



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 19 AUGUST, 2013
COMMENCING AT 3.00pm
IN COUNCIL CHAMBERS,
YORK TOWN HALL, YORK**

SHIRE OF YORK
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RAY HOOPER
CHIEF EXECUTIVE OFFICER

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL
HELD ON MONDAY, 19 AUGUST, 2013, COMMENCING AT
3.00PM 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 Tony Boyle, Shire President, declared the meeting open at 3.00pm
- 1.2 Deputy Chief Executive Officer to read the disclaimer
Tyhscha Cochrane, Deputy Chief Executive Officer, read the disclaimer
- 1.3 Suspension of Standing Orders (undergoing the repeal process)
Moved: Cr Scott; Seconded: Cr Duperouzel - Carried: 4/1
Cr Smythe was recorded as voting against this motion
- 1.4 Announcement of Visitors
Gordon Marwick – Freeman of York
- 1.5 Announcement of any Declared Financial Interests
Cr Denese Smythe – Item 9.1.2 – Financial – Committee Member of York CRC

2. ATTENDANCE

- 2.1 Members
*Cr Tony Boyle, Shire President; Cr Roy Scott, Deputy Shire President;
Cr Brian Lawrance; Cr Mark Duperouzel, Cr Denese Smythe*
- 2.2 Staff
*Tyhscha Cochrane, Deputy Chief Executive Officer; Graham Lantzke, Engineer –
Works Manager; Gordon Tester, Manager – Environmental Health & Building
Services; Gail Maziuk, Finance Officer/Project Co-Ordinator; Helen D’Arcy-Walker,
Executive Support Officer*
- 2.3 Apologies
Ray Hooper, Chief Executive Officer; Jacky Jurmann, Manager Planning Services
- 2.4 Leave of Absence Previously Approved
Cr Pat Hooper
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 21 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice

Ms Tanya Richardson

Public Question Time - 15 July 2013

Question 1:

- (a) Why haven't I received anything since advising the progress of ironing out those anomalies?
- (b) Why did I receive a letter from the CEO with Question 1 – Did the Shire of York sponsor the CRC event to which the answer was yes through sponsorship of the Town Hall when this is not the question I asked?
- (c) Why has this Council once again allowed this question to be censored to the point it has no resemblance to the original question which has not yet been answered?

Response:

- (a) There is no requirement or need to provide advice to anyone on the 'progress in ironing out anomalies.
- (b) This is the question which was recorded as being taken on notice.
- (c) As advised previously and repeated again at the July Council Meeting questions and responses will be summarised and questions are not censored.

Question 2:

- (a) Under what legislation is Council permitted to offer ratepayers money by way of donation to a private individual.
- (b) I cannot make sense of your own event definitions, perhaps because of the anomalies, but also could Council please explain what is the definition of a community event?

Response:

- (a) Council has the power to expend funds as it sees fit for the benefit of the community and the payment of donations or other support is a standard governance and operating procedure.
- (b) Council can deem any event to be a community event if it is considered to be of benefit to York businesses, residents and visitors.

Question 3:

Could Council please advise me on the relevant laws controlling the display of public documents in shop windows/notice boards?

Response:

You will need to refer to the definition of advertisement in the York Town Planning Scheme No.2, which defines an advertisement as:

“advertisement means any word, letter, model, sign, placard, board, notice device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements.”

Clause 4.1 of the Scheme requires that all development, including the erection, placement and display or any advertisements, requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning consent of the local government under Part 7. However, if the development is classified as 'permitted development' under the provisions of Clause 4.2, then the development does not require planning consent.

Clause 4.2(f) specifically applies to advertisements and refers to exempted classes of advertisements listed in Schedule 8. Schedule 8 includes advertisements relating to the functions of government, a public authority or local government that are provided in public places for community information or in accordance with legislation, such as Section 1.7 of the Local Government Act 1995.

A copy of the Scheme can be obtained from [http://online.planning.wa.gov.au/LPS/data/Local%20Planning%20Schemes/York%20-%20Shire%20of%20\(Scheme%202\)/Scheme%20Text.pdf](http://online.planning.wa.gov.au/LPS/data/Local%20Planning%20Schemes/York%20-%20Shire%20of%20(Scheme%202)/Scheme%20Text.pdf)

4. PUBLIC QUESTION TIME

Public Question Time commenced at 3.07pm

Cr Boyle read the following statement in full at the commencement of Public Question Time:

"Statement by the Presiding Member at the Opening of Public Question Time at Ordinary and Special Council Meetings -

Public Question Time is provided for under the provisions of Section 5.24 of the Local Government Act and the Local Government (Administration) Regulations 1996.

Procedures

- *Questions submitted in writing prior to the meeting will be dealt with initially.*
- *Questions from the floor will be taken in the order noted by the Presiding Officer.*
- *Statements, opinions and attachments will not be recorded in the minutes.*
- *Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting after the response has been given.*
- *Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.*
- *The minutes may only record a summary of the question asked and the response given.*
- *Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.*
- *At Special Council Meetings questions must relate to the items on the Agenda.*
- *Shire of York guidelines for Public Question Time are included on the meeting agenda."*

4.1 Written Questions – Current Agenda *Nil*

4.2 Public Question Time

Mr Keith Schekkerman

My questions relate to the Minutes of the SEARTG meeting of July 11th, 2013. On page 30 the York CEO states – “Five year’s free tipping fees will be possible through a new proposed landfill, which would be closer and easier to service” On page 31 the CEO “Queried how such matters can be accurately reflected in a 10 Year Financial Plan or Annual Budget”.

Question 1:

The minutes state that ‘Five year’s free tipping fee will be possible. The question is how will this be possible?

Response:

To take this in context – this was an approach by the CEO to the Minister himself regarding the possibility of an amalgamation application. The CEO also raised the issue of the lack of planning by the Government regarding landfill sites. There is a possibility if approved that a 5 year negotiation could take place.

Question 2:

Did any York Shire Councillor have any knowledge of this proposal, the fee free dumping, prior to the CEO bringing it up at the meeting of July 11th?

Response:

There is no proposal, only a possibility. SITA are willing to negotiate waste to landfill.

Question 3:

Did SITA or Avon Waste have any prior knowledge of this proposal, the fee free dumping, before the CEO mentioning it at the meeting?

Response:

No

Question 4:

The CEO stated at the meeting on August 13th that he is not the spokesman for the Council. Can this matter be clarified, when is the CEO a spokesman for the Council and when is he not? If he is not the spokesman for the Council, who does he speak for? How can electors tell for whom he is the spokesman?

Response:

Taken on Notice

Question 5:

The CEO stated at the meeting of August 13th, that the proposal for fee free dumping only applied to the York Shire. If this was the case why did he bring it up at a meeting of the Councils who are considering amalgamation?

Response:

This has been taken out of context. The CEO did mention to the Minister that no responsibility for waste management has been taken by the Government.

Question 6:

Has solution been found to the dilemma of how to account for it in a 10 Year Financial Plan or Annual Budget?

Response:

Taken on Notice

Question 7:

Question deemed inappropriate.

Ms Jane Ferro**Question 1:**

How do the Councillors envision the realisation of their proposal to double York's population to over 6,000 residents, as mentioned by President Boyle at last week's Public Meeting regarding amalgamation, which would supposedly make the businesses in town more viable, if the proposed rubbish tip is allowed to be established along Great Southern Highway, which would effectively block the flow of traffic on Great Southern Highway, Yorks and other surrounding country towns' main artery to and from Perth and the greater metropolitan area, creating an impassable road that would cause travellers to divert to other towns, thereby providing the death knell for York rather than increasing the population?

Response:

Need to wait until we get a proposal on the table.

Cr Scott stated that the Tier 3 railway will be closing on 31st October, 2013. Grain trucks on the roads will be continuous 24/7, with grain one way and fertiliser on the return journey, this is greater than SITA rubbish trucks which will only be going half way on the Great Southern Highway.

Cr Duperouzel stated that the roads need to be busy to be upgraded, however the roads cannot be upgraded until busy.

Mr Simon Saint

Cr Boyle stated that Mr Saint could ask one question at this meeting.

Shirley Hooper of Broome Street stood and declared this to be discrimination as Mr Schekkerman was able to ask 5 questions.

Cr Boyle stated that Mr Saint was banned from asking questions at Public Question Time due to bad behaviour. Mr Saint stated that this was only once.

Question:

At the April 2013 Council meeting it was stated that Council would – quote ...

Write to Mr and Mrs Saint requesting that they provide the required accessible on-site car parking in accordance with the provisions of the York Town Planning Scheme No. 2 within 7 days from the date of the letter and engage McLeods Barristers and Solicitors to initiate action to prosecute Mr and Mrs Saint if they do not comply with Council's letter of request

As yet no letter has been forthcoming – this was 4 months ago.

Response:

Taken on Notice

Cr Boyle stated that further questions can be submitted in writing.

