Committee on Delegated Legislation is not incorporated into the proposed local law, there is a risk that the local law will fail to be gazetted which could affect the Shire's reputation

- **Workforce Implications**

Printing. Staff to enforce additional cat control restrictions.

Voting Requirements:

Absolute Majority Required: **Yes**

**RESOLUTION
080918**

Moved: Cr Trent

Seconded: Cr Ferro

“That Council commences the local law-making process by:

- 1. Endorsing for public advertising the proposed Shire of York Cat Amendment Local Law 2018 as attached to this report for a period of six weeks in accordance with section 3.12(3)(a) of the Local Government Act 1995 for the purpose of receiving public submissions.***
- 2. Forwarding copies of the proposed law to the relevant Minister in accordance with s3.12 (3)(b) of the Local Government Act 1995.***
- 3. Requesting that the Chief Executive Officer prepares a further report at the conclusion of the public advertising period in accordance with Section 3.12(4) of the Local Government Act 1995 to enable Council to further consider any submissions made.”***

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY120-09/18 – Development Applications: Alterations and Additions (Part Retrospective) to the Existing Heritage Listed Building at Lot 500 (13) George Street, York

FILE REFERENCE:	GE1.60086
APPLICANT OR PROPONENT(S):	Trudy-Ann Gibson
AUTHORS NAME & POSITION:	Grady O'Brien, Consultant Planner
RESPONSIBLE OFFICER:	Darren Wallace, Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A – Application Drawings

Nature of Council's Role in the Matter:

- Quasi-judicial.

Purpose of the Report:

The Council is to consider a development application for alterations and additions (part retrospective) to the existing heritage listed building located at Lot 500 (13) George Street, York.

Background:

Located approximately 800m to the west of the York town centre, Lot 800 (13) George Street (the site) comprises approximately 2,025 square metres and is zoned 'Residential R10/40'.

The site contains an existing heritage listed building, which is identified as a 'Category 3' building on the Shire of York Municipal Inventory. The site is not located within a Heritage Precinct.

A development application was received on 19 July 2018 for alterations and additions (part retrospective) to the existing heritage listed building. As shown in Appendix A – Application Drawings, the proposal comprises the following alterations and additions to the existing dwelling:

- Front verandah replacement and extension;
- Alterations and extensions to the rear of the existing building (part retrospective) and construction of a patio; and
- Use of two converted sea containers as ensuite bedrooms (part retrospective).

Description of Proposed Land Use

As part of the alterations and additions to the existing dwelling, the applicant proposes to retrofit two sea containers (already on site) for use as ensuite bedrooms including as follows:

- Installation of one (1) sliding aluminium door and two (2) windows
- Application of custom orbital cladding and installation of pitched roof
- Construction of integrated Verandah with bull nose roof and timber posts

The converted sea containers are located behind the current house footprint when viewed from the street and will function as an extension of the existing dwelling and incorporate a bedroom, shower, toilet and hand basin. The development reflects an extension to the existing 'Single House' use of the site.

Comments and details:

Development applications are required to be assessed in accordance with the Shire of York Town Planning Scheme No. 2 (TPS 2) and Deemed Provisions for schemes as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Shire of York Town Planning Scheme No.2 (TPS2)

Alterations and additions to an existing 'Single House' represent a permitted use within the 'Residential' zone. The proposed alterations and additions comply with the relevant development standards applicable to the subject land.

The subject land is dual coded 'R10/40'. Part 4.4 of TPS 2 stipulates that where a dual coding applies, the local government may permit development to the maximum higher coding where:

- a) *adequate connection to reticulated sewerage is available;*
- b) *in the opinion of the local government the lot is suitably located close to services and facilities;*
- c) *the local government considers the design of the development will enhance the amenity of the area and has regard to heritage values; and*
- d) *the development is compatible with the surrounding land uses and development.*

Subject to recommended conditions of approval, the proposal is consistent with the above provisions, and the requirements relating to 'R40' of State Planning Policy 3.1 – Residential Design Codes.

An objective of TPS2 (Part 1.7 (c)) is to ensure the preservation of places of natural beauty, of historic buildings, and objects of historical and scientific interest. The site is not located in a Heritage Precinct, however, the existing building is identified as a Category 3 listed building (Dwelling "Avonlea") on the Municipal Inventory (Heritage List). In accordance with Part 5.4.1 of TPS 2, in dealing with any matters which may affect a Heritage Precinct or individual entries on the Heritage List, the local government shall have regard to any local heritage policy (discussed further below).

Planning and Development (Local Planning Schemes) Regulations 2015 – Clause 67 Matters for Consideration (Deemed Provisions)

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

- *The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving (cl67(b)).*

The Shire is currently preparing Local Planning Scheme No. 3, however, the draft scheme has not been advertised and it is noted that there are no changes pertinent to the consideration of the subject application.

- *Any approved State Planning Policy (cl67(c)), 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 (cl67(m))*

In accordance with the residential zoning of the land, the proposal has been assessed against State Planning Policy 3.1 – Residential Design Codes (R-Codes). The proposal complies with the R40 requirements of the R-Codes.

- Any local planning policy for the Scheme area (cl67(g)), the built heritage conservation of any place that is of cultural significance (cl67(k))

Shire of York Heritage Precincts and Places Local Planning Policy (LPP)

The Shire of York Heritage Precincts and Places LPP identifies Category 3 Heritage Places as places of some cultural heritage significance to the Shire. The LPP cites no particular heritage planning constraints for Category 3 buildings, but indicates they are of some/moderate significance and that they contribute to the heritage of the locality. It is an objective of the LPP to maintain the heritage value of significant building and streetscapes. The LPP recommends encouraging retention or documentation of the place if retention is not possible. The proposal involves demolition of an original verandah and awning. It is therefore recommended that a condition of approval is imposed requiring photographic documentation of the original verandah and awning.

The LPP states that it is a desired outcome that alterations or extensions to Category 3 buildings should reinforce the significance of the place. Original fabric should be retained wherever feasible.

Table 1 – Heritage Precincts and Places LPP General Guidelines for Residential Development

Policy	Comment
<p><u>Part 3.4.1 Scale and Size</u></p> <p>The scale of all residential development must respect:</p> <p>a) The scale of adjoining and nearby buildings in the street;</p> <p>b) The surrounding landscape; and</p> <p>c) The scale of the existing building, in the case of additions, extensions or modifications.</p>	<p>The proposed alterations and additions to the rear (skillion roofed) area of the existing dwelling include a reconfiguration of the internal building layout and a 1.77m extension of the rear building line to provide for an extension of the existing kitchen, family/dining area, and additional ensuite. The proposed alterations to the rear of the building seek to provide modest improvements to the residence and are considered proportionate to the scale of the existing dwelling.</p> <p>A 6 metre deep gabled roof (18 degree pitch) patio across the full width of the existing dwelling (skillion section) is also proposed. Although significant in size, the proposed patio is an open structure which assists in moderating the impacts of building bulk and scale associated with the extension of an existing dwelling. The open nature of the proposed structure is sympathetic to the open setting of the surrounding landscape and is considered to respect the scale of adjoining and nearby buildings.</p> <p>The proposal includes the use of two sea containers retrofitted for use as ensuite bedrooms to the rear of the proposed patio. The bedrooms measure 2.44m x 6.1m and incorporate a verandah with a bull nose roof that extends 2.1m along the</p>

	<p>full length of the bedroom. Located to the rear of the site, the proposed ensuite bedrooms are considered to pose a minimal impact on the streetscape and are of a scale and size that is considered compatible the existing building dwellings and surrounding landscape, and with neighbouring residential properties.</p> <p>The existing half-front bullnose verandah currently extends 2.3m from the northern portion of the front building line. There is currently no verandah on the southern portion of the front building line, but an existing awning is proposed to be removed to provide for a verandah extension in this location. The proposal seeks demolition of existing and reconstruction of a new bullnose verandah extending across the entire gable frontage of the existing dwelling. Specifically, the proposed verandah would extend 3.8m and 1.5m from the northern and southern portions of the building line respectively.</p> <p>The front façade of the existing dwelling is considered integral to the integrity and authenticity of the existing heritage listed dwelling, and its contribution to the character of the wider streetscape.</p> <p>The Shire's heritage consultant has advised that the scale of size of the proposed verandah is considered to represent a considerable extension within the street setback area that may have a detrimental impact on the heritage character of the place. A modest reduction in the extent of the verandah projection would assist to ameliorate the impact to heritage character and value. Subject to the recommended condition to reduce the extent of the verandah projection by 0.5m, the scale and size of the proposed verandah is considered acceptable.</p>
<p><u>Part 3.4.2 Form</u></p> <p>All residential development shall respond to and reinforce the existing characteristics of a streetscape or neighbourhood with regard to building appearance, plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.</p> <p>Roof lines shall be hipped or gabled and shall have a minimum slope of 25</p>	<p>The proposed alterations and additions to the rear of the existing residence are considered to provide an appropriate design response that recognises, and has regard to, the form of the existing dwelling and adjacent and nearby residential properties.</p> <p>It is recognised that the roof of the proposed patio is not overly responsive to the main hipped roof of the existing</p>

<p>degrees. Eave overhangs shall be a minimum of 300mm wide. A skillion roof as an extension of an original roof form may be acceptable.</p> <p>Additions, extensions and modifications to existing buildings shall not be more visually imposing than the original building. Front facades should not be extended forward of the existing building.</p> <p>Additions, extensions or modifications shall respect and integrate with the roof line of an existing building.</p>	<p>residence, however, the proposed open structure is considered to represent a compatible roof structure within the context of the existing dwelling and surrounding area.</p> <p>In respect of the proposed verandah, subject to the recommended condition relating to the size of its projection, it is not considered to be more visually imposing than the original building.</p>
<p>3.4.3 Siting</p> <p>For new residential development and additions, extensions or modifications to existing residential dwellings shall be located parallel to the street and shall observe any established front and side building setbacks of the neighbouring properties in the street.</p>	<p>Proposed alterations and additions to the rear of the existing dwelling observe established side building setbacks. The proposed ensuite bedrooms located at the rear of the site have been appropriately sited to minimise visual impact on the streetscape.</p>
<p>3.4.4 Materials and Colours</p> <p>Acceptable materials for new residential buildings, including outbuildings, garages and carports and additions, retaining walls, extensions or modifications to existing buildings are as follows:</p> <p>a) Walls</p> <ul style="list-style-type: none"> - Red through to orange brick with cream joints. Darker brick accents are acceptable. - Local stone. - Smooth render. - Timber weatherboards, corrugated iron or mini orb profile walls in a galvanised, painted or Colourbond finish are appropriate for side and rear walls, outbuildings, carports and garages. - Use of limestone materials in retaining walls will not be permitted unless it is consistent with existing development. <p>b) Windows and doors</p> <ul style="list-style-type: none"> - Timber framed, especially when visible from the street. - Commercial quality, box powder-coated aluminium framed, especially when visible from the street. - Timber to match the existing materials being replaced or the period of development for residential places being restored. 	<p>When restoring or repairing important historic places, replacement materials should match like-with-like where possible. In conservation projects, doors and windows should replicate the type used when the building was originally constructed.</p> <p>It is noted that roof cladding material to the replacement roof sheeting for the skillion roof and patio addition is not specified on the drawings, however it is noted that a condition of approval requiring details of materials, colours, finishes and detailing of the proposed alterations and additions is recommended. This will ensure the constructed alterations and additions maintain a satisfactory visual appearance acceptable to the Council.</p>

