



# SHIRE OF YORK

**MINUTES OF THE ORDINARY  
MEETING OF THE COUNCIL  
HELD ON 16 AUGUST 2010  
COMMENCING AT 3.00pm  
IN THE LESSER HALL,  
JOAQUINA STREET, YORK.**



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RAY HOOPER  
CHIEF EXECUTIVE OFFICER





# Table of Contents

<b>1. OPENING .....</b>	<b>7</b>
1.1 Declaration of Opening .....	7
1.2 Chief Executive Officer to read the disclaimer.....	7
1.3 Announcement of Visitors .....	7
1.4 Announcement of any Declared Financial Interests .....	7
<b>2. ATTENDANCE .....</b>	<b>7</b>
2.1 Members.....	7
2.2 Staff .....	7
2.3 Apologies.....	7
2.4 Leave of Absence Previously Approved.....	7
2.5 Number of People in Gallery at Commencement of Meeting.....	7
<b>3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....</b>	<b>8</b>
3.1 Previous Public Questions Taken on Notice.....	8
3.2 Written Questions .....	8
<b>4. PUBLIC QUESTION TIME.....</b>	<b>8</b>
<b>5. APPLICATIONS FOR LEAVE OF ABSENCE .....</b>	<b>15</b>
<b>6. PETITIONS / PRESENTATIONS / DEPUTATIONS.....</b>	<b>15</b>
<b>7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING .....</b>	<b>15</b>
7.1 Minutes of the Ordinary Council Meeting held June 21,2010.....	15
<b>8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....</b>	<b>15</b>
<b>9. OFFICER'S REPORTS.....</b>	<b>15</b>
<b>9.1 Development Services.....</b>	<b>17</b>
9.1.1 Proposed change of purpose for Reserve 22140.....	19
9.1.2 Scheme Amendment 36 – Modification to Schedule 15.....	25
9.1.3 Scheme Amendment 44 - Mount Matilda / Grassvale - Adoption Report.....	39
<b>9.2 Administration Reports .....</b>	<b>53</b>
9.2.1 Proposed Health Amendment Local Law 2010 .....	55
9.2.2 Proposed Local Government Property Amendment Local Law 2010 .....	69
9.2.3 Proposed Parking and Parking Facilities Amendment Local Law 2010.....	79
9.2.4 Emergency Services Levy – Agreement – Option B.....	91
9.2.5 Endorse – Advertising of Dual Appointed Fire Control Officer - Quairading .....	101
9.2.6 Lease Sporting Clubs .....	103
9.2.7 Appeal – Shire of York V Rosmill Pty Ltd .....	105
9.2.8 Customer Service Standards .....	111
<b>9.3 Works Reports .....</b>	<b>117</b>
9.3.1 Traffic Management for Works on Roads – Main Roads WA Authorisation.....	119
<b>9.4 Finance Reports.....</b>	<b>123</b>
9.4.1 Monthly Financial Reports – July 2010 .....	125
9.4.2 Non-Rates Write Off – Various .....	143
<b>9.5 Confidential Reports.....</b>	<b>149</b>
<b>9.6 Late Reports.....</b>	<b>151</b>
<b>10. NEXT MEETING .....</b>	<b>153</b>
<b>11. CLOSURE .....</b>	<b>153</b>





## SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL  
HELD ON MONDAY, 16 AUGUST 2010, COMMENCING AT  
3.00PM IN THE LESSER HALL, JOAQUINA STREET, 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 Pat Hooper, Shire President, declared the meeting open at 3.00pm*
- 1.2 Chief Executive Officer to read the disclaimer  
*Ray Hooper, Chief Executive Officer, read the disclaimer*
- 1.3 Announcement of Visitors  
*Nil*
- 1.4 Announcement of any Declared Financial Interests  
*Cr Randell – 9.1.1 – Impartial - Proximity*

### 2. ATTENDANCE

- 2.1 Members  
*Cr Pat Hooper, Shire President;  
Cr Tony Boyle; Cr Roy Scott; Cr Walters; Cr Randell*
- 2.2 Staff  
*R Hooper, CEO; P Ruettjes, Planner; G Tester, Manager of EHO and Building;  
Nicole McNamara, Development Services Officer; Helen D'Arcy-Walker, Executive  
Support Officer*
- 2.3 Apologies  
*Nil*
- 2.4 Leave of Absence Previously Approved  
*Cr Brian Lawrance*
- 2.5 Number of People in Gallery at Commencement of Meeting  
*There were 19 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**

*Nil*

#### **3.2 Written Questions**

*Nil*

### **4. PUBLIC QUESTION TIME**

Mrs Rosamunde Minchin  
52 Churchill Avenue  
Subiaco WA 6008

#### **Question 1:**

I should preface my question by advising that my husband, who is not able to be present today, and I are the landowners referred to in Appendix D, Page 2.

I wish to ask two questions that relate to this appendix.

Firstly – on page 4 reference is made in the response to our submission, that documentation for the structure plan has been available at the front counter during the advertising period and a copy has been forwarded to the submitters.

I ask – does the Council have a record of the date such documentation was sent to us – as we have never received this information.

**Question 2** related to the response given on page 3 – Appendix D.

Reference is made that the applicant and landowner have identified future demand and are therefore progressing the proposal.