Ms Tanya Richardson

Question 1:

Why did I receive the response from my question taken on notice from the July meeting until last Friday?

Response:

Taken on Notice

Question 2:

Why are my questions summarised until there is no context of the actual questions asked?

Response:

Taken on Notice

Question 3:

I keep asking the same question regarding the CRC Event held recently, why did the CRC not have to provide a Risk Management Plan, etc for their event.

Response:

Taken on Notice

Question 4:

Why are there still anomalies in the Events Policy?

Response:

The Events Policy will be reviewed when all Policies are next reviewed.

Mrs Heather Saint

Question

At the May meeting in Talbot I asked when will we receive the letter relating to the confidential item in the April minutes and I was told it was in the hands of the Solicitors. We still have not heard anything.

Response:

Taken on Notice

Public Question Time was declared closed by the Shire President at 3.32pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Minutes of the Ordinary Council Meeting held July 15, 2013

Corrections

Confirmation

**RESOLUTION
010813**

Moved: Cr Duperouzel

Seconded: Cr Lawrance

“That the minutes of the Ordinary Council Meeting held on July 15, 2013 be confirmed as a correct record of proceedings.”

CARRIED: 5/0

7.2 Minutes of the Special Council Meeting held August 5, 2013

Corrections

Confirmation

**RESOLUTION
020813**

Moved: Cr Scott

Seconded: Cr Duperouzel

“That the minutes of the Special Council Meeting held on August 5, 2013 be confirmed as a correct record of proceedings.”

CARRIED: 5/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

There is a verbal request for a Late Agenda item regarding the holding of a Fire Works Display after the York Show on 7th September, 2013

9. OFFICER’S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Retrospective Application For Advertising Signage At Bella Cucina Café, 82 Avon Terrace, York

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

FILE NO: P849, AV1.12680
COUNCIL DATE: 19 August 2013
REPORT DATE: 24 July 2013
LOCATION/ADDRESS: Lot 5(pt), 82 Avon Terrace, York
APPLICANT: V Parisi & M Ameduri
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: J Jurmann, MPS
DISCLOSURE OF INTEREST: Nil
APPENDICES: A – Photos of Signage
B – Council's Correspondence
DOCUMENTS TABLED: Nil

Summary:

Council at its Ordinary Meeting held on 10 June 2013 considered and deferred Agenda Item 9.1.1 regarding a retrospective planning application for approval of advertising signage at the Bella Cucina Café located at 82 Avon Terrace, York.

It is recommended, as was previously recommended, that the retrospective application for advertising signage as erected be refused and that modified signage be approved as outlined in the recommended.

Additionally, it is recommended that the applicant be advised that legal action will be instigated for any further breaches of the *Planning and Development Act 2005* and the *York Town Planning Scheme No. 2*.

Background:

Planning approval was granted under delegation on 1 March 2012, and amended on 12 May 2012, for the change of use of the premises to a café. Nine (9) conditions of approval were imposed, with condition 5 specifically relating to advertising as follows:

“The advertising signage shall only be displayed in accordance with the stamped approved plans dated 19 April 2012. Signage may not be illuminated or contain flashing lights. Any changes or additional signage will require separate planning approval.”

Following receipt of a complaint regarding illuminated neon flashing signs, the operators of the café were advised in writing on 7 February 2013 that they were in breach of their planning approval and were requested to remove the illuminated signage.

An inspection was carried out at the expiration of the 28 days and it was found that the operators had not complied with Council's request. Therefore, a Planning Direction was issued pursuant to Section 214(3) of the *Planning and Development Act 2005* giving the statutory period of 60 days to remove the offending signage. This action has been suspended while the planning application is being considered.

In accordance with Clause 7.14, the applicant has applied for retrospective approval of the advertising signage, which consists of two (2) illuminated and flashing timber framed advertising signs containing the words “Bella Cucina York Open” and “Dine In Takeaway”, together with an illuminated and flashing rope line attached to the perimeter of the verandah of the building (all four (4) shops).

Consultation:

1. Applicant

Prior to the submission of the initial planning application for the change of use, many discussions occurred with the applicants regarding advertising signage. It was explained that the premises are located in the Central York Heritage Precinct and therefore any advertising signage must comply with the provisions of the Local Planning Policy – Heritage Precincts and Places. The advertising signage submitted as part of the planning application complied with the provisions of the Policy and was approved.

There were no discussions with Council's Planning Section prior to the erection and display of the illuminated and flashing advertising signage the subject of this retrospective application, which is disappointing considering the amount of time spent with the applicants on the original application.

Following receipt of Council's Planning Direction, the application met with Councillors and Council staff, where it was advised that the signage did not comply with Council Policies. It was recommended during these discussions that the signage be modified to comply and many suggestions were made, such as roof top illumination.

As part of the assessment of this application, correspondence was forwarded to the applicant advising that the advertising signage as proposed did not meet the provisions of the relevant Council policies and that, as proposed, could not be recommended for approval. The applicant was provided with examples of appropriate signage and requested to modify his application. However, no response was received. A copy of this correspondence is attached to this report at Appendix B.

2. Community and Agency Consultation

The application was advertised in accordance with the *York Town Planning Scheme No. 2*. Nearby landowners were advised in writing, an advertisement was placed in the newspaper and on Council's website, and details were available at the Council Office. In addition, Main Roads and the York Society were invited to comment.

Main Roads advised:

"MRWA have determined that the sign will not impact the MRWA road network. Therefore MRWA has no objection to the illuminated and flashing advertising device."

The York Society objected to the approval of the application as follows:

"The application for the above does not satisfy any of the requirements of the York Local Planning Policy for Heritage Places & Precincts. In view of this position the York Society cannot support the application."

Statutory Environment:

York Town Planning Scheme No. 2

The property is zoned Town Centre under the provisions of the Scheme. The objectives for the zone are:

- a) "to retain the town centre of York as the principal place for retail, commercial, civic, and tourist-oriented uses in the District.
- b) to preserve the unique qualities of the town centre as a heritage place, including the conservation of existing heritage buildings, and to avoid development which will detract from those qualities.
- c) to ensure development complies with Design Guidelines adopted by the local government for the town centre.
- d) to encourage a high standard of development of commercial facilities to service the residents, the farming sector, tourists, and travellers.

- e) to encourage a high standard of landscaping in and around the town centre; the local government will undertake planting of shade trees in road reserves and car parks where appropriate.
- f) to encourage a high standard of residential and residential mixed use development in appropriate locations that contribute to the amenity, security and economic sustainability of the town centre.”

There is no contention that the use of the premises as a café meets the objectives of the town centre, however it is considered that the flashing and illuminated advertising signage the subject of this application is not of a high standard and does detract from the heritage qualities of the town centre.

Clause 5.3.1 of the Scheme provides Council the power to control advertisements and requires planning approval to be obtained prior to the erection, placement and display of advertisements. The applicant did not obtain approval prior to erecting, placing and displaying the advertising the subject of this application.

Clause 5.3.3 states “Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, the local government shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.” The advertising signage as displayed does not meet the objectives of the Scheme, as indicated earlier in this report, and could be detrimental to the historic character and amenity of the Avon Terrace precinct.

Clause 7.14 sets out the provisions for unauthorised existing developments as follows:

- The local government may grant planning consent to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.
- Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning consent, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning consent.
- NOTE: The approval by the local government of an existing development does not affect the power of the local govt to take appropriate action for a breach of the Scheme or the Act in respect to the commencement or carrying out of development without planning consent.

This assessment demonstrates that the development does not conform to the provisions of the Scheme and therefore should not be approved as displayed.

Clause 8.8 enables Council to adopt local planning policies. There are two (2) adopted local planning policies applicable to this proposal as follows:

1. *Local Planning Policy – Heritage Places & Precincts*

- Signage
 - New signage must be approved by the Shire of York.
 - Objective: To ensure that advertising signs are in keeping with the scale and character of the building upon which they will be attached and do not detract from the architecture of the building.
 - Objective: To ensure that signage is designed and located in a manner which enhances and conserves the heritage place with which it is associated.

Complying Principles

- Signs shall be discreet and shall complement the building and streetscape in which it is located.
- Signage should respect the heritage values of the building and streetscape on which it is located, however should not attempt to recreate original signage styles.
- Background colours used in signs shall generally be white or cream or colours from the colour palette available for viewing at the Shire of York.
- Prohibited Signs
 - Rotating, flashing and internally lit signs. Small neon signs hanging inside the window of shops may be appropriate, provided they are of a size and dimension to not become a dominant townscape element.
- Required Overhead Clearance
 - Minimum clearance of 2.75m from the natural ground level
- Illumination of Signs
 - May be appropriate in some circumstances.
 - May only occur from external lighting sources or spot lighting of architectural elements or the sign itself.
 - All lighting shall be discreet and all transformers and cabling shall be concealed.

The displayed signage does not meet the requirements of this Policy as it does detract from the heritage streetscape; it contains flashing components; and does not provide a minimum clearance of 2.75m from the ground level.

