



SHIRE OF YORK

NOTICE OF MEETING

Dear Councillors

I respectfully advise that the SPECIAL COUNCIL MEETING will be held in York Town Hall, York on Tuesday, 9 June 2020, commencing at 5.00pm.

MEETING AGENDA ATTACHED

Chris Linnell

CHRIS LINNELL
CHIEF EXECUTIVE OFFICER
Date: 5 June 2020

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<p>MISSION STATEMENT <i>"Building on our history to create our future"</i></p>

Local Government Act 1995 (as amended)**Part 1 Introductory Matters**

1.3. Content and intent

- (1) This Act provides for a system of local government by —
 - (a) providing for the constitution of elected local governments in the State;
 - (b) describing the functions of local governments;
 - (c) providing for the conduct of elections and other polls; and
 - (d) providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.
- (2) This Act is intended to result in —
 - (a) better decision making by local governments;
 - (b) greater community participation in the decisions and affairs of local governments;
 - (c) greater accountability of local governments to their communities; and
 - (d) more efficient and effective local government.
- (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of the current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Part 2 Constitution of Local Government**Division 2 Local Governments and Councils of Local Governments**

2.7 The Role of Council

- (1) The Council —
 - (a) directs and controls the Local Government's affairs; and
 - (b) is responsible for the performance of the Local Government's functions.
- (2) Without limiting subsection (1), the Council is to —
 - (a) oversee the allocation of the Local Government's finances and resources; and
 - (b) determine the Local Government's policies.

Meetings generally open to the public

- 5.1.** (1) Subject to subsection (2), the following are to be open to members of the public —
- (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) 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;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



Shire of York

G 2.6 PUBLIC QUESTION TIME

Policy Statement

1.0 "Public Question Time" will be limited to 15 minutes*. The Council may exercise a discretion to extend the time by resolution if required. If there are questions remaining unasked at the expiration of the time allotted members of the public will be asked to submit their questions in writing to the Chief Executive Officer who will provide a written reply with the response placed in the Agenda of the next Ordinary Meeting of the Council.

** A minimum of 15 minutes is provided by Regulation 6(1) of the Local Government (Administration) Regulations 1996 (S.5.24 of the Local Government Act 1995)*

2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire's operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.

3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.

4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.

5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.

6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.

7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.

8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.

9.0 There will be no debate on the answers to questions.

10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

Reviewed 24 October 2016

Question(s)

Name: _____

Organization Name: _____
(If presenting on behalf of)

Item No. Referred To:
(If Applicable) _____

Note: To provide equal opportunity for all in attendance to ask questions, a limit of two (2) questions at a time from any one person is imposed.

[illegible]

[illegible]

Signature: _____ **Date:** _____

OFFICE USE ONLY

Presented Meeting Date: _____ Item No: _____

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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

1.2 Disclaimer

The Shire President advises 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

1.4 Announcement of Visitors

1.5 Declarations of Interest that Might Cause a Conflict

Councillors/Staff are reminded of the requirements of s5.65 of the Local Government Act 1995, to disclose any interest during the meeting when the matter is discussed and also of the requirement to disclose an interest affecting impartiality under the Shire of York's Code of Conduct.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

1.6 Declaration of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

1.7 Disclosure of Interests that may affect Impartiality

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect

their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making process.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

2 ATTENDANCE

2.1 Members

2.2 Staff

2.3 Apologies

2.4 Leave of Absence Previously Approved – Cr David Wallace

2.5 Number of People in the Gallery at Commencement of Meeting

3 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.

3.1 Written Questions – Current Agenda

3.2 Public Question Time

4 APPLICATIONS FOR LEAVE OF ABSENCE

5 PRESENTATIONS

5.1 Petitions

5.2 Presentations

5.3 Deputations

5.4 Delegates' Reports

6 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7 OFFICER'S REPORTS

SY081-06/20 ALLAWUNA FARM LANDFILL FORM 2 RESPONSIBLE AUTHORITY REPORT

File Number:

Author: Darren Wallace, Executive Manager, Infrastructure & Development Services

Authoriser: Darren Wallace, Executive Manager, Infrastructure & Development Services

Previously before Council: 12 February 2018 – SY001-02/18
14 March 2018 - SY025-03/18

Appendices:

1. Responsible Authority Report - Form 2
2. RAR Attachement 1
3. RAR Attachement 2
4. RAR Attachement 3
5. RAR Attachement 4
6. RAR Attachement 5
7. RAR Attachement 6
8. RAR Attachement 7
9. RAR Attachement 8 - Confidential
10. RAR Attachement 9 - Confidential

NATURE OF COUNCIL'S ROLE IN THE MATTER

Advocacy

PURPOSE OF REPORT

To seek the endorsement of Council on the Responsible Authority Report (RAR) prepared by officers and consultant planners in response to a Form 2 application submitted to the Mid-West Wheatbelt Joint Development Assessment Panel (JDAP) to extend the period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronan's.