<p>c) Roofs</p> <ul style="list-style-type: none"> - Custom Orb profile sheeting. Preferred sheeting is galvanised, although Zinalume or Colourbond in an appropriate colour is acceptable. - Galvanised sheeting is generally required for buildings listed in the State Register of Heritage Places. - Clay tiles, if appropriate to the location. <p>d) Gutters</p> <ul style="list-style-type: none"> - Half round galvanised gutters for places pre-1890. - Ogee and colonial profile or quad for heritage places. <p>The colours to be used in heritage places, including places on the State Register of Heritage Places, the Shire of York Municipal Inventory of Heritage Places or any Heritage List of a Town Planning Scheme, should be based on the original colours used in the building based on paint scraping where possible.</p>	
<p>3.4.5 Detailing</p> <p>The style of a replacement verandah roof, posts and decoration should be appropriate to the style of an existing building. In the absence of any documentary evidence regarding the original verandah, a simple replacement verandah without elaborate decoration shall be used. Reinstatement of missing decorative detailing on existing buildings is encouraged.</p> <p>The original door or window openings on an existing building are to be maintained.</p> <p>Where a door or window needs replacing, it is preferable to use a copy of the original.</p>	<p>The proposal seeks to replace the original half front bullnose verandah with a new bullnose verandah extending across the full gable frontage of the existing building. Whilst it is noted that the proposed replacement verandah roof will be larger than existing, it will maintain a similar style to the original.</p> <p>Whilst application drawings do not specify the type of verandah posts proposed, the applicant indicates that the existing verandah posts have white ant damage, and that replicas are being prepared to replace these. The use of replica verandah posts will assist in maintaining the character of the original building, and is secured by the recommended condition relating to materials.</p> <p>As shown on the proposed floor plan in Appendix A – Application Drawings, the proposal seeks to replace an existing window with French doors. The applicant has confirmed this is no longer proposed and that the original window will be retained. Retaining the original window to the front elevation will help to maintain the character and appearance of the original building. A condition of approval to ensure</p>

	the proposed French doors do not form part of the approval is recommended.
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Shire of York Local Planning Policy No. 2 (LPP 2) – Sea Containers

The purpose of LPP 2 is to outline Council's development standards in regards to the location and use of sea containers within the Shire. The policy seeks provide for the appropriate management of the use of sea containers and avoid detrimental impacts on amenity, that which is largely associated with the use of sea containers for storage and consideration relating to their visual appearance.

The proposal utilises two sea containers as part of the extension to the existing dwelling and will camouflage the sea containers with addition of cladding, doors, windows, roofing and a verandah. Therefore, the proposal has not been assessed against LPP 2, but has solely been considered as an extension to the existing residential dwelling.

- *Whether adequate provision has been made for the landscaping of the land (cl67(p))*

In circumstances where a sea container is proposed for storage use in a residential area, additional landscaping may be required to provide screening and address considerations relating to visual appearance.

Given the proposed modifications to camouflage the sea containers, the nature and extent of the proposed alterations and extensions to the existing dwelling do not give rise for a need to undertake additional landscaping of the site. However, a condition of approval is recommended to ensure the proposed modifications to the sea containers are carried out in a timely manner.

Options:

Officers consider that subject to appropriate conditions being implemented, the proposal is consistent with the Shire of York Town Planning Scheme No.2 and *Planning and Development (Local Planning Schemes) Regulations 2015* and have recommended that Council approves the application subject to conditions.

Should Council disagree with the officer's recommendation, the following options are available:

1. Refuse the application and list reasons; or
2. Approve the application, with modified conditions.

Implications to consider:

- **Consultative**

Part 5.1.5.1 of TPS 2 stipulates that, where in the opinion of the local government the variation of a scheme provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the local government shall consult the affected parties. Subject to the recommended conditions of approval, the proposal is not considered to pose the potential for a detrimental or adverse effect on any owners or occupiers in the general locality or adjoining the site. The proposal has not been advertised.

- **Strategic**

The proposal and officer's recommendation is considered to be consistent with the Shire of York's 2016-2026 Strategic Community Plan and the following desired outcomes:

Theme 1: The Place to Live

1.6 There is affordable and appropriate housing choice which allows people to stay in the Shire throughout their lives

- **Policy related**

There are no policy related implications associated with consideration of the subject proposal other than those discussed above.

- **Financial**

There are no financial related implications associated with consideration of the subject proposal.

- **Legal and Statutory**

The proposal has been assessed and found to be in accordance with the statutory requirements of the Shire of York Town Planning Scheme No. 2 and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- **Risk related**

There are no significant risk related considerations relevant to the consideration of the subject proposal.

- **Workforce Implications**

Nil

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
090918**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council approves the development application for Alterations and Additions (Part Retrospective) to the Existing Heritage Listed Building at Lot 500 (13) George Street, 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) including any notes placed in red by the Shire and except as may be modified by the following conditions.***
- 3. All stormwater is to be managed on site by the landowner to the satisfaction of the Shire.***
- 4. Prior to demolition of the existing verandah, revised plans demonstrating a 0.5m reduction in the width of the proposed replacement verandah extension shall be submitted to the Shire for approval. The plans shall specify materials, colours, finishes and details, to the satisfaction of the Shire.***
- 5. Prior to any works associated with demolition of the existing verandah, photographic evidence of the original verandah and awning shall be submitted to, and approved by the Shire.***
- 6. The proposed French Doors shown on ‘Elevation 3’ of ‘Proposed Renovations’ (Drawing No. 05, Revision A dated May 2018) do not form part of this approval.***
- 7. Details of proposed materials, colours and finishes for the replacement roof sheeting for the skillion roof and patio addition shall be submitted to the Shire for approval.***
- 8. Details of all materials, colours and finishes of the sea containers shall be submitted to the Shire for approval within three months of the date of this decision;***
- 9. All works associated with Condition 8 shall be implemented within six (6) months of the date of this decision, to the satisfaction of the Shire, and maintained for the life of the development.”***

ADVICE NOTES:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the Shire 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: In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a building permit must be submitted to, and approval granted by the Shire, prior to the commencement of the development hereby permitted.

CARRIED: 6/0

SY121-09/18 – Recreational Vehicle (RV) Park Relocation Update

FILE REFERENCE:	CS.CCS.22
APPLICANT OR PROPONENT(S):	N/A
AUTHORS NAME & POSITION:	Darren Wallace, Executive Manager Infrastructure & Development Services
RESPONSIBLE OFFICER:	Darren Wallace, Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	18 September 2017 27 November 2017 26 February 2018
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A - Original Concept Plan B – Project Costings

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report reviews the progress to date of relocating RV parking facilities and considers the options for completing the project.

Background:

At its ordinary Council meeting of 26 February, after extensive community consultation, Council resolved:

"That Council:

- 1. Resolves to relocate the 24hour RV Parking from Avon Park to the location adjacent to the Croquet Club on the Avon River as depicted in the site plan attached at Appendix B.*
- 2. Thanks members of the community, businesses and caravan clubs for their input into considering the future location of RV parking in York and communicate the Council decision for their information.*
- 3. Authorises the Chief Executive Officer to negotiated and enter into a Licence agreement with the Water Corporation for part use of this site.*
- 4. Requests the Chief Executive Officer to construct the new RV 24 hour stop location prior to the 30 June 2018.*
- 5. Requests the Chief Executive Officer to liaise with the Croquet Club to explore opportunities for provision of joint toilets on site for Council's consideration as part of the 2018/19 financial year budget."*

A project budget of \$80,000 was allocated for the project.

Construction commenced in May 2018, however before the project was complete, significant rains impacted on the works and caused a stop to works. In particular, the parking and manoeuvring sections were not sealed.

Comments and details:

Soon after commencing earth works on the new RV site it became obvious that the construction would be more difficult than originally thought (and more costly than estimated). The ground was softer than anticipated and a number of areas had to be stabilised so that the subsoil would support the pavement for the parking and traffic lanes. Even so achieving compaction of the road base proved difficult and contractors had to be brought in to assist the Shire's staff. This has led to a significant cost overrun.

There were also issues with the planned drainage. Service locations found that there were 3 fibre optic mains at different depths which interfered with the proposed drainage. The drainage was modified and the discharge point to the Avon River was relocated. This not only led to extra costs to reroute the drainage, but also caused scouring issues at the new river discharge point. Additional costs were incurred installing temporary measures to reduce the scouring.

The original budget was \$80,000. Expenditure to date has been \$72,788, with \$5,850 expended this financial year.

The estimated remaining cost to complete the project to the original concept standard is \$73,400. This would give a total cost for the project of \$146,188. This is considerably above the budget and is the result of the over expenditure mentioned above and a budget which did not fully take into account site costs to the extent required.

Council could opt to undertake minimal works required to make the new RV Park operational. This is estimated to be \$38,600 and would include completing the installation of the water, power and dump point, drainage and outfall scour protection and some landscaping. This would leave the park unsealed and therefore subject to issues in wet weather.

This would allow the RV Parking to be relocated and the Avon Park upgrade to proceed.

The sealing of the carpark and installation of kerbing/concrete edging could be completed at a later date, either this financial year if funds can be identified in the mid-year budget review or in a future budget. This would however require the RV park to be closed for a short period and would be slightly more expensive than if done now.

The original concept design allowed for a prime and single coat stone chip seal. This is considered a minimum standard and is likely to need a second coat seal in 12 to 36 months. Ideally, an asphalt seal would be applied, but this would cost in excess of \$50,000. Alternatively, a 2 coat stone chip seal could be applied as the initial seal. This would cost approximately \$35,000, while the original proposed seal will cost \$21,000.

A project costing summary is attached as Appendix B.

Options

Council can;

- Agree to complete the RV Park to the original concept standard. This will require an additional \$80,000 to be allocated to the project which is not provided for in this year's budget.
- Agree to complete the RV Park to a minimal standard. This will require an additional \$45,000 (including funds already spent this financial year) in this year's budget. Additional funds to complete the project could be found in the mid-year budget review or alternatively should be allowed for in next year's budget.

Implications to consider:

- **Consultative**

The location of the free 24-hour RV parking has been a topic involving public input on a number of occasions over the past two years. This has included:

- Consultation during the development the Corporate Business Plan in 2016.
- Input from the Avon Park Working Group on relocating the RV's from Avon Park
- Public advertising of the Avon Park Concept Plan which depicted the relocation of RV's from Avon Park
- 4 weeks advertising recently undertaken.
- Input from caravan clubs, and
- Input from the York Business Association.

- **Strategic**

Relocating the RV's and the upgrading of Avon Park are identified in Council's Corporate Business Plan as a major initiative to deliver upon.

Relocation of RV's enables Council to progress with redevelopment of Avon Park in accordance with Corporate Business Plan and Avon Park Concept Plan.

Officers consider the RV's are an important aspect to expenditure in York economy which therefore warrants additional expenditure.

- **Policy related**

Nil

- **Financial**

There is no funding in this year's budget for the completion of the RV Park as the project was originally planned to be completed last financial year.

\$44,450 is required to complete the project to a minimal standard.

The office carpark upgrade, (\$60,000) included in the 2018/19 budget, has been identified as a project of lesser priority that could be delayed 12 months.

It is therefore recommended that \$45,000 be reallocated from 043141, Administration, Centre Upgrade Car Parking and reallocated to 132304, Area Promotion Infrastructure, RV Relocation.

- **Legal and Statutory**

The Chief Executive Officer has negotiated and entered into a licenced agreement with the Water Corporation to use the site.

- **Risk related**

The risks of not developing a good medium to long term solution for the 24-hour RV camping could have significant financial impacts upon the economy of York and reputational damage of the York brand.

- **Workforce Implications**

The majority of the works required to complete the RV Park relocation will be undertaken by contractors.

Voting Requirements:

Absolute Majority Required: **Yes**

**RESOLUTION
100918**

Moved: Cr Smythe

Seconded: Cr Heaton

“That Council approves the transfer \$45,000 from account 043141, Administration, Centre Upgrade Car Parking to 132304, Area Promotion Infrastructure, RV Relocation to allow the RV Park to be completed to the minimum standard to allow it to be used.”