2. Local Planning Policy – Advertising Signage

- Policy Objectives
 - Require advertisements to maintain and enhance the amenity of the immediate area, including areas of historical or environmental significance.
 - Discourage the ineffective, visually intrusive and proliferation of excessive advertisements.
- Awning, Banner and Projecting Signs
 - One sign type per frontage of the subject building or tenancy.
 - Minimum clearance between the underside of the sign and the footpath below shall be 2.75 metres where located over a pedestrian way.
- Assessment Criteria
 - Illumination
 - Would illumination result in unacceptable glare?
 - Would illumination affect safety for pedestrians, vehicles or aircraft?
 - Would illumination detract from the amenity of any residence or other form of accommodation?
 - Can the intensity of the illumination be adjusted, if necessary?
 - Is the illumination subject to a curfew?

The displayed signage does not enhance the area; is considered visually intrusive, particularly as it visible from the northern end of the town centre; exceeds the maximum signage permitted; and is not a minimum of 2.75 metres above the footpath.

Policy Implications:

The advertising signage as erected and displayed does not meet the provisions of the adopted local planning policies. If approved, the approval will create an undesirable precedent and may result in the historic streetscape of the York town centre being dominated by garish and distasteful flashing signage, typical to places such as Las Vegas.

Policies must be applied consistently not only to provide the community with the same standards and expectations, but to ensure that the policies are taken seriously and given appropriate weight of consideration in a court of law.

Financial Implications:

There are no financial implications for Council. However, it should be noted that all applicants have a right of appeal to the State Administrative Tribunal if they are dissatisfied with a determination, including any conditions under the provisions of the *Planning and Development Act 2005*. Similarly, there is an avenue of appeal for Planning Directions. In some cases, it is necessary to employ legal representation when mediation is not successful between the parties, which may have financial implications for the Council.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

This application is not consistent with the Economic objective of the Plan to "value, protect and preserve our heritage and past" for reasons indicated in this Report. It is however acknowledged that the business contributes to the economic base and prosperity of York and should be supported. It is for this reason this application should not be refused in its entirety. Refer to Comments Section of this Report for further discussion.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

The applicant has advised that the flashing advertising signage is required to communicate to potential customers that the café is open for business. If no illuminated signage was permitted, this decision could impact this success of this business, which would be inconsistent with the objectives of the York Community Strategic Plan. The proposed alternative (refer to Comments Section) will achieve the original purpose of installing flashing and illuminated advertising signage in a more appropriate manner.

Social Implications:

The Central York Heritage Precinct is an area of cultural importance and reflects broad social and economic changes from the mid-nineteenth century and has the potential to contribute significantly to an understanding of the development of York. It is important to ensure any development in this precinct contributes positively and does not impact on the distinctive streetscape. If the application was approved as proposed, unacceptable social implications may result as discussed in this Report.

Environmental Implications:

There are no environmental implications associated with this proposal.

Comment:

In conclusion, the erected and displayed advertising signage does not meet the objectives of the Scheme or provisions of the adopted local planning policies, and therefore cannot be approved under the provisions of Clause 7.14 of the Scheme.

However, it is acknowledged that the applicant's purpose of erecting and displaying the advertising is justified and that the economic prosperity of local businesses should be supported. Therefore, it is suggested that a lesser extent of illuminated advertising signage and lighting could be consistent with the objectives and approved.

It is recommended that Council approve the installation of one (1) small neon illuminated, non-flashing 'Open' sign in the front window of the café and that the existing rope lighting installed around the perimeter of the building remain, if the flashing is stopped. This compromise will achieve the applicant's purpose and meet the objectives of the Scheme and local planning policies.

RESOLUTION

030813

Moved: Cr Duperouzel

Seconded: Cr Lawrance

“That Council:

APPROVE the retrospective planning application for the erection and display of advertising signage at the Bella Cucina Café located at Lot 5(pt), 82 Avon Terrace, York, subject to the following conditions:

Conditions

- 1. Development must substantially commence within two (2) years from the date of this decision.**
- 2. Development must take place in accordance with the stamped approved plans.**
- 3. One small neon ‘Open’ sign may be displayed in the front window of the café and one rope-style, non-flashing, white or cream light attached to the bottom edge of the building’s awning.**
- 4. Details are to be submitted to the local government for approval for two (2) spotlights to illuminate the existing approved parapet sign.**
- 5. All unapproved signage must be removed within twenty-eight (28) days from the date of this determination.**
- 6. Illuminated lighting is only permitted during opening hours.**
- 7. Any changes to the approved signage or any additional signage requires prior approval from the local government.**

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: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.”

CARRIED: 4/1

Item 9.1.1 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.2 Community Resource Centre, 89 Avon Terrace, York

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

FILE NO: AV1.6500, P844
COUNCIL DATE: 19 August 2013
REPORT DATE: 25 July 2013
LOCATION/ADDRESS: Lots 15 & 200 (89) Avon Terrace, York
APPLICANT: York Community Resource Centre
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: J Jurmann, MPS
DISCLOSURE OF INTEREST: Cr Smythe – Financial Interest –
Committee Member of York CRC
APPENDICES: 1 – Plans
2 – Signage
DOCUMENTS TABLED: Nil

Summary:

A planning application has been received by the Shire of York to change the use of the premises previously known as the Dogs Bollocks, located at 89 Avon Terrace, to the York Community Resource Centre.

The application has been advertised and no objections were received.

It is recommended that the application be approved, subject to the conditions listed at the end of this report.

The applicant, as a not-for-profit organisation, also requests Council waive the planning application fees.

Background:

The planning application was received by the Shire of York on 28 February 2013 requesting approval to change the use of the subject premises; to carry out alterations and additions associated with the proposed use; and to display advertising signage.

Lots 15 and 200 (89) Avon Terrace are located in the Central York Heritage Precinct at the southern end of the town centre and were previously used for retailing, known as the Dogs Bollocks.

It is proposed to use the premises for offices, meeting rooms and other functions associated with the role of the York Community Resource Centre. Minor internal alterations are proposed, together with the addition of a meeting room at the rear of the premises. Disabled access and car parking will be provided, and upgrade of the building to meet current fire safety standards will be carried out. Car parking will be provided at the rear of the building and will be accessible from the South Street entrance.

An application has been submitted to the Western Australian Planning Commission to amalgamate the lots, which enables planning and building approvals to be issued for development associated with the whole property area, including disabled access and car parking.

Consultation:

The application was advertised in accordance with the provisions of the York Town Planning Scheme No. 2. No objections were received regarding the proposal. A submission from the York Society was received supporting the proposal.

Statutory Environment:York Town Planning Scheme No. 2

The property is zoned Town Centre under the provisions of the Scheme and is located in the Central York Heritage Precinct.

A planning application is required for any development for premises located in a heritage precinct, including change of use to another permitted use and/or the display of advertising signage.

The objectives of the Town Centre zone include retaining the town centre for retail, commercial, civic and tourist-oriented uses; preservation of the qualities of the town centre as a heritage place; and to encourage a high standard of development. The proposal is consistent with these objectives.

Clause 4.5 of the Scheme requires the provision of on-site car parking. Schedule 4 of the Scheme contains defined land uses and the required number of car parking spaces, which has been calculated for the proposal as follows:

Use	Requirement	Calculations
Office	5 spaces per 100m ² NLA	102.38 = 5
Place of Public Assembly (Meeting Room)	1 space for every 6 seats	Assume 30 seats = 5
Total		10 spaces required

It is proposed to provide 12 standard and 1 disabled car parking space, which complies with the provisions of the Scheme. The layout of the car park has been considered and entry and exit from the premises will be in a forward direction that will not impact traffic movements in South Street. There is ample manoeuvring room for small delivery vehicles to also enter and exit in a forward direction. It is recommended that the car parking be formalised by sealing the surface and line marking within 12 months from occupation. Refer to the site plan in the Appendices for the car parking design.

In considering an application in the town centre, the local government must have regard to:

- (i) The colour and texture of the external building materials;
- (ii) Building size, height, bulk, roof pitch;
- (iii) Setback and location of the building on its lot;
- (iv) Architectural style and design details of the building;
- (v) Function of the building
- (vi) The relationship to surrounding development and impact on the streetscape;
- (vii) Other characteristics considered relevant.

The external fabric of the building will remain generally unchanged, with the exception of the addition of CRC advertising signage and the rear addition of meeting space. The rear addition will be constructed as a metal clad and framed building and is consistent with similar rear additions in the precinct. The function of the building will support the town centre as the primary commercial and business precinct in York and there will be no adverse impact on the streetscape.

Clause 5.3.3 of the Schemes requires the local government when considering planning applications proposing advertising signage to examine each such application in light of the objectives of the Scheme and with particular reference to the character and amenity of the locality. The proposed advertising signage is consistent with the character of the York Central Heritage Precinct and will not impact on the amenity of the locality. Signage is further discussed in this report in regards to heritage considerations.