BACKGROUND

A development application for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway was refused by the JDAP 31 August 2015. The determination notice (which gives effect to the decision) was issued on the 4 September 2015. The decision was overturned on appeal to SAT, which issued orders on 8 March 2016 to approve the development subject to conditions.

Condition 9 of the approval required:

"the development approved is to be substantially commenced within two years after the date of the approval, and the approval will lapse if the development is not substantially commenced before the expiration of that period."

A Form 2 application to the JDAP was received on the 28 November 2017 proposing to amend Condition 9 of the approval to extend the period of substantial development to 8 March 2020. The Shire prepared a RAR assessing the application and providing a recommendation for refusal to the JDAP. The JDAP refused the application on 10 April 2018. The decision was subsequently overturned on appeal to SAT, which issued an order that:

"Condition 9 of the development approval granted by the State Administrative Tribunal on 8 March 2016 is amended by deleting the words 'within two years after the date of the approval' and substituting 'by 8 March 2020'"

An additional Form 2 application to the JDAP was received on 29 January 2020 to amend condition 9 to extend the period of development to be substantially commenced to 8 March 2022.

The Shire placed a stop the clock on the application pending an outcome decision on the assessment of a works approval by the Environmental Protection Authority, however, was directed to recommence the clock by the Development Assessment Panel on 31 March 2020.

The Shire is therefore required to prepare a 'Responsible Authority Report' assessing the application and providing a recommendation to the JDAP for its consideration by 15 June 2020.

This report is attached for Council's consideration.

COMMENTS AND DETAILS

The attached Responsible Authority Report contains a detailed background of the proposal and an assessment and recommendation for the recent request to extend the period for substantial commencement.

OPTIONS

Practice notes released by the Development Assessment Panel provide the following:

- It was the original intention of the DAP Regulations that the report be provided by a local government planning officer giving a technical opinion on the application, not necessarily by Council. Although in the absence of any delegation arrangements, Councils may or shall endorse a RAR prepared by the planning officer.
- Given the original intent, the DAP suggests that if the local government or Council wishes to make a statement regarding an application, it should do so by making a submission on the RAR.

Based on the above, should Council not support the recommendation of the Responsible Authority Report in its current format it could:

- Resolve not to endorse the submission, which would create uncertainty in terms of what could be submitted to the JDAP for consideration; or
- Resolve to make a submission to the Mid-West Wheatbelt JDAP including statements for consideration.

IMPLICATIONS TO CONSIDER

Consultative

Consultation undertaken is discussed within the RAR.

Strategic

Strategic implications are discussed within the RAR.

Policy Related

Policy implications are discussed within the RAR.

Financial

There are no direct financial implications as a result of the RAR recommendations. Although if the application results in an appeal to SAT, Council may incur costs if it decides to be represented in the SAT process.

Legal and Statutory

The Planning and Development (Development Assessment Panels) Regulations 2011 make provisions for the operation, constitution and administration of Development Assessment Panels.

The application to amend the proposal is made in accordance with section 17(1)(a) of this Regulation.

Other relevant legal and statutory documents applicable to assessment of the application are outlined in the attached RAR.

The proposal is subject to a formal environmental assessment under the Environmental Protection Act 1986 (EP Act). Pursuant to section 41(3) of the EP Act the decision maker is precluded from making a decision that would effectively implement the proposal.

Risk Related

Risks associated with the proposal, i.e environmental risks etc are discussed within the RAR.

Workforce

The recommendation of the RAR has no implications on workforce.

VOTING REQUIREMENTS

Absolute Majority: No

RECOMMENDATION

That Council endorses the Shire's Responsible Authority Report (as provided in Attachment A) to the Mid-West Wheatbelt Joint Development Assessment Panel in relation to the Form 2 Application to extend period for substantial commencement of Development Approval for the construction and use of Allawuna Farm for the purposes of a Class II Landfill at Lots 4869, 5931, 9926 and 26934 (2948) Great Southern Highway, St Ronans.

8 CLOSURE