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY122-09/18 – 2018 All Ford Day – Request for Sponsorship

FILE REFERENCE: FI.DON / CS.CEV
APPLICANT OR PROPONENT(S): All Ford Day Committee
AUTHORS NAME & POSITION: Esmeralda Harmer – Events & Economic Development Officer
RESPONSIBLE OFFICER: Paul Martin – Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: Nil
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – 2018 All Ford Day Request for Sponsorship

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report details the All Ford Day event planned in York in October this year and requests Council to consider the sponsorship request received from the All Ford Day Committee to support elements of the event.

Background:

In June 2016, the All Ford Day Committee sought Council's assistance to deliver the All Ford Day event in November of that year. Council resolved the following:

RESOLUTION 160616

"That Council:

1. Requests the Chief Executive Officer to include the estimated surplus from unspent Tourism funds in 2015/16, being \$46,454, as a specific carry forward in the 2016/17 draft budget for future funding requests listed below.

2. Approve the following funding requests from remaining funds in the 2015/16 budget;

<i>Jemma Read</i>	<i>\$ 500</i>
<i>Goeder Judder</i>	<i>\$1,000</i>

3. Approve the following funding requests and include in the 2016/17 budget;

<i>York Golf Club</i>	<i>\$ 1,000</i>	<i>Cash only</i>
<i>York Men's Shed</i>	<i>\$ 2,954</i>	<i>Cash only</i>
<i>York Society</i>	<i>\$15,750</i>	<i>Cash only</i>
<i>York Community Resource Centre</i>	<i>\$ 1,500</i>	<i>In kind support</i>
<i>The York Festival</i>	<i>\$15,000</i>	<i>Cash and in kind</i>
<i>York Gourmet Food and Wine Festival</i>	<i>\$15,000</i>	<i>Cash and in kind</i>
<i>York Agricultural Show</i>	<i>\$10,000</i>	<i>Cash and in kind</i>
<i>York Motorcycle Festival</i>	<i>\$15,000</i>	<i>Cash and in kind</i>
<i>Avon Valley Writer's Festival</i>	<i>\$ 2,500</i>	<i>Cash and in kind</i>
<i>All Ford Day Cruise</i>	<i>\$ 2,586</i>	<i>In kind support</i>
<i>Veteran Car Club</i>	<i>\$ 2,500</i>	<i>Cash and in kind</i>
<i>Children's Street Christmas Party</i>	<i>\$ 6,000</i>	<i>Cash only</i>
<i>Medieval Fayre</i>	<i>\$ 5,000</i>	<i>Cash and in kind</i>
<i>Arts and Crafts Awards</i>	<i>\$ 5,500</i>	<i>In kind support</i>

4. Delegate authority to the Chief Executive Officer to negotiate the cash and in kind balance with the above applicants where required."

The Shire in kind support was utilised to deliver the traffic management planning required, traffic signage, personnel and advertising of road closures.

The All Ford Day event was held in November 2016 and attracted approx 300 display vehicles and an estimated 1,500 visitors throughout the day long event. A post event debrief was conducted and a DVD recording of the event presented to the Shire for future promotional use.

In May 2018, Officers received a request from the All Ford Day Committee to discuss programming another All Ford Day Cruise in late October. Officers met with members of the group to discuss;

- Proposed event date/s
- Proposed event program
- Potential partnerships with local attractions and businesses
- Funding requests sought

At this time event organisers sought commitment from the Shire to provide similar event support to that received in 2016. As no community funding round was open for application at that time, Officers recommended event organisers submit a formalised request outlining the sponsorship which could be presented to Council for consideration.

In July, Officers received an event application for the All Ford Day event, however no request for Shire sponsorship was noted as previously indicated. Officers contacted event organisers who confirmed they would be seeking Shire support and further event details regarding this request would be submitted.

In late August Officers received the All Ford Day request for sponsorship and now present this to Council for consideration as **Appendix A**.

Comments and details:

The 2018 *All Ford Day Cruise* event is a one day event that includes car enthusiasts departing Perth, Sunday 26 October to York to display their vehicles along Avon Terrace. Vehicles will be displayed for approximately six hours along Avon Terrace from South St to Macartney St, including Lowe St and Christies Retreat with roads closed to moving traffic throughout this time.

York's successful history hosting car and motorcycle events often makes York the popular selection for these types of events. Informal club rides and gatherings are increasingly common throughout the calendar year. Many of these rides occur with little or no Shire intervention required. The town's ability to display vehicles along its main street, its heritage precinct atmosphere and the alfresco dining opportunities available are seen as contributing factors to making these types of events successful. Static display events such as the All Ford Day could occur in areas where traffic closures would not be required such as an oval, park or reserve, however event organisers believe these options lack town connectivity and the event vibrancy the main street location brings.

Event organisers are seeking Shire support to deliver the traffic management planning for the event, similar to the support provided for the 2016 All Ford Day Cruise. However, since 2016, events in York have increased in both size and occurrence and requests for support from Shire staff to deliver event elements is now not achievable.

Although the Shire itself is unable to deliver these elements, Council could consider:

- Sponsorship to enable the costs associated to engage a traffic management company to develop the traffic plan, deliver the plan and notify emergency services of the event. In preparation of this report, Officers have sought preliminary costings from traffic management companies to determine if the level of sponsorship requested is consistent with the event requirements. The estimates received range from \$2,400 - \$2,800

- Providing cash sponsorship to the group for the amount sought to undertake the traffic management required by the All Ford Day Committee. Officers are reluctant to support this proposal as it does not fully consider the development of the plan, signage required to deliver the traffic management or if the group have all the necessary qualifications to guarantee the traffic management elements can be delivered.

Event Application fees of up to \$300.00 could, also be considered under the request for sponsorship should Council support the groups request to assist fund the All Ford Day Cruise.

Officers are recommending Council considers sponsorship for the amount of \$2750 to be utilised for the Shire to engage a traffic management company and waiver of event application fees. In consideration of the timeframe available to implement all the necessary traffic management planning elements ahead of the event occurring in October, this option is recommended.

Should Council choose not to provide any sponsorship for the event, organisers believe the event will need to consider relocating the event to another location such as a reserve or park or potentially relocating the event to another town. Attempts to attract corporate sponsorship to support the event have been made by the organisers, however no confirmed support at the time of writing this report had been received.

Implications to consider:

- **Consultative**

Officers have consulted with the All Ford Day Committee prior to and during the preparation of this report. Should the All Ford Day Committee wish to proceed with the road closures proposed, the committee will be required to undertake further consultation with residents and businesses in these areas.

- **Strategic**

Council's Strategic Community Plan 2018 - 2028

Council's Strategic Priorities *'Building a Strong Economic Future'*

- supporting the establishment and marketing of a calendar of key events to encourage visitors to the Shire. These events will be focused on achieving economic benefit and will sit alongside and complement more community focussed events.

- **Policy related**

The sponsorship request received can be considered in accordance with Council's C1.3 *Community Funding: Grants & Sponsorship*. Officers will continue to assess the event application in accordance with Council's *Events For York Policy*.

- **Financial**

Sponsorship funding for this event could be considered from GL132150 Festivals Assistance. An acquittal of the event is required in accordance with the Shire's C1.3 *Community Funding; Grants and Sponsorship Policy*.

- **Risk related**

Nil

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
110918**

Moved: Cr Trent

Seconded: Cr Warnick

“That Council:

- 1. Approves a maximum of \$2,750.00 as sponsorship from GL 132150 Festivals Assistance to provide the delivery of the traffic management elements and event application fees applicable for the 2018 All Ford Day Cruise.***
- 2. Requires the All Ford Day Committee to complete an acquittal for the 2018 event in accordance with the Shire’s C1.3 Community Funding: Grants & Sponsorship Policy.”***

CARRIED: 6/0

SY123-09/18 – Proposed Christmas Decorations 2018

FILE REFERENCE: CS.CEV.8
APPLICANT OR PROPONENT(S): N/A
AUTHORS NAME & POSITION: Carol Littlefair, Arts & Cultural Heritage Officer
RESPONSIBLE OFFICER: Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL: 22 August 2016
24 October 2016
18 September 2017
DISCLOSURE OF INTEREST: Nil
APPENDICES: A. 2018 Proposed Additional Christmas Images for Cards

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report presents for Council's consideration the proposed Christmas Decorations for Christmas 2018.

Background:

In 2016 to provide input into the Christmas Decorations, Council established a Christmas Decorations Working Group. This group provided recommendations to Council for Christmas Decorations in 2016 and 2017 and the following decorations have been actioned over those two years:

- 4 street banners for Gt Southern Highway, 3 street banners for Balladong st and 3 street banners for Avon Terrace utilising images from the Residency Museum Christmas card collection
- Purchase of bin panels designed using the Residency Museum Christmas card theme for the 9 bins in main CBD between South and Mccartney streets
- Christmas Tree and installation at the York Courthouse complex recessed area.
- 4 life sized Christmas cards variously placed at Settlers courtyard, Imperial Hotel grassed area, outside Castle Hotel, outside Barclay books and on 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

Officers met with working group members three times during 2018 to evaluate the community's response and assess additions, changes and improvements to the Christmas Decorations.

Below is a summary of the feedback received:

What worked well and is suggested as a continuation of previous years

- The unique heritage theme for the decorations
- Placement of the life-sized Cherries Christmas card on the Heritage Wagon
- Community Christmas Tree in same location in the centre of town
- Coinciding the turning on of the Community Christmas Tree lights with the Christmas Festival

Opportunity for Improvements

- Consolidate the visual appeal and public accessibility of the Christmas Cards by having hand-drawn 'message borders' such as holly leaves inside the cards so that the public write their Christmas messages in a tidier and more attractive way.
- To increase Children's Christmas Walk timeslot until January to encourage participation by residents and visitors during the Christmas to New Year period.
- To broaden the scope of the shopfront decorating by the inclusion of interior window lighting, window glass painting in addition to laser lighting of buildings.
- To increase the night-time appeal and consolidate the heritage appeal of York as a destination in the Christmas holiday season by uplighting of the Town Hall in Christmas colours over the Twelve Days of Christmas, plus two more [two weeks' worth of lighting].

Comments and details:

It is recommended that the existing decorations be installed again for the 2018 Christmas period. The details of these decorations and initiatives are detailed below for Council's consideration:

Street Banners to be installed on existing street banner poles along Avon Terrace, Balladong St and Great Southern Highway.

Christmas Cards 4 Life size (approx. 1.8m) Christmas greeting cards. Placement of the cards is recommended to again be the Cherries on Heritage Wagon with others distributed in suitable positions along Avon Terrace between the Imperial Hotel and Gallery 152.

Bin Surrounds Christmas themed images sourced from the Residency Museum collection to appear on nine bin surrounds along Avon Terrace as per 2017.

Christmas Tree Placement of the 6m Christmas tree with LED lighting at the recess / alcove between the York Courthouse Complex and York Motor Museum as per 2017.

Best Decorated Business Competition The Shire continues to run a Best Decorated Business competition with some of the funds from the budget allocated as prize money. Recommended date for close of nominations to be 30 November. This will ensure that businesses are decorated to coincide with the Christmas party and allow for judging to occur and prizes presented at the December Ordinary Council meeting.

Shopfront Rebate Main street businesses to be encouraged to purchase and install laser lighting or up lighting to their shopfronts, to add night interest and decoration to Avon Terrace.