Clause 7.5 of the Scheme outlines the matters for consideration relevant to the use or development the subject of the application. These matters have been considered in the assessment of this application, with many subclauses mentioned throughout this section of report.

Of particular importance for a community use is subclause 7.5(u) *“whether adequate provision has been made for access by disabled persons”*. The applicant has been liaising with Council’s Building Surveyors regarding the provision of disabled access, and it has been determined that access from the South Street entrance is most appropriate from an ease of access utilising the car parking and as an economical solution for a community organisation.

Local Planning Policy – Heritage Precincts and Places

The LPP has been adopted under the provisions of Section 5 of the Scheme, including Clause 5.1.3 that enables the adoption of heritage precincts. The subject property is located in the Central Heritage Precinct, although the place is not specifically heritage listed.

Section 4 of the LPP applies to commercial development (which best describes the proposed use as it is not residential). The general guidelines are to respect and retain the traditional pattern and appearance of the commercial buildings by responding to and reinforcing the existing characteristic horizontal alignments of over-pavement awnings, canopies, parapet tops, window heads and sills. It is not proposed to alter the façade of the building, with the exception of the addition of CRC advertising. The addition to the rear will respond to the surrounding environment through the use of metal wall and roof sheeting.

Section 5 of the LPP outlines the requirements for advertising signage to ensure that signs are in keeping with the character of the building upon which they are attached and do not detract from the building or precinct. Signs must be discreet, complement and respect the building and streetscape; views into and out of shop windows should not be significantly obscured; all signs should be of a high standard in terms of materials, construction and graphics; and background colours should be generally white or cream or colours from the approved local government colour palette. The signage proposed will use the CRC generic logo, provide a summary of services and contain a white background. The position of the signage is similar to that previously approved for the building and is considered acceptable.

Local Planning Policy – Advertising Signage

The objectives of this policy are to:

- (a) ensure that advertisements are appropriately sized and sited for their location;
- (b) require advertisements to maintain and enhance the amenity of the immediate area, including areas of historical or environmental significance;
- (c) discourage the ineffective, visually intrusive and proliferation of excessive advertisements; and
- (d) provide guidelines for consistent decision making for advertisements on zoned or reserved land within York.

The proposed signage consists of under awning and flush wall signage, generally in locations previously approved for the Avon Terrace façade. Signage will also be erected at the South Street entrance (transferred from the existing premises) and on the rear elevation of the building. The design of the signage incorporates the standard CRC logo and colours and a list of services provided. An example has been attached in the Appendices of this report.

Building Act 2011

The York Community Resource Centre are proposing that wheel chair access be provided to the rear of the building via South Street, and that wheel chair access not be provided through the Avon Terrace entrance to the building.

As the main street entrance, being Avon Terrace, is normally designated as the “Principal Point of Entry” there are considerations under the following legislation that need to be addressed:

- Disability Discrimination Act 1992 (Federal Act);
- Equal Opportunity Act 1984 (State Act); and
- Building Code of Australia.

The Shire of York has received a copy of a submission from Ms Janette McCahon, (Barrister), of Legal Aid Western Australia, wherein it is stated that the proposal falls within the definition of “Unjustifiable Hardship” under the Disability Discrimination Act 1992, due to the layout of the existing building and the potential additional cost in fully complying with the Act.

It is therefore viewed that the proposed Community Resource Centre building falls under the concession of “Unjustifiable Hardship”, and need not provide access via Avon Terrace.

Included in their submission is a letter from the Wheatbelt Individual and Family Support Association, (WIFSA), which supports the proposed access via South Street to the rear of the building.

In addition, the Shire of York has obtained a copy of a memorandum from Mr Rosales-Costanedes of the Equal Opportunity Commission of Western Australia to the Director of the Equal Opportunity Commission of Western Australia, wherein it is advised that, since access for disabled persons is provided from the street to the rear of the premises via the secondary street, (South Street) it is viewed that discrimination will not occur under the Equal Opportunity Act, as access for all people, able bodied or disabled, is provided.

With respect to the Building Code of Australia, the rear access to the building falls under the definition of, or is equivalent to a “Principal Point of Entry”, in that the majority people accessing the building for a conference, or to utilise the facilities will travel directly to the building, by vehicle and access through the rear of the premises from the carpark area. Additionally it could be expected that a significant portion of customers would access the premises via the South Street entrance, confirming again that the rear entrance in a “Principal Point of Entry”, which would satisfy the performance provisions of the Building Code of Australia.

It is therefore viewed that the Shire of York can be confident that the Community Resource Centre proposal complies with the requirements of this legislation, and it is recommended that the proposal be approved subject to the amalgamation of the lot occupied by the existing building and the lot giving access to the rear of the premises via South Street.

Policy Implications:

There are no policy implications associated with this proposal.

Financial Implications:

The applicant has requested that the application fee be waived, and therefore, refunded, which, if approved, would be a total cost of \$448.00 borne by Council.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

The use of the building by the York Community Resource Centre will achieve the goals of the Plan by strengthening community interactions and capacity by providing meeting space and office services and training.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

CRC's provide business services to the local community and are committed to the development of the local community that they service, which supports and contributes to the local economy.

Social Implications:

The York CRC provides an important social service to the community by providing a wide array of information and community-based services to local people, businesses and visitors of regional Western Australia. CRCs are committed to developing regional communities and connecting the people of Western Australia. They provide training and education programs, access to business facilities, and information on community events and government services.

Environmental Implications:

There are no environmental implications associated with this proposal.

Comment:

The applicant has requested that Council waive the planning application fees. In accordance with Clause 52 of the *Planning and Development Regulation 2009*, a local government may waive or refund, in whole or in part, payment of a fee for a planning service.

Cr Smythe declared a Financial Interest to this item and left the room at 3.38pm

RESOLUTION

040813

Moved: Cr Lawrance

Seconded: Cr Duperouzel

“That Council:

- 1. APPROVE the planning application to change the use of Lots 15 and 200 (89) Avon Terrace, York to uses associated with the York Community Resource Centre, including alterations, additions and advertising signage, subject to the following conditions and advice notes:**
 - a. Condition 1: Development must substantially commence within two (2) years from the date of this decision.**
 - b. Condition 2: Development must take place in accordance with the stamped approved plans.**
 - c. Condition 3: All signage not identified on the approved plans shall be the subject of a separate Development Application**
 - d. Condition 4: A minimum of 11 car parking spaces, including one disabled accessible space shall be provided and maintained on site for the use of employees and clients.**
 - e. Condition 5: Within 12 months of occupation, or at such time as agreed by the Shire of York, all car bay dimensions, manoeuvring areas, crossovers and driveways shall be constructed in accordance with Australian Standard AS 2890.1.**
 - f. Condition 6: Prior to occupation, or at such time as agreed by the Shire of York, Lots 15 and 200 on Diagram 63 and 30689 are to be amalgamated into one lot. A copy of the approved Deposited Plan shall be provided to the local government.**
 - g. Advice 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.**
 - h. Advice 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.**
 - i. Advice 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.**
 - j. Advice Note 4: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.**
 - k. Advice Note 5: The applicant is advised that prior to occupation, or at such time as agreed by the Shire of York, Lots 15 and 200 on Diagram 63 and 30689 are to be amalgamated into one lot.**
- 2. APPROVE the waiving of the planning application fees and authorise the refund of \$448.00.”**

CARRIED: 4/0

Cr Smythe returned to the room at 3.45pm

Item 9.1.2 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.3 Retrospective Application – Lot 800 (8) Redmile Rd, York

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

FILE NO:	P866, RE1.60014
COUNCIL DATE:	19 August 2013
REPORT DATE:	5 August 2013
LOCATION/ADDRESS:	Lot 800 (8) Redmile Rd, York
APPLICANT:	V De Vis
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Amended Plans Schedule of Submissions
DOCUMENTS TABLED:	Nil

Summary:

This application relates to the dwelling under construction at Lot 800 (8) Redmile Road, York, in the Blandstown Heritage Precinct, which has been the subject of compliance action and a number of amended approvals.

The building activities on site are currently on hold whilst this planning application is determined to retrospectively approve completed and/or partially completed works.

Three (3) submissions were received regarding the proposal, including one objection. The content of these submissions are discussed in the Consultation Section of this report and have been considered in the assessment of this application.

It is recommended that the retrospective application be determined by granting conditional approval for the components of the development identified as appropriate and for the components identified as inappropriate, remedial works be required.

Background:

The subject property is described as Lot 800 (formerly Lots 9 and 10) 8 Redmile Road, York and is located adjacent to the Balladong Country Estate and Redmile House, with Bridge House opposite. The property is located in the Blandstown Heritage Precinct and within the mapped flood fringe (1 in 100 ARI) for the Avon River.

Application History

- 20 August 2010 – Planning approval was issued under delegated authority to fill Lot 10 for preparation of the construction of a future dwelling to a level 500mm above the flood fringe.
- 23 December 2011 – Planning approval was issued under delegated authority for the construction of a dwelling.
- 26 March 2012 – Council at its Ordinary Meeting approved an amended planning application subject to a number of conditions of consent, including submission of structural engineer's certification, removal of structures straddling the lot boundaries and amendment of the drainage plan.
- 1 June 2012 – A complaint was received on behalf of the adjoining landowner regarding the development, alleging the importation of large amounts of fill and again raising concerns regarding the quality of workmanship and that new works are crossing the boundary onto his lot.

- 1 June 2012 – The property was inspected by Council Staff, which revealed that the complaint was justified.
- 11 June 2012 – Council at its Ordinary Meeting held on 11 June 2012 resolved as follows:
“That Council:
 - (a) *Issue a Planning Direction under the provisions of Section 214 of the Planning and Development Act 2005 to stop, and not to recommence, any works on Lots 9 and 10 Redmile Road, York, until such time as a planning application is received and determined for the unapproved works in accordance with point 2 of this resolution.*
 - (b) *Require the submission of a planning application to obtain approval for the unapproved works. The planning application must be accompanied by:*
 - (a) *Plans to scale showing the location of all existing and proposed works, including heights and levels referenced to the Australian Height Datum.*
 - (b) *An updated survey showing the lot boundaries and location of all works prepared by a suitably qualified person.*
 - (c) *A Drainage and Flood Study prepared by a suitably qualified person. The study is to consider existing and proposed filling of both lots.*
 - (d) *A Heritage Impact Assessment prepared by a suitably qualified person.*
 - (c) *Issue an Infringement Notice under the provisions of Section 227 for an offence against Section 218 of the Planning and Development Act 2005 for carrying out work, namely filling of Lot 9, without approval.*
 - (d) *Issue an Infringement Notice under the provisions of Section 227 for an offence against Section 218 of the Planning and Development Act 2005 for carrying out work, namely construction of various retaining walls, without approval.*
 - (e) *Authorise the Chief Executive Officer to issue Infringement Notices for breaches of the Planning Direction and/or any further breaches of the Planning and Development Act 2005.*
 - (f) *That Council receives a further report following the receipt and assessment of the planning application required in point 2 of this resolution and that Council determines such planning application.”*
- 12 June 2012 – In accordance with the resolution, a Planning Direction to cease works and Infringement Notices were issued, which have subsequently been paid by the applicant.
- 14 June 2013 – A new planning application was received requesting approval of amendments and retrospective works, in accordance with Council’s resolution of 11 June 2013, providing an up-to-date survey, structural engineering, drainage and heritage reports were submitted with the application.

The works on site were halted in accordance with Council’s Planning Direction dated 12 June 2012. Regular inspections of the site have been conducted to monitor compliance. Those inspections have not indicated that any further works had been carried out on site. Refer to photographs at Appendix 3.

Consultation:

The application has been advertised in accordance with the provisions of the York Town Planning Scheme No. 2 to adjoining landowners, in the local newspaper, Council’s website and at Council’s Administration Office. The York Society and Department of Water were also invited to comment.

Three (3) submissions were received regarding the proposal, which have been considered in the assessment of this application. Refer to the Schedule of Submissions in the Appendices to this report for the content of these submissions and assessment comments.

Statutory Environment:

Planning and Development Act 2005

Section 162 of the Act states that a person must not commence or carry out development on land to which the planning scheme applies unless:

- (a) *the approval has been obtained and is in force under the planning scheme or interim development order; and*
- (b) *the development is carried out in accordance with the conditions subject to which the approval was granted.*
- (c) *Nothing in this section limits or otherwise affects a right or entitlement under any other written law.*

Section 164 of the Act enables development to be approved if it has commenced or carried out.

York Town Planning Scheme No. 2

Section 4.1 of the Scheme requires the prior approval of the local government for all development on land zoned and reserved under the Scheme. The land is zoned Residential R40 under the scheme..

Section 4.2 of the Scheme outlines development that does not require the planning consent of the local government. This section does not apply to the subject property as it is located in the Avon River Flood Fringe and in the Blandstown Heritage Precinct.

Section 4.3 states that development shall generally conform to the provisions of the Residential Design Codes. The Scheme enables discretion to modify the development standards with respect to the R-Codes upon application.

Section 5.1 of the Scheme outlines the requirements with regards to heritage. The property is not heritage listed but is located within the designated Blandstown Heritage Precinct under the provisions of the Local Planning Policy – Heritage Precincts and Places. The LPP was adopted in accordance with the provisions of Section 8.8 of the Scheme. Prior planning approval is required for all development under the provisions of this section.

Section 5.4 of the Scheme sets out the provisions for assessing and constructing development in the Avon River Flood Fringe. The Department of Water (DoW) mapping identifies both lots being located almost entirely within the flood fringe (i.e. the 1 in 100 year zone). Prior planning approval is required for all development, including fencing or other development potentially obstructive to the nature of water flows, under the provisions of this section. The DoW has raised no objections to the approval of the subject application. Refer to the Schedule of Submissions in the Appendices for further details.

Section 7.14 relates to unauthorised existing developments and enables Council to grant planning consent to a use or development commenced or carried out regardless of when it was commenced or carried out if the development conforms to the provisions of the Scheme. This approval does not affect the power of Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning consent.

Section 7.5 provides the matters for consideration when assessing an application for planning consent. The relevant matters have been considered as follows:

- (a) *Aims and provisions of the scheme* – relevant objective is “the preservation of places of historic buildings and historical interest”. Blandstown is a significant area of interest to the community and state. It is imperative that this development does not impact on the significance of the area.

- (f) *Any Planning Policy adopted* – there are two (2) relevant planning policies.
- The first is the LPP for Heritage Precincts and Places, which lists heritage places and designates the two heritage precincts. Redmile House is listed as a Category 1B (the highest municipal heritage listing) and the subject property is located with the Blandstown Heritage Precinct.
- The second is the LPP for dealing with Retrospective Applications. This application requests approval retrospectively for some of the works and therefore this Policy applies.
- Refer to the Policy Implications section of this report for an assessment of these Policies.
- (k) *The cultural significance of any place or area affected by the development* – Blandstown is described as a place that exhibits aesthetic qualities that are highly valued by the community that has retained some of York’s earliest buildings. The proposed development, although designed and acknowledged in the submitted Heritage Impact Assessment as valuing the location, has been undertaken in a way that could compromise the precinct. The continued approach by the applicant of carrying out unauthorised development and then applying retrospective approval does not represent good or proper planning.
- (m) *Whether the land is unsuitable by reason of it being, or being likely to be, subject to flooding* – the Department of Water has commented on this proposal considering floodplain management for the Avon River. DoW has advised that the proposal is considered acceptable with respect to major flooding.
- (n) *The preservation of the amenity of the locality* – at present, the development does affect the amenity of the locality, particularly from a visual perspective, as a result of the ad hoc manner the construction is being undertaken by the owner. The visual amenity of the heritage precinct is of high importance and must be considered carefully. It is considered appropriate to impose conditions to require the submission of a Construction Management Plan to ensure that the development is carried out in an organised and planned method and is completed in a timely manner.
- (o) *The relationship of the proposal to development on adjoining land* – located on the northern boundary is the Balladong Country Estate and on the southern boundary is Redmile House, which is heritage listed and of considerable importance. The development when completed, if in accordance with the submitted plans will be in context with the surrounding development. However, if it is completed in the current ad hoc manner, will continue to dominate the streetscape and detract from the heritage and cultural significance of Redmile House.
- (y) *Any relevant submissions received on the application* – three (3) submissions were received. Refer to the Consultation Section of this report and the Schedule of Submissions in the Appendices.

Section 8.3 of the Scheme states that a person must not contravene or fail to comply with the provisions of the Scheme; use any land or commence or continue to carry out any development within the Scheme area, otherwise than in accordance with the Scheme, approvals and any approval conditions.

Local Planning Policy – Heritage Precincts and Places

The property is located in the Blandstown Heritage Precinct designated by this Policy, and therefore this Policy applies to the proposal.

The objectives of the Policy in relation to new residential development are to facilitate residential development that respects the existing character of the area; to ensure all new buildings are sympathetic to the predominant form; and to maintain the heritage value of significant buildings and streetscapes.

A Heritage Impact Statement prepared by a Heritage Consultant has been submitted in support of the application, and in accordance with Council's resolution, which provides an assessment of the potential impacts on the precinct and Redmile House.

The conclusion of the author is "This new house and landscaping development fulfils the requirement for new development within the heritage precinct to be 'in keeping with the historic characteristics' of the precinct. Some pains have been taken to ensure the new building and its landscaping will blend in harmoniously with the existing streetscape."

Although, the author also acknowledges in the report that the raised house pad and driveway has the potential to impact on views from the side garden of Redmile House and that soft planting will soften the effect of the retaining walls and house pad. She also acknowledges that the stockpiling of sand for future development is unsightly and that they should be incorporated into the landscaping.