This year it is proposed to broaden the scope of the rebate and decorative elements by inclusion of:

- Interior window fairy lighting
- Window glass painting to specified Christmas themes [similar to the 'Canola' window painting]

A rebate of 50% to offset the costs of purchasing and installing such decorations would be available on application and proof of receipts provided within the rebate application process. Officers recommend increasing the capped amount to \$100 per application. Increased promotion and guidance to businesses will hopefully encourage take up of the offer.

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 and '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 in January 2019.

Given the Shire's significant investment in decorations last year, it is proposed to build upon the heritage theme. Officers recommend the following new decorations be considered by Council for the 2018 Christmas period.

New decorations

Option 1

Uplighting of Town Hall façade plus purchase of one new giant Christmas Card

There was a general consensus at the last Christmas Decorations Working Group meeting that more night time lighting appeal to promote York as a destination in the Christmas holiday season is desirable. However, equitable consideration of all businesses and various practical constraints limit the Shire's ability to install lighting throughout Avon Terrace, so the option of uplighting the Town Hall, as the iconic symbol of York, is currently being explored.

Initial cost estimates indicate that a permanent solution to give effects similar to that seen on many heritage buildings in Perth will be beyond the budget allocation and the scope of this report.

Officers are currently exploring the practicalities and costs of:

- a. temporarily lighting the corner façade by installing a hired lighting machine on the verandah of the Imperial Hotel. This is likely to give a more impressive lighting effect but for two weeks only due to machine hire costs. Officers recommend the lighting period to be the traditional 'Twelve Days of Christmas' plus two extra days before Christmas, ie 23rd December – 6 January, to focus on the height of the holiday period when many visitors, friends and relatives come to York.
- b. uplighting the pillars only by wiring into existing access points if these prove still in working order when examined by an electrician. This may allow for a longer lighting period but is likely to be a more limited effect.

Option 2

Purchase of 2 Giant Christmas Cards

Purchase of two life size (approx. 1.8m) Christmas greeting cards, replicating images from the Residency Museum collection, adding to the existing four cards. Placement of the cards is suggested to be:

- a. Fairies card – Settlers courtyard – for appeal to children and families
- b. Yuletide Greetings card - outside Imperial Hotel providing decorative interest to this end of the main street and reinforcing the image that will be seen on bins and banners further along Avon Terrace.

Structures and fixings are organised for secure installation of the cards and the appropriate permissions will be obtained where required.

If a lighting test proves satisfactory and within budget, option 1 is preferred by the Christmas Decorations Working group.

If a lighting test is unsatisfactory or cannot be achieved within budget, option 2 is recommended.

Further details on the images proposed to be used can be located at **Appendix 1**. Officers consider the Christmas card collection continues York's unique Christmas theme, which was well received by visitors and residents in previous years.

Summary

The Shire received positive feedback on the decorations and initiatives implemented as part of Christmas in 2017.

The allocation of \$10,000 for new decorations for the 2018 Christmas period has meant that an approach has been developed which builds upon the existing theme and/or trials a new initiative in keeping with the heritage theme.

Options:

Council has the following options in regard to building upon the theme of decorations from 2017:

- Undertake the continuation of existing initiatives [children's walk trail/shopfront rebate/best decorated business competition
- Undertake the above plus Option 1 [one card and town hall uplighting]
- Undertake the above plus Option 2 [two cards]

Implications to consider:

- **Consultative**

It should be noted that the Working Group has in 2018 only once achieved a quorum, at two meetings a quorum was not achieved and informal discussion took place with those members present, Councillors and Officers. Officers recommend Council considers the future tenure, membership and purpose of the Christmas Decorations Working Group following the upcoming elections when all Shire Committees and Working Groups are reviewed.

- **Strategic**

The installation of Christmas Decorations continues to support Council's commitment to revitalise Avon Terrace and is identified as an action in the Shire's Corporate Business Plan and priorities from the recent Community Survey. Officers also consider the branding of the additional Christmas orientated images reflect the focus on heritage interpretation the Shire is using as a tourism platform.

- **Policy related**

The Shire's *F1.2 Procurement Policy* will be adhered to in the sourcing of goods and services.

- **Financial**

A budget allocation of \$10,000 through GL 132301 Purchase of Christmas Decorations has been included in the 2018/19 FY budget for additional Christmas Decorations. A detailed budget which identifies potential costs has been prepared and is included within this report.

Option 1

Item	Description/Comment	Budget Costs
Children's Christmas walk	Printing of walk maps, prizes and advertising	\$ 1000
Shopfront decorations rebate	Estimated to be a maximum of 25 businesses @ \$100 per capped rebate application	\$2500
1 x Christmas Card	Life sized card custom manufactured including artwork, graphics and fittings @ 1875 ea	\$1875
Freight for card	Transport Perth-York	\$120
Best Decorated Business Competition	Prize money of \$500 for the winner and \$250 for runner up.	\$ 750

Uplighting of Town Hall	2 weeks Limited trial including costs of test and electrician	\$3755
Total costs		\$10,000

Option 2

Item	Description/Comment	Budget Costs
Children's Christmas walk	Printing of walk maps, prizes and advertising	\$ 1000
Shopfront decorations rebate	Estimated to be a maximum of 25 businesses @ \$100 per capped rebate application	\$2500
2 x Christmas Cards	Two life sized card custom manufactured including artwork, graphics and fittings @ 1875 ea	\$3750
Freight for cards	Transport Perth-York	\$150
Best Decorated Business Competition	Prize money of \$500 for the winner and \$250 for runner up.	\$ 750
Contingency		\$1850
Total costs		\$10,000

In addition to this, works support for the installation and deinstallation of Christmas Decorations by Shire staff can be considered from GL132153. This includes decorations in the street and on the Town Hall and Administration Building.

- **Legal and Statutory**

In 2017 Officers 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.

In 2018 the same advice is applicable to offering a rebate for businesses to self-purchase and install other forms of decoration. The Shire is not undertaking any purchase or installation of decorations, merely offering a rebate if purchases meet the Shire's criteria.

- **Risk related**

Given the positive feedback and impacts upon the development of the brand of York, Officers consider that if Council chooses not to continue to invest in the Christmas Decorations or moved away from the heritage theme, the organisation could be at a reputational risk. On this basis, Officers are recommending a further implementation of the theme in line with budgetary constraints.

- **Workforce Implications**

Workforce implications are incorporated into existing budget allocations.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
120918**

Moved: Cr Trent

Seconded: Cr Ferro

“That Council in addition to the decorations and initiatives implemented for 2017, approves the following Christmas Decorations initiatives to be installed for the 2018 festive season and requests the Chief Executive Officer to;

- a) Purchase and organise all decorations and initiatives as described utilising Option 1 Lighting of Town Hall plus purchase of 1 giant Christmas Card if tests prove satisfactory***
- b) If lighting tests prove unsatisfactory utilise Option 2 the purchase of 2 new giant Christmas Cards***
- b) Have all decorations and initiatives in place so the turning on of the Christmas Tree lights can occur as part of the Christmas Festival on Saturday 1st December 2018.”***

CARRIED: 6/0

SY124-09/18 – Councillors Professional Development for the Period April – September 2018

FILE REFERENCE:	OR.CLR.2
APPLICANT OR PROPONENT(S):	N/A
AUTHORS NAME & POSITION:	Paul Martin, Chief Executive Officer
RESPONSIBLE OFFICER:	Paul Martin, Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	Nil
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. Reports from Councillors

Nature of Council's Role in the Matter:

- Review

Purpose of the Report:

The purpose of this report is to formally present Council with reports from Councillors on any Professional Development events attended within the last 6 months.

Background:

Council policy *G 1.2 Councillors: Professional Development* requires the following:

6. Report Back

- 6.1 *Within 30 days of attending a Professional Development event of more than one day duration, the Councillor must submit an individual or combined report for inclusion on the Council agenda. It must identify major points of interest for the Shire and where relevant comment on any future relevance for the training program.*

Comments and details:

Attached to this report is a copy of reports received by the Chief Executive Officer from Councillors' attendance at Local Government Week 2018.

Options:

Nil

Implications to consider:

- **Consultative**
Nil
- **Strategic**
Nil
- **Policy related**
This item addresses the reporting requirements of Council Policy *G 1.2 Councillors: Professional Development*.
- **Financial**
Nil
- **Legal and Statutory**
Nil

- **Risk related**
Nil
- **Workforce Implications**
Nil

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

130918

Moved: Cr Trent

Seconded: Cr Heaton

“That Council notes the individual reports from Councillors attached to this agenda item in accordance with Policy G 1.2 Councillors Professional Development.”

CARRIED: 6/0

SY125-09/18 – Approval for Straw Sculpture in Peace Park

FILE REFERENCE: CS.CEV.19; CCP.40
APPLICANT OR PROPONENT(S): York Arts and Events Inc
AUTHORS NAME & POSITION: Suzie Haslehurst – Executive Manager, Corporate and Community Services
RESPONSIBLE OFFICER: Suzie Haslehurst – Executive Manager, Corporate and Community Services
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 seeks Council's approval for a giant straw sculpture to remain in Peace Park for an extended period.

Background:

As part of the York Festival 2018, York Arts and Events (YAE) has included the creation of three giant straw sculptures. The following is an extract from the York Festival website which provides some information about the sculptures.

Wara (rice straw) Art was developed as a way of finding a creative use of the excess straw leftover at the end of the rice harvest. Once used to make things like tatami mats, rice straw has been replaced by modern synthetic materials, leaving farmers with an abundance of straw. The resulting sculptures spawned a new art practice and Wara Art festivals are now held each year throughout Japan. For the first time, Wara Art is leaving Asia and coming to York where we will create our own spectacular straw sculptures.

Akira Moriya, a veteran of around twenty wara art sculptures, will be travelling to York to oversee the construction of three representations of endangered Australian fauna, made using locally sourced wheat straw.

The first sculpture (a giant Bilby) was constructed on private property located on the corner of Avon Terrace and South Street York and has been enthusiastically received by residents and visitors to the town.

Two additional sculptures will be created, one at Peace Park and one on private property at the corner of Neville and Harvey Streets. YAE has been liaising with several interested parties and working with WA Tourism and Destination Perth regarding the sale and/or transfer of one or two of the sculptures to other locations. In addition, discussions are in progress regarding the possible relocation of the sculptures to farmland along Great Southern Highway. This is a welcome outcome for both the York Festival and for the profile of York itself.

However, it is anticipated that the sculpture located in Peace Park (a Western Swamp Tortoise) will remain in situ until;

- a) the sculpture naturally degenerates; or
- b) the sculpture detracts from the amenity of the environment; or
- c) the opening of next year's York Festival;

whichever is the sooner.

Comments and details:

Officers have met with YAE to seek further information regarding the proposal.

The Western Swamp Tortoise sculpture is made of bamboo, wood, jute and wheat straw and is approximately 4.95m long, 4.5m wide and 3m high. It has been constructed in an 'out of the way' area so as to minimise inconvenience for users of the Peace Park. YAE has liaised with the organisers of the monthly markets to keep them informed and no objections have been received.

YAE is interested to receive feedback from the community regarding the sculptures and officers have discussed the notion of seeking community submissions on the proposal for the sculpture to remain in Peace Park beyond this year's festival. YAE has offered to use its social media networks to undertake a public poll.

Public art plays an important role in everyday life as it can enhance and complement land and streetscapes, bring communities together, offer social and educational opportunities and promote tourism. Public art can be used as a tool to reflect and promote local identity and enhance buildings and open spaces.

Ephemeral (or temporary) art installations are common across the world, often made from materials that tend to decompose or change through natural processes. Examples of ephemeral art can be found in the *Understory Art Trail* at Northcliffe in the south-west region of Western Australia. The trail has attracted scores of visitors and has substantially contributed to the region's tourism offering.