The stockpiling of sand for future development, which may or may not be approved and is acknowledged as unsightly in the Statement, should not be approved and should be subject to a future application when the applicant has completed this development satisfactorily and is ready to undertake further development.

Similarly, the extension of the sand pad is not required from a structural point of view and has resulted in the exacerbation of the bulk and scale and visual impact of the development, and consequently increasing the impact on the streetscape and precinct. The applicant should be required to reduce the sandpad to the area essential for the development, including an appropriate grade of batter for structural stability, retaining and installation of landscaping.

Local Planning Policy – Retrospective Applications

The LPP was adopted by Council on 18 July 2011 to better manage and provide guidance on the assessment of planning applications proposing retrospective approval.

Clause 4.1.3 outlines the provisions for assessment and determination of applications as follows:

- (a) Applications will be assessed as if they are new proposals for planning approval. Complies.*
- (b) All applications for retrospective planning approval will be publicly advertised as a 'retrospective planning application' and in accordance with the requirements of Clause 7.3 of TPS2. Complies.*
- (c) If an application relates to a heritage listed property or a property located in a flood affected area, the application will be referred to the appropriate state agencies for comment. Complies.*
- (d) If a submission is received regarding the proposal then the application will be determined by Council. Submissions received.*
- (e) If no submissions are received, then the application will be determined by Council Officers under delegated authority. Refer to (d).*

The application has been assessed and determined in accordance with the Policy.

Policy Implications:

The application has been assessed in accordance with the York Town Planning Scheme No. 2 and adopted local planning policies. The continual amendment and approval of retrospective applications is not good planning practice, as there are no significant variations, there are hence no adverse policy implications associated with the approval of this application as recommended.

Financial Implications:

There are no financial implications for Council, unless legal action is instigated for future breaches. The applicant has been responsible for the costs associated with the engagement of consultants to prepare the additional information required to accompany this application.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

If the development is carried out in a coordinated and well planned manner, it is consistent with the goals of the Plan.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes (numerous)

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

The construction of new dwellings in the local government area has a positive economic impact for the community. On the contrary, developments such as this one that involve continual monitoring and that result in legal action cost the community financially and divert resources from core activities.

Social Implications:

The heritage of York, and specifically Blandstown, is important to the community. Any development that could have an adverse impact on the precinct could have negative social implications for the community. This development will need to be well managed going forwards to minimise any impacts.

Environmental Implications:

There are no environmental implications associated with this proposal.

Comment:

In conclusion, the construction of a dwelling in accordance with a planning approval and any imposed conditions is consistent with the aims and objectives of the Scheme.

On the other hand, the construction of a dwelling in a heritage precinct not in accordance with an approval and conditions is not consistent with the aims and objectives of the Scheme.

The multiple retrospective applications indicates that the project has not been well planned or carried out, and as mentioned in one of the submissions, the applicant appears disrespectful of the planning legislation and Council decision making.

If this retrospective application is approved, the development will require regular monitoring by Council Officers to ensure compliance with planning and building approvals. The applicant should be advised that no further warning will be given by Council and that legal action will be instigated for any further breaches.

RESOLUTION

050813

Moved: Cr Duperouzel

Seconded: Cr Scott

“That Council:

- 1. APPROVE the retrospective planning application for works in conjunction with the construction of a dwelling at Lot 800 (8) Redmile Road, York, subject to the following conditions and advice notes:**
 - a. Condition 1 – Development must substantially commence within two (2) years from the date of this decision.**
 - b. Condition 2 – Development must take place in accordance with the stamped approved plans.**
 - c. Condition 3 – This approval does not supersede the planning approval issued by Council on 2 April 2012. If the event of any inconsistencies, this approval prevails.**
 - d. Condition 4 – Prior to the commencement of works on site, a Construction Schedule shall be submitted to the local government for approval detailing prioritised tasks, materials and finishes for ancillary structures and time for completion, including periodic inspections by the Structural Engineer and Heritage Consultant. Priority shall be given to the insufficient structures detailing in the submitted Structural Engineer’s Report.**
 - e. Condition 5 – Prior to the commencement of works, a report from a Structural Engineer shall be provided to the local government detailing the construction methodology required for the retaining of the sand pad (as approved), retaining and garden walls.**
 - f. Condition 6 – The unauthorised (and unapproved) fill identified for the expansion of the sand pad and future development shall be removed from the site within 60 days from the date of this determination.**
 - g. Condition 7 – Landscaping of retaining and garden walls to be completed prior to occupation of the dwelling.**
 - h. Advice 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.**
 - i. Advice 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.**
 - j. Advice 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.**
 - k. Advice 4 – This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to the commencement of any structural works within the development hereby permitted.**
 - l. Advice 5 – The Structural Engineer’s Report required above must certify that the structures as designed can comply with the requirements of the Building Code of Australia and the velocity of flood waters in 1 in 100 year flood event.”**
- 2. Advise the applicant in writing that should further breaches of the Planning and Development Act 2005 and York Town Planning Scheme No. 2 occur, Council will instigate legal proceedings without further warning.”**

CARRIED: 3/2

Item 9.1.3 – Appendices

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Information Services

FILE NO: CS.LCS.8.1
COUNCIL DATE: 19 August 2013
REPORT DATE: 12 August 2013
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: Information Services Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A and B
DOCUMENTS TABLED: Nil

Summary:

The following is a summary of items for York Information Services for the month of **July 2013**.

- **Visitor Numbers-** (Appendix A) These numbers are counted manually and only include adults and older children actually walking through the doors of the Information Services office. They do not include people walking into the Town Hall to use toilets, view exhibits etc.

The Information Services are recording additional information on the visitor numbers visiting the Town Hall for such things as shopping, information only, events, family history, sightseeing, and walks. This count will assist any grant applications in the future and are available on request.

The number of visitors coming through the doors in July 2013 was **1338** as compared to **1330** in 2012.

- **Product Sales-** (Appendix B) Net sales for the month of July 2013 were **\$813.20** compared to **\$1038.00** for the same period 2012.
- **Request for Services** - There are certain services that visitors ask for (verbally) on a regular basis, these include:
 - Laundry Mat
 - More RV Parking signs coming into town
 - Taxi required in York
 - Souvenir Machine
- **Souvenir Coin Machine** - The Souvenir Machine is in process and has been ordered, we are now just waiting for it to be delivered, this machine will be very successful as lots of tourists are asking for it.
- **New Tea Towels** - In the process of ordering some more tea towels with a different design, so they should be ready within the next month.
- **Feedback** - Tourists are asking for a shower to be put down at the Avon Park toilets and make it a coin slot shower, for example \$2 = 3 min shower, a few people have mentioned that's what some Shires are doing now.

Background:

We have the calendar of Event for the year of 2013. All known details are listed on the Calendar of Events, which is distributed through York Information Services and available on the Shire of York website.

Consultation:

Shire of York and local business proprietors

Statutory Environment:

Nil

Policy Implications:

Not Applicable

Financial Implications:

Nil

Strategic Implications:

Not Applicable

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Comment:

This report serves to keep the community informed of the activities in place.

RESOLUTION

060813

Moved: Cr Smythe

Seconded: Cr Duperouzel

“That Council:

Receive the July 2013 report prepared by York Information Services.”

CARRIED: 5/0

Item 9.2.1 – Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.2 101.3 York FM – Application to be Recognised as a Community Group

FILE NO: CS.INF.2
COUNCIL DATE: 19 August 2013
REPORT DATE: 12 August 2013
APPLICANT: 101.3 York FM
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: George Johnson
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

It is a requirement that 101.3 York FM makes application to Council to be recognised as a Community Group in order to qualify to have fees waived for fund raising activities in public places and thoroughfares.

Background:

On 30 July 2013, Council received an application from 101.3 York FM seeking Council recognition as a community group for the purpose of having Council fees waived for "Not for Profit" fund raising activities in public places and thoroughfares.

Certificate of Incorporation and Public Liability Insurance of \$10,000,000 is required for community groups to qualify as being recognised as a York Community Group.

Consultation:

Nil

Statutory Environment:

Shire of York, Local Law – Trading in Thoroughfares and Public Places.

Policy Implications:

Nil

Financial Implications:

Annual Stallholder's fee of \$36.75.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

It is of benefit to enhance relationships between Council and Community Groups by waiving the Stallholder's fee for "Not for Profit" fundraising events.

Environmental Implications:

Nil

Officers Comment:

101.3 York FM has been long established at their Barker Street address and 101.3 York FM regularly conduct fundraising for the radio station.

A much needed community radio facility for York.

A current copy of the Certificate of Currency for Public Liability Insurance for \$10,000,000 will be provided.

RESOLUTION

070813

Moved: Cr Boyle

Seconded: Cr Lawrance

"That Council:

Recognise 101.3 York FM as a Community Group for the purpose of waiving the Stallholders fee for "Not for Profit" fund raising activities in public places and thoroughfares."