Officers consider that the straw sculptures are a great addition to the York Festival and support the proposal from YAE. Therefore, officers are recommending that Council considers the proposal favourably as an appropriate initial foray into public art in York.

Options:

Council has the following options regarding this matter.

1. Council could choose not to approve the proposal for the sculpture to remain in Peace Park for an extended period and request that the sculpture is removed at the end of the York Festival 2018. Officers suggest this would limit the opportunity for visitors and the community to access an experience rarely available in York.
2. Council could approve the sculpture remaining in place for a set period of time, to be determined by Council. However, this option provides no opportunity for users of Peace Park, adjacent landowners and the broader York community to have input into the decision.
3. Officers are proposing that Council provides an opportunity for input and feedback from the community through a public advertising and submission process.

Implications to consider:

- **Consultative**

YAE has liaised with the organisers of the monthly markets held in Peace Park. Officers are proposing that users of Peace Park, adjacent landowners and the broader community are given the opportunity to provide input and feedback.

- **Strategic**

Theme 1: The Place to Live

1.7 Positive, active and involved community

Theme 2: A Leader in Cultural Heritage and Environment

2.4 Performance and arts are a strong part of the Shire's image

Theme 5: Strong and Effective Leadership

5.6 High levels of community engagement.

- **Policy related**

G2.9 *Community Engagement and Consultation*

- **Financial**

There are no known financial impacts that apply to this proposal.

- **Legal and Statutory**

Officers have sought advice from GHD regarding whether the situation of the sculpture in Peace Park triggers a requirement for development approval in accordance with either the *Planning and Development Act 2005* or the *Planning and Development (Local Planning Schemes) Regulations 2015*. Advice received is that as long as the local government agrees, the display of the sculpture is broadly consistent with the purpose of the reserve (recreation and open space) and therefore does not raise any planning issues.

- **Risk related**

Officers have discussed with YAE the risks associated with this proposal:

- Security – YAE has discussed this issue but does not have the resources to implement any risk mitigation strategies such as lighting or security cameras.
- Visual deterioration – there is a risk that as the construction materials degenerate, the installation could become unsightly. In addition, it is anticipated that children and young people will be tempted to climb on the sculpture which could pose a risk of injury as the materials degenerate. Furthermore, rain could cause mould to appear.
- Attraction of vermin – the sculpture will be constructed using wheat with seed heads intact which is expected to attract birds and potentially mice and snakes.

Officers have also liaised with the Shire's insurer to seek feedback. LGIS has recommended that the Shire is noted as an interested party on the YAE's public liability policy and that any damage to the sculptures or injuries resulting from the construction or display of the sculptures remains the responsibility of YAE.

- **Workforce Implications**

Nil

Voting Requirements:

Absolute Majority Required: No

OFFICER RECOMMENDATION:

"That Council:

1. *Approves in principle, a giant straw sculpture constructed as part of the York Festival 2018 remaining installed in Peace Park for a period of up to twelve months;*
2. *Notes that any liability relating to the sculpture is the responsibility of York Arts and Events Inc. and requests that the Shire of York is noted as an interested party on YAE's public liability policy;*
3. *Requests the Chief Executive Officer to:*
 - a) *advertise the proposal for public submissions for a period of four weeks;*
 - b) *work with York Arts and Events to develop a plan to mitigate the risks outlined in this report;*
 - c) *report back to Council once the submission period has closed."*

RESOLUTION

140918

Moved: Cr Smythe

Seconded: Cr Trent

"That Council:

1. ***Approves in principle, up to two (2) giant straw sculptures constructed as part of the York Festival 2018 remaining installed in Peace Park for a period of up to twelve months;***
2. ***Notes that any liability relating to the sculpture is the responsibility of York Arts and Events Inc. and requests that the Shire of York is noted as an interested party on YAE's public liability policy;***
3. ***Requests the Chief Executive Officer to:***
 - a) ***advertise the proposal for public submissions for a period of four weeks;***
 - b) ***work with York Arts and Events to develop a plan to mitigate the risks outlined in this report;***
 - c) ***report back to Council once the submission period has closed."***

CARRIED: 6/0

Reason: To reflect the difficulty of moving the said sculptures and that they're a great attraction to the town

SY126-09/18 – Request to Reside in Caravan on Property while Building – Lot 126 (33) Newcastle Street, York

FILE REFERENCE: NE4.4641
APPLICANT OR PROPONENT(S): Geoff Davis
AUTHORS NAME & POSITION: George Johnson, Environmental Health Officer
RESPONSIBLE OFFICER: Darren Wallace, Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL: N/A
DISCLOSURE OF INTEREST: N/A
APPENDICES: A – Summary of Submissions

Nature of Council's Role in the Matter:

- Quasi-judicial

Purpose of the Report:

The purpose of this report is to seek approval for the applicant to reside in a caravan onsite whilst constructing a dwelling at Lot 126 (33) Newcastle Street, York.

Background:

The applicant has obtained an owner building licence from the Building Commission of Western Australia and a subsequent building permit dated 31 May 2018 from the Shire of York.

An adjoining neighbours letter of referral was sent out on the 8 August 2018 giving the 9 correspondents 14 days to comment on this application.

The building pad has already been constructed and associated plumbing installed together with the septic system.

The applicant proposes to utilise an onsite toilet/shower connected to the existing approved effluent system. Any laundry requirements will be directed to the laundromat.

Comments and details

Building Permit 170041 for a Dwelling at Lot 126 (33) Newcastle Street, York was issued on 31 May 2018. This Building Permit was issued for a period of 2 years. At this stage, no building works have been undertaken on the dwelling except for a previously laid foundation and effluent system.

Under the *Shire of York Temporary Accommodation Policy*, Council may grant permission for a period not exceeding 3 months however, upon request for an extension of time, up to 12 months may be conditionally approved.

Council may consider allowing temporary accommodation while building a house with the condition that the applicant must be in possession of a building permit for a residence.

Options

Council could conditionally approve the application for the owner to reside in a caravan onsite for 12 months whilst constructing a dwelling at Lot 126 (33) Newcastle Street, York.

Alternatively, Council could issue a 3-month approval to reside in a caravan onsite whilst constructing a dwelling at Lot 126 (33) Newcastle Street, York with an option to grant further 3-month approvals pending substantial progress on the construction of the dwelling.

Council could refuse this applicant to reside in a caravan onsite while constructing the dwelling.

Implications to consider:

- **Consultative**

A letter of referral has been sent to 9 adjoining neighbours for a period of 14 days commencing on 8 August 2018 providing an opportunity for comment. 1 objection has been received from 9 letters. The objection requested “that the caravan should be located to the North-west side of the proposed building, thus not visible from my house and garden”. This has been included in the proposed conditions.

- **Strategic**

N/A

- **Policy related**

Shire of York Temporary Accommodation Policy

- **Financial**

N/A

- **Legal and Statutory**

The application has been considered in accordance with the *Caravan Parks and Camping Grounds Regulations 1997, regulation 11, section 2:*

- (2) *Written approval may be given for a person to camp on land referred to in subregulation (1)(a) for a period specified in the approval which is longer than 3 nights —*
- (a) *by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months; or*
 - (b) *by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months; or*
 - (c) *despite paragraph (b), by the local government of the district where the land is situated —*
 - (i) *if such approval will not result in the land being camped on for longer than 12 consecutive months; and*
 - (ii) *if the person owns or has a legal right to occupy the land and is to camp in a caravan on the land while a permit has effect in relation to the land.*

Should Council approve the application, a letter of approval will be issued to the applicant.

- **Risk related**

There is no risk related to this application.

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
150918**

Moved: Cr Trent

Seconded: Cr Smythe

“That Council approves the issuing of a conditional 12-month approval to reside in a caravan onsite whilst constructing a dwelling at Lot 126 (33) Newcastle Street, York subject to the following;

- 1. Substantial commencement (lock up stage) of dwelling within 6 months of Council Approval.***
- 2. Caravan to be sited to the north-west side of the proposed building.***
- 3. Setbacks for temporary accommodation are the same as prescribed for buildings within that zoning, as determined by the Town Planning Scheme.***
- 4. Toilet and ablution facilities must be connected to an adequate supply of potable water and all waste water disposed to an approved effluent disposal system.***
- 5. Expiration or cancellation of the building licence for the dwelling will void the applicable Temporary Accommodation approval.***
- 6. No extension of approval will be considered if building of the dwelling has not substantially commenced.***
- 7. The Shire reserves the right to revoke the approval based on any complaints received that in the opinion of the Shire, unduly affects amenity, or on any other grounds that the Shire deems necessary to protect the health, safety and wellbeing of people.***
- 8. All Temporary Accommodation facilities are to be decommissioned within 6 months of practical completion of the dwelling or should the Temporary Accommodation approval become invalid.”***

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY127-09/18 – Perth International Jazz Festival Request for Support

FILE REFERENCE:	CS.CEV.2
APPLICANT OR PROPONENT(S):	Perth International Jazz Festival Inc
AUTHORS NAME & POSITION:	Esmeralda Harmer – Events & Economic Development Officer
RESPONSIBLE OFFICER:	Paul Martin – Chief Executive Officer
PREVIOUSLY BEFORE COUNCIL:	Nil
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A- PIJF Request for Support

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

This report seeks Council's consideration to support the Perth International Jazz Festival (PIJF) to program artists for a free community concert in York in November. This report also details the Shire's involvement and the contributions requested to enable the event to occur.

Background:

In May 2017 Council considered item *SY045-05/17 Perth International Jazz Festival in York – Draft Funding Agreement* where Council agreed to enter a one-year funding agreement with PIJF to a maximum value of \$23,500 (excluding GST).

The agreement detailed PIJF's obligations to program artists to perform in York over two days, with a combination of free and ticketed performances in three locations.

In August, 2017 an evaluation of the PIJF in York event was presented to Council as item *SY100-08/17 -- Evaluation of Perth International Jazz Festival York Event* where Council received the acquittal for the event, including the key learnings and requests the Chief Executive Officer to work with stakeholders to develop a concept for a broader music festival in York (including jazz elements) and present a report to Council for consideration.

Since this time, Officers have met with representatives of PIJF on two occasions in the past six months regarding this year's Perth International Jazz Festival in November and York's potential involvement in the event. The discussions included:

- options for York's involvement
- offering one event instead of multiple event days
- free vs ticketed
- promotion and marketing opportunities for both parties
- financial requests

At a recent phone meeting on 7 September 2018, PIJF proposed a concert in the park event, with PIJF programmed artists. The concert would be free and is proposed to commence in the early afternoon of Saturday 3 November in Peace Park. PIJF would promote the concert as the 'launch' event to the main PIJF which opens Friday 9 November through to Sunday 11 November in Perth of the following week.

The PIJF is requesting financial sponsorship to a maximum value of \$8,000 to support artists programming and promotions for the York event.

The PIJF request received is attached to this report as Appendix A for Council's consideration.

Comments and details:

The outcome of the most recent negotiations would see the following be undertaken by PIJF for the funding proposed if Council agrees:

Programming Artists

PIJF would program a minimum of two acts to perform in Peace Park from 5pm – 9.30pm. The programming includes engaging the artists, artist accommodation and liaising with the Shire regarding sound and stage specifications required. This programming does not include the sound and stage required to support the performing acts. The musicians programmed will focus on jazz genres such as Motown, Rhythm and Blues. Officers concur with this approach as it offers the community a high calibre of entertainment through PIJF's network base that is likely to appeal to a wider range of music tastes than traditional jazz.

Event Promotion

PIJF's York 'launch' event promotions would include;

- listing York in printed program and marketing collateral
- feature articles on the York event across PIJF's social media page (over 7,000 followers) in the lead up to the York event and throughout the 2018 PIJF
- feature articles on York across PIJF's website in lead up promotions to the launch

Although the event is developed with a community focus in mind, Officers acknowledge the reach PIJF has through the marketing streams detailed is likely to generate interest greater than what could be achieved through the Shire's existing platforms.