CARRIED: 5/0

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 South East Avon Regional Transition Group

FILE NO: OR.RDT.5
COUNCIL DATE: 19 August 2013
REPORT DATE: 12 August 2013
LOCATION/ADDRESS: South East Avon
APPLICANT: SEARTG
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: R Hooper, CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Minutes – SEARTG Board Meeting
DOCUMENTS TABLED: Nil

Summary:

The minutes of the South East Avon Regional Transition Group Board Meeting held on 11 July, 2013 in Cunderdin are provided for Council and Community information.

Background:

The South East Avon Regional Transition Group (SEARTG) was formed from SEAVROC to investigate structural reform in this region under a formal agreement with the Department of Local Government.

The Regional Transition Group has received funding of over \$500,000 to undertake Business Plans, Asset Management Plans, Community Strategic Plans, 10 Year Financial Plans and Workforce Plans to properly analysis the structural reform process.

Consultation:

Not Applicable

Statutory Environment:

Not Applicable

Policy Implications:

Nil

Financial Implications:

Fully funded by Department of Local Government grants.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- *Manage population growth, through planned provision of services and infrastructure.*
- *Strengthen community interactions and a sense of a united, cohesive and safe community.*
- *Build and strengthen community, culture, vibrancy and energy.*

Environmental

- *Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.*
- *Support sustainable energy and renewable resource choices.*

Economic

- *Build population base through economic prosperity.*
- *Value, protect and preserve our heritage and past.*
- *Grow the economic base and actively support local businesses and service provision.*

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

The community will be fully informed of all plans and reports before any final decision is made in relation to any merger arising from the structural reform process.

Environmental Implications:

Nil

Comment:

Provide ongoing information on the current status of the structural reform studies.

RESOLUTION

080813

Moved: Cr Lawrance

Seconded: Cr Scott

“That Council:

Receive the Minutes of the South East Avon Regional Transitional Group Board Meeting.”

CARRIED: 5/0

Cr Scott stated there was a need to have the CEO’s comments clarified at the next SEARTG meeting.

Item 9.2.3 – Appendices

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.4 Youth Report for August 2013

FILE NO: CS.LCS.6
COUNCIL DATE: 19 August, 2013
REPORT DATE: 13 August, 2013
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: Anneke Birleson, Youth
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

- **York Youth Centre** – The youth centre is now running every Tuesday (3-6pm) and Wednesday (3-6pm). Friday sessions have been discontinued for the time being as attendance has been extremely poor and clashes with the Salvation Army Friday night program. Attendance continues to be variable on Tuesday and Wednesday, however new youth have begun attending on those days.
- **October School Holiday Program** – A Youth Activities Grant application has been submitted and the outcome is pending. The soccer, Ultimate Frisbee and skateboarding workshops have been tentatively arranged for week two of the school holidays. The grantor has advised the application is being considered.
- The Youth Activities Co-ordinator is continually seeking funding available for new and interesting activities to present to the youth of York.

Background:

Youth Activities Coordinator is building strong relationships with the appropriate partners in all fields of youth development, including education, police and health partnerships. Trust and integrity is being developed with York youth and their parents/guardians as quality programs are being introduced and activated.

Consultation:

Youth
School
Police
Health
Councillors
Council Staff
Community Members

Statutory Environment:

Nil

Policy Implications:

Not Applicable

Financial Implications:

Activities and initiatives are funded in SOY budget and through grants, fundraising activities and 'user pays' arrangements.

Strategic Implications:
The Shire of York's 2012 Strategic Community Plan -

Social: Building a Sense of Community -

- *Develop a Youth Plan to capture specific youth activities and opportunities.*

Environment: Enhanced Lifestyle Choices -

- *Provide and maintain facilities for youth and aged services.*
- *Provide and maintain local area spaces and parks.*
- *Implement asset plans for youth facility, skate park, park improvements, pool upgrades, archives centre, town hall upgrades.*

Economic Development: Maximise Development -

- *York will diversify economically through commercial growth, providing jobs and services to support our growing population.*
- *There will be employment and investment choices, providing a place for business access to rural and metropolitan opportunities.*

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

A strong focus on Youth activities will support community cohesion and interaction through the recognition and valuing of this section of the community.

Environmental Implications:

Not applicable

Comment:

This report serves to keep the community informed of the activities in place.

RESOLUTION

090813

Moved: Cr Duperouzel

Seconded: Cr Smythe

"That Council:

Receives this report and acknowledges and endorses the activities and initiatives of the Youth Activities Co-Ordinator."

CARRIED: 5/0

9.3 Works Reports

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Monthly Financial Reports – July 2013

FILE NO: FI.FRP
COUNCIL DATE: 19 August 2013
REPORT DATE: 13 August 2013
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Yes – Appendix A as detailed in Summary
DOCUMENTS TABLED: Nil

Summary:

The Financial Report for the period ending 31 July 2013 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 31 July 2013
- Bank Account Reconciliations
- List of Creditors Payments
- Payroll Direct Debits Summary
- Corporate Credit Card Summary
- Fuel Card Summary

Consultation:

Dominic Carbone

Statutory Environment:

Local Government Act 1995 (As Amended).

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

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 July 2013;

Sundry Creditors as per General Ledger	\$1,165.16
Sundry Debtors as per General Ledger	\$646,961.57
Unpaid rates and services current year (paid in advance inc. ESL)	\$ -16,519.54
Unpaid rates and services previous years (inc. ESL)	\$812,227.86

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:
Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

Not applicable.

RESOLUTION

100813

Moved: Cr Lawrance

Seconded: Cr Smythe

“That Council:

Receive the Monthly Financial Report for July and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 July 2013:

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	<i>30731 - 30775</i>	<i>\$ 111,099.80</i>
<i>Electronic Funds Payments</i>	<i>10993 - 11147</i>	<i>\$ 997,037.03</i>
<i>Direct Debits Payroll</i>		<i>\$ 166,871.06</i>
<i>Bank Fees</i>		<i>\$ 496.73</i>
<i>Corporate Cards</i>		<i>\$ 3,479.34</i>
<i>Shell Cards</i>		<i>\$ 15.00</i>
<i>TOTAL</i>		<i><u>\$ 1,278,998.96</u></i>
 TRUST FUND		
<i>Cheque Payments</i>	<i>4160 - 4176</i>	<i>\$ 5,583.14</i>
<i>Direct Debits Licensing</i>		<i>\$ 137,553.20</i>
<i>TOTAL</i>		<i><u>\$ 143,136.34</u></i>
 <i>TOTAL DISBURSEMENTS</i>		 <i><u>\$1,422,135.30”</u></i>

CARRIED: 5/0

Item 9.4.1 – Appendices

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.2 Monthly Financial Reports – June 2013

FILE NO: FI.FRP
COUNCIL DATE: 19 August 2013
REPORT DATE: 31 July 2013
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Yes – Appendix A as detailed in Summary
DOCUMENTS TABLED: Nil

Summary:

The Financial Report for the period ending 30 June 2013 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 30 June 2013
- Bank Account Reconciliations
- List of Creditors Payments
- Payroll Direct Debits Summary
- Corporate Credit Card Summary
- Fuel Card Summary

Consultation:

Dominic Carbone

Statutory Environment:

Local Government Act 1995 (As Amended).

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

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 30 June 2013;

Sundry Creditors as per General Ledger	\$680,776.75
Sundry Debtors as per General Ledger	\$807,097.40
Unpaid rates and services current year (paid in advance inc. ESL)	\$346,517.53
Unpaid rates and services previous years (inc. ESL)	\$478,740.50

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:
Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

Not applicable.

RESOLUTION

110813

Moved: Cr Scott

Seconded: Cr Boyle

“That Council:

Receive the Monthly Financial Report for June and ratify payments drawn from the Municipal and Trust accounts for the period ending 30 June 2013:

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	<i>30703 - 30730</i>	<i>\$ 58,735.60</i>
<i>Electronic Funds Payments</i>	<i>10899 - 10992</i>	<i>\$ 2,142,203.15</i>
<i>Direct Debits Payroll</i>		<i>\$ 171,764.71</i>
<i>Bank Fees</i>		<i>\$ 510.64</i>
<i>Corporate Cards</i>		<i>\$ 5,751.55</i>
<i>Shell Cards</i>		<i>\$ 137.13</i>
<i>TOTAL</i>		<i><u>\$2,379,102.78</u></i>
TRUST FUND		
<i>Cheque Payments</i>	<i>4146 - 4159</i>	<i>\$ 4,797.87</i>
<i>Direct Debits Licensing</i>		<i>\$ 156,143.85</i>
<i>TOTAL</i>		<i><u>\$ 160,941.72</u></i>
<i>TOTAL DISBURSEMENTS</i>		<i><u>\$2,540,044.50”</u></i>

CARRIED: 5/0

Item 9.4.2 – Appendices

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.3 Investments – July 2013

FILE NO:	FI.FRP
COUNCIL DATE:	19 August 2013
REPORT DATE:	13 August 2013
LOCATION/ADDRESS:	Shire of York
APPLICANT:	N/A
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, FO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Shire of York Investment Portfolio
DOCUMENTS TABLED:	Nil

Summary:

That Council consider the investment portfolio as attached.