Further to the financial request received from PIJF for these elements, the Shire is requested to deliver the following support for the event:

Audio, Stage and Lighting requirements

Engagement of a qualified technician to provide staging, audio equipment and lighting that is suited to an outdoor venue to ensure the sound quality and visual impacts for the concert are achieved. A wet weather contingency venue and potential hire fees applicable would also need consideration. Officers are proposing the stage requirements be kept to a minimum to emphasise the natural and heritage surrounds Peace Park offers. In preparation of this report, Officers have sought preliminary estimates from suppliers for audio, stage and lighting. The costs indicated range from \$4,000 - \$5,500 Ex GST dependant on performer requirements and stage inclusions needed once known by PIJF. Should the final costings be less than estimated, Officers recommend these funds be allocated to PIJF to increase the calibre of programmed performers.

Event Logistics

To comply with the Shire's *Events for York* Policy and the event proposed, financial provision for the following will also need consideration;

- suitable traffic management (including public notice and residential and business consultation) to close the small section of road, between South St and Howick St, to ensure safe access to the Joanna Whately park amenities
- event personnel to implement traffic management for the road closure
- hire of additional rubbish bins
- permit to consume alcohol on Shire premises. Although no bar or licensed area is proposed for the concert, it is assumed that the general public may wish to consume alcohol whilst the concert is occurring.
- additional cleaners for both Joanna Whately Park toilets and the York Town Hall
- regulation 18 (noise regulation) permit
- event application fees
- investigating event insurance requirements for the event date and location
- poster print production and creative for social media advertising across the Shire's marketing platforms

The costs for event support is estimated between \$1,000 - \$1,500

Officers see merit in continual development of the Shire's relationship with PIJF through an event that has a direct focus on community enjoyment and connection as opposed to a tourism-based event approach. The strategic benefits of providing an event of this nature includes;

- increasing social and community connection opportunities
- supporting and promoting community involvement in events in York
- providing high level entertainment for community enjoyment
- continuing the positive working relationship built with PIJF over the past year

Officers are recommending Council agrees to host the free community concert and engages PIJF to program the artists for the concert to a maximum value of \$8,000 ex GST. Further to this Officers recommend the Shire take ownership of the event and provide a financial contribution to a maximum value of \$7,000 to provide the event logistics and support detailed in this report.

Implications to consider:

- **Consultative**

Officers have consulted with PIJF prior to and during the preparation of this report. If Council approves the event, Officer will liaise with adjoining land owners and users of Peace Park regarding the event.

- **Strategic**

Council's Strategic Community Plan includes the following strategic priority:

BUILDING A STRONG ECONOMIC FUTURE

The Council is determined to help rebuild the Shire and the town of York to a position of confidence in its economic future. The priorities for the next four years will be:

- *supporting the establishment and marketing of a calendar of key events to encourage visitors to the Shire. These events will be focused on achieving economic benefit and will sit alongside and complement more community focused events.*

- **Policy related**

The sponsorship request received can be considered in accordance with Shire's C1.3 *Community Funding – Grants and Sponsorship*.

If Council approves the funding application, the event will be assessed by Officers in accordance with Council's *Events for York Policy*.

- **Financial**

Included as part of the 2018/19 FY budget GL 132150 Festival Assistance includes a nominal allocation of \$15,000 for a Perth International Jazz Festival event. This allocation was subject to a report being presented on how the event would be delivered.

The following is the proposed budget for the event for Council's consideration:

Item	Description	Cost to Shire of York	Responsible Organisation
Programmed Artists for Stage	2 x main acts for 2-hour performance each including transport and accommodation.	\$7,000	PIJF
Event Promotion	Inclusion on PIJF program and marketing.	\$1,000	PIJF. Note the Shire of York will promote the event locally through existing mediums.

Audio, stage, lighting in Peace Park	Main stage and associated infrastructure including operators for performers.	\$5,500	Shire of York
Event Logistics	Traffic management, rubbish bins, cleaners, permits,	\$1,500	Shire of York
Total		\$15,000	

Officers are also submitting a quick response grant application to Country Arts WA to the value of \$4,000. Should this application be successful funds will be used to support:

1. Additional community engagement activities to occur at Peace Park as part of the event. This could include family activations and kids' activities; and
2. Sourcing higher calibre and/or additional main performance acts through PIJF.

If this application is successful, the event budget will be \$19,000 offset by \$4,000 grant income. If the application is unsuccessful the event budget will remain at \$15,000 and the additional activities will not be delivered.

Structuring the event in this way allows participation by a wide range of socio-economic groups and increases the community activations available as part of the event.

- **Legal and Statutory**

The event will need to comply with all relevant approvals required.

- **Risk related**

In addition to the benefits of providing a free community concert, Officers see merit in this proposed approach as it provides limited risk to the Shire in terms of income received by ticket sales and provision of food and beverage options.

- **Workforce Implications**

This event can be managed within the Shire's workforce resources.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
160918**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council:

- 1. *Endorses the concept of jointly delivering a free family concert in Peace Park as the launch event of the 2018 Perth International Jazz Festival.***
- 2. *Approves the funding allocation to Perth International Jazz Festival to a maximum of \$8,000 from GL 132150 Festivals Assistance to program the following elements of the event:***
 - a. Programmed artists for the main stage***
 - b. Event Promotion***
- 3. *Approves the Shire of York to be responsible for the remainder of the event as outlined in this report, to a maximum value of \$7,000 sourced from GL 132150 Festivals Assistance.***
- 4. *Notes the Chief Executive Officer has submitted a funding application of \$4,000, which if approved will:***
 - a. add to the event activities;***
 - b. potentially increases the amount paid to Perth International Jazz Festival to provide additional community engagement activities and/or higher calibre of main stage events.***
 - c. require associated budget amendments to be made at the midyear budget review.”***

CARRIED: 6/0

SY128-09/18 – Draft New Finance Policy F1.8 Rates Exemptions for Charitable Purposes

FILE REFERENCE:	FI.RTS.11
APPLICANT OR PROPONENT(S):	Shire of York
AUTHORS NAME & POSITION:	Anneke Birleson, Finance Officer (Rates and Sundry Debts)
RESPONSIBLE OFFICER:	Suzie Haslehurst, Executive Manager Corporate & Community Services
PREVIOUSLY BEFORE COUNCIL:	No
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A – Draft Policy Document B – Draft Application Form

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

The purpose of this report is to present for Council's consideration and approval for advertising a proposed Shire of York Finance Policy *F1.8 Rates Exemptions for Charitable Purposes*.

Background:

The objective of the proposed policy is to provide guidance on how Council will consider applications for exemptions from rates on the grounds of the land being used exclusively for charitable purposes. Exemptions must be applied in a clear, transparent and equitable way, and relevant consideration given to the impact on other ratepayers and the sustainability of the Shire's public finances.

Section 6.26(2) of the *Local Government Act 1995* (the Act) identifies what land is not rateable. Section 6.26(2)(g) states land is not rateable if it is *used exclusively for charitable purposes*. The definition of what a charitable purpose is has been a subject of debate over the years. Within the Shire of York, there are currently six (6) properties that have a rates exemption based on the land being used for charitable purposes.

In recent times, the Shire has received new applications for an exemption under Section 6.26(2)(g). These have highlighted the need for a policy to provide clear guidelines on how the Shire of York and Council will consider such applications. Attention has also been drawn to the existing exemptions and whether they are currently valid in accordance with the Act. Therefore, in line with the proposed policy, a review is to be carried out to ensure existing and future exemptions are applied in a reasonable and equitable way.

New applicants are to be notified of the current policy process and that a decision will be made on their application once a policy is in place. If the proposed policy is not adopted a decision on each application will still need to be made but relevant reports will be presented to Council for consideration. Rates and charges must be paid by the due date regardless of the pending decisions. If an exemption is granted then an appropriate refund can be made.

The Shire must adhere to the Act and has a responsibility to support applicants who provide assistance to members of the public.

Comments and details:

The application of Section 6.26(2)(g) across Western Australia has become an increasingly contentious matter. The core of the debate is how this section is interpreted. Individuals and organisations may have very different opinions of what a charitable purpose is. The proposed policy seeks to outline a clear, transparent and equitable process that Council will use to make a determination.

The proposed policy utilises existing legislation as well as relevant case law to guide how a determination will be made, aiming to minimise the risk to the Shire and public finances by preventing possible legal action by the applicant.

The Act does not define what a charitable purpose is. Therefore, the definition under Commonwealth Law must be applied. More specifically Section 12(1) of the *Charities Act 2013*. This Act was drawn up specifically to define charity and charitable purpose, and related purposes.

The Preamble states the following:

The Parliament of Australia recognises the unique nature and diversity of charities and the distinctive and important role that they play in Australia. Until now, the meaning of charity in Commonwealth law has largely been that of the common law, based on the preamble to the Statute of Charitable Uses 1601.

Modern, comprehensive, statutory definitions of charity and charitable purpose, applying for the purposes of all Commonwealth law and ensuring continuity by utilising familiar concepts from the common law, will provide clarity and certainty as to the meaning of those concepts in contemporary Australia.

The *Charities Act 2013* will be the principle legislation referred to when determining whether the use of the land is for a charitable purpose.

Within Western Australia, a number of cases have been referred to the State Administrative Tribunal, where an application was rejected by a local government. The outcomes of these cases must also be considered when making a determination.

When considering legislation and existing case law, the key factors when assessing an application for exemption pursuant to Section 6.26(2)(g) of the Act are:

- The use of the land, not the purpose of the applicant.
- The use must come under the provisions of the *Charities Act 2013*.
- The land must be used exclusively for a charitable purpose.
- The land use must be for a public benefit, where the benefit is available to members of the public generally or a particular section of the public.

It is worthwhile to note, that the proposed policy is essentially a guideline based on best practice. Applicants that are not satisfied with a determination have options available to contest the decision.

Options:

Council could choose not to endorse a new policy but assess each application on a case by case basis instead. However, this may lead to applications not being considered holistically or consistently and therefore, poses an element of risk relating to potential legal action.

Council could accept the recommendation to advertise the proposed policy and provide delegated powers to the CEO to approve or reject applications. Whilst this may improve efficiency of the process, it would prevent Council having essential input into the decision making process. Council is elected to represent the community and therefore, must be involved when considering whether the purpose is of benefit to the community.

Council could accept the recommendation and advertise the proposed policy and request each application is referred to Council for consideration, once reviewed by Shire of York Officers. Officers consider this to be the most transparent and equitable process, particularly as Council's awareness of the community's needs are a key factor in determining the outcome of applications.

Implications to consider:

- **Consultative**

Other local government policies and procedures.

- **Strategic**

The proposed policy has applications across three of the five themes within the Strategic community Plan 2018-2028.

Theme 1: The Place to Live

To be a place which is attractive and accessible for the young and elderly, and attracts people in the age groups in between to work and settle in the Shire.

Theme 2: A Leader in Cultural Heritage and Environment.

To be a place which is renowned for its cultural heritage and the quality of its natural environment, and for the care taken by the community of both.

Theme 5: Strong Leadership and Governance

To be a community where there is effective and responsive leadership and governance, a sense of collective purpose and shared direction and a willingness and desire to work together for that future.

- **Policy related**

There is no existing policy relating to rating exemptions. This report provides a proposed Shire of York Finance Policy *F1.8 Rates Exemptions for Charitable Purposes*.

- **Financial**

The financial implications relate to any future grants of rates exemptions. Depending on the magnitude of the exemption there may be an impact on the annual revenue gained from rates.

Consideration must also be given to the potential cost of legal action that may be taken against the Shire resulting from rejected applications.

- **Legal and Statutory**

Local Government Act 1995

6.26. Rateable land

(1) *Except as provided in this section all land within a district is rateable land.*

(2) *The following land is not rateable land —*

(a) *land which is the property of the Crown and —*

(i) *is being used or held for a public purpose; or*

(ii) *is unoccupied, except —*

- (I) where any person is, under paragraph (e) of the definition of **owner** in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the Mining Act 1978 in respect of land the area of which does not exceed 10 ha or a miscellaneous licence held under that Act; or
- (II) where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of **owner** in section 1.4 occupies or makes use of the land;

and

- (b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and
 - (c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and
 - (d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and
 - (e) land used exclusively by a religious body as a school for the religious instruction of children; and
 - (f) land used exclusively as a non-government school within the meaning of the School Education Act 1999; and
 - (g) land used exclusively for charitable purposes; and
 - (h) land vested in trustees for agricultural or horticultural show purposes; and
 - (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the Financial Management Act 2006) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and
 - (j) land which is exempt from rates under any other written law; and
 - (k) land which is declared by the Minister to be exempt from rates.
- (3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.
 - (4) The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.
 - (5) Notice of any declaration made under subsection (4) is to be published in the Gazette.
 - (6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

[Section 6.26 amended by No. 36 of 1999 s. 247; No. 77 of 2006 Sch. 1 cl. 102; No. 24 of 2009 s. 506 (correction to reprint in Gazette 7 Sep 2012 p. 4329).]

Charities Act 2013

12 Definition of charitable purpose

(1) In any Act:

charitable purpose means any of the following:

- (a) the purpose of advancing health;*
- (b) the purpose of advancing education;*
- (c) the purpose of advancing social or public welfare;*
- (d) the purpose of advancing religion;*
- (e) the purpose of advancing culture;*
- (f) the purpose of promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia;*
- (g) the purpose of promoting or protecting human rights;*
- (h) the purpose of advancing the security or safety of Australia or the Australian public;*
- (i) the purpose of preventing or relieving the suffering of animals;*
- (j) the purpose of advancing the natural environment;*
- (k) any other purpose beneficial to the general public that may reasonably be regarded as analogous to, or within the spirit of, any of the purposes mentioned in paragraphs (a) to (j);*

Note: In the case of a purpose that was a charitable purpose before the commencement of this Act and to which the other paragraphs of this definition do not apply, see item 7 of Schedule 2 to the Charities (Consequential Amendments and Transitional Provisions) Act 2013.

- (l) the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country, if:
 - (i) in the case of promoting a change—the change is in furtherance or in aid of one or more of the purposes mentioned in paragraphs (a) to (k); or*
 - (ii) in the case of opposing a change—the change is in opposition to, or in hindrance of, one or more of the purposes mentioned in those paragraphs.**
- (2) Paragraph (l) of the definition of charitable purpose in subsection (1) is the only paragraph of that definition that can apply to the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country.*
- (3) For the purposes of this section, it does not matter whether a purpose is directed to something in Australia or overseas.*

- **Risk related**

The Reputational Risk is Insignificant (1).

The Likelihood of occurrence is Rare (1).

The overall risk rating is Low (1).

The risk outlined above relates to the policy itself, which is currently only applicable to less than 1% ratepayers. These risk factors may increase if more rated land becomes not rateable under the Act, depending on ownership and use of the land.

Should the policy be adopted, any applications for a rates exemption will carry financial risk and these will be addressed in the relevant reports to Council.

- **Workforce Implications**

The proposed policy creates an additional process for staff to undertake but is achievable within the capacity of the current workforce.

Voting Requirements:

Absolute Majority Required: No

RESOLUTION

170918

Moved: Cr Smythe

Seconded: Cr Ferro

“That Council endorses the proposed Shire of York Finance Policy F1.8 Rates Exemptions for Charitable Purposes as attached to this report for the purpose of advertising and requests the Chief Executive Officer to;

a) advertise the policy for public comment with a closing date of 23 October 2018; and

b) report back to Council regarding submissions received.”

CARRIED: 6/0

SY129-09/18 – Outstanding Rates and Charges and Sundry Debts – Payment Agreements

FILE REFERENCE: FI.DRS.3.1
APPLICANT OR PROPONENT(S): VARIOUS
AUTHORS NAME & POSITION: Anneke Birleson, Finance Officer
RESPONSIBLE OFFICER: Suzie Haslehurst, Executive Manager Corporate & Community Services
PREVIOUSLY BEFORE COUNCIL: 27 August 2018
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Table of Application Details (Confidential)

The appendix to this item is confidential in accordance with Section 5.23(2)(b) of the Local Government Act 1995 as it contains information regarding the personal affairs of a person and Section 5.23(2)(e)(iii) as it deals with a matter that if disclosed, would reveal the financial affairs of a person.

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

Nature of Council's Role in the Matter:

- Executive

Purpose of the Report:

The purpose of this report is to provide Council with details regarding payment arrangement applications that the Shire has received, that do not qualify under Delegation DE3-3.

This reports seeks Council's approval to accept the officer recommendations regarding the proposed arrangements as detailed in Confidential Appendix A.

Background:

At the Ordinary Council Meeting held on 27 November 2017, Council resolved to accept a revised Finance Policy F1.1 Revenue Collection.

The policy and Delegation 3-3 authorises the Chief Executive Officer to accept payment arrangements, for outstanding rates and charges where there are no arrears and the balance will be paid in full by 30 June of the relevant financial year. Any applications outside this scope must be presented to Council for review and acceptance or rejection. Any application for a payment arrangement relating to sundry debtor charges must be referred to Council as there is currently no delegation.

Comments and details:

At the ordinary Council Meeting held on 25 June 2018, Council considered four (4) applications for the 2018/19 financial year.

At the ordinary Council Meeting held on 23 July 2018, Council considered one (1) application for the 2018/19 financial year.

At the ordinary Council Meeting held on 27 August 2018, Council considered three (3) applications for the 2018/19 financial year.

The Shire has since received a further nine (9) applications that do not qualify under DE3-3 and therefore, require Council consideration. One of these relates to outstanding sundry debtor charges.

Two of the applicants were referred for debt collection for pre-legal action. This resulted in them approaching the Shire to make application for a payment arrangement.

Five of the applicants had an approved agreement in the 2017/18 financial year and are seeking a continuance of their agreements.

One of the applicants is a pensioner, seeking an agreement to pay off their rates and charges so they can remain eligible for a rebate for this financial year. All payments are to be applied to the rates and Emergency Services Levy first, to enable a rebate.

Confidential Appendix A details the current debt and brief reasons why the debtor cannot meet the standard payment options. The table also provides officer recommendations for the applications.

Applications are assessed on a case by case basis, taking into consideration people's circumstances, in accordance with policy F1.1 Principle (c).

Any application that is approved is subject to the condition where any default may result in legal action for debt recovery without further notice. Debtors (excluding pensioners and sundry debts) are also made aware that interest continues to accrue.

Options:

Council could elect to approve or reject the officer recommendations. Officers have worked with the applicants regarding their current financial circumstances and ability to pay. One of the principles of the revenue collection policy is that people's circumstances are taken into account.

Implications to consider:

- **Consultative**
CLI Lawyers
Officers have liaised with the applicants.
- **Strategic**
Theme 5: Strong Leadership and Governance
5.3 The Shire's public finances are sustainable in the short and long-term.
- **Policy related**
F1.1 Revenue Collection
DE3-3 Agreement as to Payment of Rates and Service Charges
- **Financial**
The total debt associated with the payment arrangements relating to rates and charges, as at 31 August 2018 is \$40,599.55.

This represents approximately 0.7% of the outstanding rates and charges as at 31 August 2018.

The debt associated with the payment arrangement for outstanding sundry debtor charges, as at 31 August 2018 is \$8,022.00.

This represents approximately 2.5% of the outstanding sundry debts as at 31 August 2018.

- **Legal and Statutory**

Local Government Act 1995

6.49. Agreement as to payment of rates and service charges

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Shire of York Finance Policy F1.1 Revenue Collection

Principles

- a) *the Shire's cashflow is optimised and bad debts minimised by ensuring timely collection of all revenue owing to the Shire.*
- b) *the recovery of the Shire's revenue is clear, equitable, consistent and transparent.*
- c) *that account is taken of the circumstances of people with debt owing to the Shire.*
- d) *all reasonable action be undertaken to recover revenue before the debt is written off.*
- e) *debt collection activities are in accordance with relevant legislation and standards and credit controls are monitored to minimise potential financial loss.*

- **Risk related**

The Financial Risk is Moderate (3).

The Likelihood of occurrence is Possible (3).

The overall risk rating is Moderate (9).

The risk can be considered acceptable as there is a policy in place to control and manage the risk. Should any of the debtors default on their arrangement, legal action can be taken to recover the due amounts.

- **Workforce Implications**

The scope of this report will have a minor impact on the workforce, relating to ongoing monitoring of payments.

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
180918**

Moved: Cr Smythe

Seconded: Cr Trent

"That Council:

- 1. Approves the applications for a payment agreement as detailed within Confidential Appendix A, with the condition that any default may result in legal action.***
- 2. Requests the Chief Executive Officer to report back to Council regarding progress after 30 June 2019."***

CARRIED: 6/0

SY130-09/18 – Financial Report for August 2018

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

Nature of Council's Role in the Matter:

- Legislative
- Review

Purpose of the Report:

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

Background:

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

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

It should be noted that the 2017/18 figures reflected in the following reports are an estimate of the end of year position only and are subject to audit adjustments to the 2017/18 Annual Financial Report.

Comments and details:

The Financial Report for the period ending 31 August 2018 is presented for Council's consideration and includes the following;

- Monthly Statements for the period ended 31 August 2018
- List of Creditor's 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 31 August 2018;

Outstanding Rates and Services

Rates were raised and issued in July 2018 and are due 10 September 2018. The total outstanding rates as at 31 August 2018 were \$6,094,763 compared to \$7,264,964 as at 31 July 2018. As at 7 September 2018 the outstanding balance was \$5,088,306.

Current Year	31/08/2018	%	31/08/2017	%
3 years and over	\$479,534.26	8%	\$293,470.27	7%
2 years and over	\$256,426.17	4%	\$277,079.96	7%
1 year and over	\$386,607.55	6%	\$440,896.20	11%
Total Prior Years outstanding	\$1,122,567.98	18%	\$1,011,446.43	25%
Current Rates	\$4,972,194.93	82%	\$2,966,601.63	75%
Total Rates Outstanding	\$6,094,762.91		\$3,978,048.06	***

***2017/18 rates were due 28 August 2017.

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 August 2018 were \$325,830 compared to \$344,635 as at 31 July 2018.

Current Year	31/08/2018	%	31/08/2017	%
90 days and over	\$267,106.05	82%	\$281,854.58	91%
60 days and over	\$8,785.47	3%	\$3,628.93	1%
30 days and over	\$2,133.80	1%	\$14,873.08	5%
Current	\$47,804.45	15%	\$8,525.61	3%
Total Debtors Outstanding	\$325,829.77		\$388,671.66	

Implications to consider:

- **Legal and Statutory**

Local Government Act 1995

6.10. *Financial Management Regulations may provide for —*

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

Local Government (Financial Management) Regulations 1996

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

(1A) *In this regulation —*

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

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

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

- **Policy**

Policy F1.2 Procurement

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

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
190918**

Moved: Cr Smythe

Seconded: Cr Trent

“That Council receives the Monthly Financial Report and the list of payments drawn from the Municipal and Trust accounts for the period ending 31 August 2018 as summarised below:

Aug-18	
MUNICIPAL FUND	AMOUNT
Cheque Payments	20,828.33
Electronic Funds Payments	691,942.82
Payroll Debits	172,695.30
Payroll Debits - Superannuation	38,204.37
Bank Fees	1,232.22
Corporate Cards	207.60
Fuji Xerox Equipment Rental	236.62
Fire Messaging Service	165.00
TOTAL	925,512.26
TRUST FUND	
Electronic Funds Payments	2,221.55
Cheque Payments	0.00
Direct Debits Licensing	105,868.30
TOTAL	108,089.85
TOTAL DISBURSEMENTS	1,033,602.11

”

CARRIED: 6/0

SY131-09/18 – Investments – August 2018

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

Nature of Council's Role in the Matter:

- Legislative
- Review

Purpose of the Report:

To report to Council the balance of investments held by the Shire of York as at 31 August 2018.