Background:

The investment policy requires Council to review the performance of its investments on a monthly basis.

Consultation:

Auditors; and
Dominic Carbone.

Statutory Environment:

Not Applicable.

Policy Implications:

In accordance with the Financial Management Investment Policy.

Financial Implications:

Credit Ratings:

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

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 as at 31 July 2013.

The Shire of York Investment Portfolio identifies Council's investment type, term to maturity and investment value.

The reporting will be reviewed on an ongoing basis by the Auditors and staff.

RESOLUTION

120813

Moved: Cr Lawrance

Seconded: Cr Scott

"That Council receive the Shire of York Investment Portfolio as attached to this report."

CARRIED: 5/0

Item 9.4.3 – Appendices

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.4 Investments – June 2013

FILE NO:	FI.FRP
COUNCIL DATE:	19 August 2013
REPORT DATE:	31 July 2013
LOCATION/ADDRESS:	Shire of York
APPLICANT:	N/A
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, FO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Shire of York Investment Portfolio
DOCUMENTS TABLED:	Nil

Summary:

That Council consider the investment portfolio as attached.

Background:

The investment policy requires Council to review the performance of its investments on a monthly basis.

Consultation:

Auditors; and
Dominic Carbone.

Statutory Environment:

Not Applicable.

Policy Implications:

In accordance with the Financial Management Investment Policy.

Financial Implications:

Credit Ratings:

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

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 as at 30 June 2013.

The Shire of York Investment Portfolio identifies Council's investment type, term to maturity and investment value.

The reporting will be reviewed on an ongoing basis by the Auditors and staff.

RESOLUTION

130813

Moved: Cr Smythe

Seconded: Cr Scott

"That Council receive the Shire of York Investment Portfolio as attached to this report."

CARRIED: 5/0

Item 9.4.4 – Appendices

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Uniting Church Ladies Fellowship – Application to be Recognised as a Community Group

FILE NO: CS.INF.2
COUNCIL DATE: 19 August 2013
REPORT DATE: 15 August 2013
APPLICANT: Uniting Church Ladies Fellowship
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: George Johnson
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

It is a requirement that the Uniting Church Ladies Fellowship makes application to Council to be recognised as a Community Group in order to qualify to have fees waived for fund raising activities in public places and thoroughfares.

Background:

On 15 August 2013, Council received an application from Uniting Church Ladies Fellowship seeking Council recognition as a community group for the purpose of having Council fees waived for "Not for Profit" fund raising activities in public places and thoroughfares.

Certificate of Incorporation and Public Liability Insurance of \$10,000,000 is required for community groups to qualify as being recognised as a York Community Group.

Consultation:

Nil

Statutory Environment:

Shire of York, Local Law – Trading in Thoroughfares and Public Places.

Policy Implications:

Nil

Financial Implications:

Annual Stallholder's fee of \$36.75.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

It is of benefit to enhance relationships between Council and Community Groups by waiving the Stallholder's fee for "Not for Profit" fundraising events.

Environmental Implications:

Nil

Officers Comment:

Uniting Church Ladies Fellowship do fundraising for the local community and also help charities in the wider community.

A current copy of the Certificate of Currency for Public Liability Insurance for \$10,000,000 will be provided.

RESOLUTION

140813

Moved: Cr Scott

Seconded: Cr Smythe

“That Council:

Recognise Uniting Church Ladies Fellowship as a Community Group for the purpose of waiving the Stallholders fee for “Not for Profit” fund raising activities in public places and thoroughfares.”

CARRIED: 5/0

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.2 Tender 01 – 1314, Administration Office Energy Efficiency Upgrade

FILE NO: AS 1037
COUNCIL DATE: 19 August 2013
REPORT DATE: 16 August 2013
LOCATION/ADDRESS: 1 Joaquina Street , York
APPLICANT: Not applicable
SENIOR OFFICER: Ray Hooper CEO
REPORTING OFFICER: Gordon Tester MHB
DISCLOSURE OF INTEREST: Nil
APPENDICES: Tender Report
DOCUMENTS TABLED: Nil

Summary:

Contained in this report is an overview of all tenders received from companies offering to supply energy efficient air conditioning and or energy efficient lighting for Councils Administration Office.

One Air Conditioning Company and One Electrical Company are recommended for Councils approval.

Background:

Council was successful in obtaining a grant under the Federal Governments Community Energy Efficiency Program.

An amount of \$132,000 was granted to Council with Council allocating a matching amount of \$132,000 in the 2013 / 2014 budget.

The grant is to fund the replacement of the inefficient air conditioning and lighting currently in use within Councils Administration Office.

Tenders for this project concluded on Friday 9 August 2013.

Seven companies submitted tenders for Councils consideration.

Consultation:

Not Applicable.

Statutory Environment:

Local Government (Functions and General) Regulations 1996.

Policy Implications:

Not Applicable

Financial Implications:

Local Company CDA has offered a tender amount of \$126,289.09 for the Air Conditioning upgrade and Energin has offered a tender amount of \$23,210.00 for the installation of LED lighting within Council's administration office.

Energin also offered an additional tender for Council to consider in addition to the simple replacement of existing fluorescent lighting within the office they have indicated an amount of \$11,298.00 to upgrade the lighting switchboard and to supply LED Exit Signs and Down Lights.

A further expense will be incurred by Council in constructing an enclosure for the proposed air conditioning units of approximately \$10,000.00.

Strategic Implications:

Council's strategic plan has a vision statement that indicates Council will support sustainable energy and seek solutions for innovative use of water, energy and other resources.

It is a priority to explore options and improvements in the towns energy and water use.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

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

The estimated amount allocated for this project is well within budget parameters and when the project is completed a saving of approximately \$20,000.00 per year is envisioned in office energy costs at current prices.

Social Implications:

Not applicable

Environmental Implications:

Council's carbon footprint will be substantially smaller when the office energy efficiency upgrade is completed.

Comment:

The Local company CDA is being recommended as the preferred tenderer for the air conditioning upgrade as this company intends installing a reputable brand of air conditioner, has demonstrated experience in installing commercial air conditioning and also will be enhancing the energy efficiency of the inverter type air conditioners by installing extra insulation where required in the office roof space.

There is also the advantage of being able to enter into a long term maintenance agreement with a local contractor.

The LED Lighting upgrade is recommended to be awarded to Enigin who have demonstrated experience in energy efficiency upgrades and as an addition to their tender are willing to attend to an upgrade of the lighting switchboard to incorporate residual current safety devices on the office lighting circuit.

Enigin will also be contracted to replace all safety lighting and external verandah lighting with LED Lighting as an addition to their original tender.

**RESOLUTION
150813**

Moved: Cr Lawrance

Seconded: Cr Duperouzel

“That Council:

Award Part A of Tender Number 01-1314 Shire of York to CDA Air Conditioning and Refrigeration Option 2 at a cost of \$126,289.09 and;

That Council award Part B of Tender Number 01- 1314 to Enigin Pty Ltd at a cost of \$38,732.38.”

CARRIED: 5/0

Item 9.5.2 - Appendices

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.3 York Agricultural Show – Fire Works Display

RESOLUTION

160813

Moved: Cr Scott

Seconded: Cr Duperouzel

“That Council:

- ***Will allow a Fire Works Display at Forrest Oval at the eastern end on Show Day, 7th September, 2013 subject to safety conditions being met.***
- ***Shire of York to contribute \$2,000 towards the Fire Works Display.”***

CARRIED: 5/0

9.6 Confidential Reports

9.6.1 Saints Diner – 87 Avon Terrace, York

**RESOLUTION
170813**

Moved: Cr Scott

Seconded: Cr Duperouzel

“That Council:

Go “Into Committee” to consider the Confidential Report at 4.10pm.”

CARRIED: 5/0

**RESOLUTION
180813**

Moved: Cr Scott

Seconded: Cr Lawrance

“That Council:

RESOLVE to accept the advice from McLeods Barristers and Solicitors.”

CARRIED: 5/0

**RESOLUTION
190813**

Moved: Cr Scott

Seconded: Cr Smythe

“That Council:

Come ‘Out of Committee’ at 4.16pm.”

CARRIED: 5/0

10. NEXT MEETING

**RESOLUTION
200813**

Moved: Cr Smythe

Seconded: Cr Lawrance

“That Council:

hold the next Ordinary Meeting of the Council on September 16, 2013 at 3.00pm in the Council Chambers, York Town Hall, York.”

CARRIED: 5/0

11. CLOSURE

Cr Boyle thanked everyone for their attendance and declared the meeting closed at 4.16pm.