Background:

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

Comments and details:

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

- a) Council's Investments as at 31 August 2018
- b) Application of Investment Funds
- c) Investment Performance

Implications to consider:

- **Legal and Statutory**

Local Government Act 1995

6.14. Power to invest

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

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

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

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

- (1) *In this regulation —*
authorised institution means —
 - (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
 - (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*

foreign currency means a currency except the currency of Australia.

- (2) *When investing money under section 6.14(1), a local government may not do any of the following —*
 - (a) *deposit with an institution except an authorised institution;*
 - (b) *deposit for a fixed term of more than 3 years;*
 - (c) *invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
 - (d) *invest in bonds with a term to maturity of more than 3 years;*
 - (e) *invest in a foreign currency.*

- **Policy**

Policy F1.4 *Investment*

Voting Requirements:

Absolute Majority Required: No

**RESOLUTION
200918**

Moved: Cr Trent

Seconded: Cr Ferro

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

CARRIED: 6/0

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

13. MEETING CLOSED TO THE PUBLIC

13.1 Matters for which the meeting may be closed

RESOLUTION

210918

Moved: Cr Trent

Seconded: Cr Smythe

“That Council goes behind closed doors to discuss:

- 1. Item SY132-09/18 - Nomination for Honorary Freeman of the Shire of York - in accordance with Section 5.23 (2)(b) of the Local Government Act 1995 in that it concerns the personal affairs of a person.***
- 2. Item SY133-09/18 – York Carriage Diner Lease – Confidential – in accordance with Section 5.23 – (c) of the Local Government Act 1995 in that it deals with a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.***
- 3. Item SY134-09/18 – Sale of Land for Unpaid Rates – Confidential - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 as it contains information regarding the personal affairs of a person and Section 5.23(2)(e)(iii) as it deals with a matter that if disclosed, would reveal the financial affairs of a person.”***

CARRIED: 6/0

The Shire President thanked everyone for their attendance and advised members of the Gallery they were welcome to return to the meeting at the conclusion of the Confidential Items.

The members of the Gallery and staff member, Darren Wallace, Executive Manager Infrastructure & Development Services left the meeting at 5.32pm.

Darren Wallace, Executive Manager Infrastructure & Development Services returned to the meeting at 5.33pm and the doors were closed.

SY132-09/18 – Nomination for Honorary Freeman of the Shire of York

RESOLUTION

220918

Moved: Cr Trent

Seconded: Cr Smythe

“That Council refers the nomination to bestow the honour of Freeman of the Shire of York to the York Honours Reference Group for consideration and a recommendation to Council.”

CARRIED BY ABSOLUTE MAJORITY: 6/0

SY133-09/18 – York Carriage Diner Lease - Confidential

RESOLUTION 230918

Moved: Cr Trent

Seconded: Cr Heaton

“That Council approves the payment agreement submitted by Mr Rob Cameron for outstanding rates and sundry debts (expiry 30 June 2019) and requests the Chief Executive Officer to:

- 1. Work with the parties to formalise a Deed of Agreement between Mr Cameron (Lessee) and the proposed Assignee that includes the following conditions;***
 - a) any outstanding debts associated with the property to be settled by the Lessee as part of the settlement process;***
 - b) no default on the current payment agreement in place for outstanding rates and sundry debts;***
 - c) interest will continue to accrue on outstanding amounts until paid in full;***
 - d) all future rates and sundry debts not the subject of the approved payment agreement being settled as they become payable;***
 - e) the lessee being responsible for all costs associated with the Deed of Agreement and the assignment of the lease;***
 - f) the assignment will be subject to approval by the Lessor and subsequently the Minister for Lands in accordance with Section 18 of the Land Administration Act 1997.***
- 2. Present a report to Council to consider the approval of:***
 - The Deed of Agreement; and***
 - Assignment of the lease during the lease term.”***

CARRIED: 6/0

SY134-09/18 – Sale of Land for Unpaid Rates - Confidential

RESOLUTION 240918

Moved: Cr Trent

Seconded: Cr Ferro

“That Council:

- 1. Accepts the offer of \$46,000 for A60376 and approves the write off of the remaining outstanding amount and any accrued interest, approximately \$3,500.***
- 2. Authorises the CEO to undertake all necessary actions to effect the transfer of land (A60376) to the purchaser.***
- 3. Accepts the offer of \$15,000 for A6654 and approves the write off of the remaining outstanding amount and any accrued interest, approximately \$30,000.***
- 4. Approves the ongoing advertising of A13621 to allow for a potential private treaty sale prior to 1 September 2019.***
- 5. Requests the CEO to report back to Council in July 2019, or sooner if sold, to provide an update on the Shire’s recommendations for the next step in the sale of land process for the property A13621.”***

CARRIED BY ABSOLUTE MAJORITY: 6/0

RESOLUTION 250918

Moved: Cr Trent

Seconded: Cr Warnick

“That Council opens the meeting to the public at 5.44pm.”

CARRIED: 6/0

The doors were opened at 5.44pm and one member of the Gallery returned to the meeting.

13.2 Public reading of resolutions to be made public

The Shire President read the Resolution of Items SY132-09/18, SY133-09/18 and SY134-09/18 to the Gallery.

**RESOLUTION
260918**

Moved: Cr Wallace

Seconded: Cr Smythe

“That Council considers Late Report – SY135-09/18 – Mitigation Activity Fund Grant – Bushfire Risk Management Plan.”

CARRIED: 6/0

14. LATE REPORT

SY135-09/18 – Mitigation Activity Fund Grant – Bushfire Risk Management Plan

FILE REFERENCE:	RS.FES.5.2
APPLICANT OR PROPONENT(S):	N/A
AUTHORS NAME & POSITION:	John Hansen – Bushfire Risk Management Planning Coordinator, and Troy Granville – Community Emergency Services Manager
RESPONSIBLE OFFICER:	Darren Wallace - Executive Manager Infrastructure & Development Services
PREVIOUSLY BEFORE COUNCIL:	28 May 2018
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A. MAF Grant Agreement 2018

Nature of Council’s Role in the Matter:

- Executive

Purpose of the Report:

For Council to consider accepting the offer of the Mitigation Activity Fund (MAF) Grant of \$257,200 for bushfire risk mitigation in the Shire of York and to authorise the CEO to sign the agreement on behalf of the Shire.

This report also requests Council to authorise the CEO to utilise the State Government common use agreement to source a suitable contractor to implement the works.

Background:

The grant funding offered is the amount requested for by the Shire in its application dated 26 June 2018. The aim of the grant funding is to provide finances to enable the Shire to carry out the mitigation works as specified in the Council endorsed Bushfire Risk Mitigation Plan (BRMP).

Comments and details:

As detailed to Council previously, the adopted BRMP qualifies the Shire to apply to the MAF for monies to assist in mitigation works aimed at reducing the risk to assets within the Shire of York from bushfire. The Shire has applied for funds and has been successful. These funds are now available for the Shire to accept.

The BRMP and the application document for the MAF contain details of the recommended treatments that have now been accepted and funded for action. There is a total of fourteen individual treatments covered by this funding.

This report is before Council as an urgent item of business for the reasons detailed below.

The acceptance of funding is required urgently so that the process can be implemented without delay to appoint a suitable contractor to undertake the funded works. It is important to appoint a contractor as soon as possible to allow as much mitigation work to be undertaken safely prior to the peak of the fire season.

Furthermore, under Council's policy *F1.2 Procurement*, the appointment of a contractor to undertake the mitigation works would require a tender process. This would take approximately three months to finalise.

Therefore, for the reasons outlined above, it is recommended that the procurement of a suitable contractor be undertaken through the Department of Fire and Emergency Services' Approved Mitigation Contractors List. This is permitted in accordance with Regulation 11(2)(e) of the *Local Government (Functions and General) Regulations 1996* but needs to be approved by Council.

Options:

- Council may approve the signing of the Grant agreement and the use of *Local Government (Functions and General) Regulation 11(2)(e)* to undertake the procurement of services.
- Council may choose not to accept the funding offer and/or the use of *Local Government (Functions and General) Regulation 11(2)(e)* to undertake the procurement of services.
- Council could choose to defer its decision pending further information.

Implications to consider:

- **Consultative**

This funding is as a direct outcome of the Shire of York's BRMP Treatment Schedule following consultation between the Shire of York and the Department of Fire & Emergency Services (DFES) Office of Bushfire Risk Management.

In addition, consultation with local community groups has occurred and is ongoing in order to achieve the best possible overall outcome of these works for all members of the community. This has included local ecological groups such as Conserving the Avon River Environment (CARE), York Wildflower Society and Friends of Mt Brown.

Further ongoing consultation between all stakeholders including contractors, environmental groups, landowners / managers, The Shire of York and the Department of Fire & Emergency Services will be undertaken.

The Department of Local Government, Sport and Cultural Industries has confirmed that the Shire can utilise the DFES Approved Mitigation Contractors List, subject to the DFES list having been subject to a selection/vetting process. Therefore, Council can approve the use of the DFES Approved Mitigation Contractors List to source a suitable contractor.

- **Strategic**

The proposal aligns with the aspirations of the Corporate Business Plan:

Theme 1 - Open Space Assets

Implement Bushfire Risk Mitigation Strategy (dependent on funding)

- **Policy related**

F1.2 Procurement

- **Financial**

The grant provides for the total amount required to complete the works in all fourteen treatments.

- **Legal and Statutory**

Local Government (Functions and General) Regulations 1996.

Regulation 11 (2e) provides that:

tenders do not have to be publicly invited according to the requirements of this division if the supply of the goods or services is to be supplied or obtained through the government of the state or the Commonwealth or any of its agencies, or by a local government or a regional local government.

- **Risk related**

As this grant is a fully funded project there is no perceived financial risk.

Now that the funds are available the delay in implementing this programme could increase the exposure of the community to bushfire risk.

- **Workforce Implications**

Nil

Voting Requirements:

Absolute Majority Required: Yes

**RESOLUTION
270918**

Moved: Cr Trent

Seconded: Cr Warnick

“That Council notes the need to progress the treatments recommended in the Shire’s BRMP and authorises the Chief Executive Officer to:

- 1. Accept the \$257,200 Grant, under the 2018 – 2019 Bushfire Mitigation Activity Fund (MAF);***
- 2. Appoint a suitable contractor from the Department of Fire and Emergency Services’ Approved Mitigation Contractors List in accordance with Regulation 11(2)(e) of the Local Government (Functions and General) Regulations 1996;***
- 3. Amend the 2018-19 budget to reflect the income and expenditure resulting from the above resolution, noting a nil impact on the budget.”***

CARRIED BY ABSOLUTE MAJORITY: 6/0

15. NEXT MEETING

The next Ordinary Meeting of Council will be held on Monday. 22 October 2018 at 5.00pm in Greenhill Hall, Greenhills.

16. CLOSURE

The Shire President thanked everyone for their attendance and closed the meeting at 5.50pm.