My question is – ‘has the Council been given an annual forecast of the demand for special rural lots in the Shire? If so, can this information be provided to us?’

#### **Response**

Question 1 - The Shire Planner will go back through records and advise within seven (7) days. Question 2 – The Shire Planner will forward documentation.

Ms Susan Schmidt  
PO Box 528  
York WA 6302

#### **Question 1:**

Considering the amount of people here today, it is clear that there is an interest in community matters and 15 minutes is not long enough for question time. Question time should be extended or the Council Meeting be held at night time, so more people can attend.

#### **Response:**

This issue has been raised previously. York has not previously had night time meetings. Question is Taken on Notice and opinion will be canvassed.

#### **Question 2:**

The tin fence between the Shire and the neighbouring property needs to be replaced as it is a disgrace.

**Response:**

Council will communicate with the landowner.

Mr Andy Fraser  
17 Pelham Street  
York WA 6302

**Question 1:**

I owe an apology to the Shire President. I implied that you personally should pay for the graffiti cleanup up, however I meant that Council should pay for it.

**Question 2:**

Is it possible for Question Time to be extended?

**Response**

Question Time has been extended to 35 minutes in the past.

**Question 3:**

Are Questions Taken on Notice responded to within seven (7) days?

**Response:**

There is an Agenda item relating to the acknowledgement of receipt of all correspondence.

**Question 4:**

Building Compliance 2009 – the radio station is in need of major repairs or needs to be demolished. What is the timeframe for this to happen?

**Response:**

Council is on Notice by Work Safe to have an Asbestos Policy in place by the end of the year. An inspection of the radio station has been undertaken and the amount of asbestos was not as high as originally claimed.

**Question 5:**

Is Council bound by the same timeframes as the general public?

**Response:**

Gordon Tester – The Builders Registration Board Act does not apply to Local Government. However if Council were to build, they would follow the same process.

**Question 6:**

When putting in for funding for a development e.g. Royalties for Regions, does there need to be an official application? Can the funds be used for purchase or only for construction?

**Response:**

This depends on the project. Guidelines are set for all local governments.

**Question 7:**

I have been told that the verandah posts in the main street will be treated with Creosote.

**Response:**

This is not correct. If creosote is used it would be breaking Local and State Laws.

**Question 8:**

With the proposals in place for the Town Hall, Recreation Centre, Co-Location Centre and Old School – has Council over extended itself?

**Response:**

No. There is a draft budget report to be out tomorrow. It will be available for public response for seven (7) days. There is a Special Meeting scheduled for Tuesday, 24<sup>th</sup> August to adopt the budget.

There is funding in the Budget for the Town Hall. The Business Plan for the purchase of the Old School is currently open for public comment.

Mrs Heather Saint  
87 Avon Terrace  
York WA 6302

**Question 1:**

Following on from questions asked at previous Council meetings concerning the legal responsibility of each Councillor for their own decision making.

Are all Councillors satisfied that (when they do vote on a matter that they haven't already delegated to the CEO), prior to making any decision, they have always been fully informed of all relevant facts and provided with all relevant documentation, copy legislation and options available from the Shire administration to support their important final decision?

I refer to: Local Government Act 1995 Administration  
Part 5 Local Government Employees  
Division 4 – 5.41. Functions of CEO  
The CEO's functions are to –

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;

**Response:**

I endeavour to make myself knowledgeable by attending briefing sessions, asking questions, etc. Up to Councillors to make themselves knowledgeable.

**Question 2: (3 answers required)**

Looking at the financials for the Shire, it would appear that an excessive amount of money is being spent on legal advice from McLeod's Barristers & Solicitors concerning general matters, which would appear to be an unjustified expense to the ratepayers of York.

The latest letter of response to me from the Shire regarding a question taken on notice asked at the last Council meeting was copied in to McLeods. Firstly, I would ask the CEO, through the chair, if the contents of the letter consisted of advice received from McLeods and secondly, was there any legal cost involved?

Are Councillors aware of the spending on legal advice and do they accept that this as a necessary option when most answers could have been obtained by fully informed, knowledgeable and qualified staff or by investigation of relevant Laws, Acts or documents available to Local Government, before lining the pockets of lawyers?

**Response:**

CEO - There has been no cost to his knowledge.

I can only speak for myself – I believe Council acts in the best interest of the community, as a whole, matters are only referred for legal advice where necessary.

**Question 3:**

Are Councillors satisfied with the excessive level of delegation they have authorised to the CEO and do they believe that some use of this decision making and ultimate 'power' has created financial problems for York?

**Response:**

Yes. Delegations are reviewed annually. Council will apply to the Department of Local Government for a review of practices and procedures.

**Question 4:**

Delegations are to be reviewed annually in accordance with the Local Government Act. Could Councillors please confirm when both the written approvals for delegation and the register of authorities were last reviewed by them?

**Response:**

August/October 2009 – the Delegation Policy is reviewed annually and amendments have been made each time. The CEO to back through the Minutes and check.

Mrs Roma Paton  
30 Bouverie Road  
York WA 6302

**Question 1:**

As Councillors are about to vote on Agenda item 9.2.2. Government Policy Amendment Local Law 2010 – Refusal of entry to local government property No. 17 part 4 New clause 4.6 – can the Shire President please explain his and the Councillors interpretation/understanding of the work 'likely' to those in the gallery?

**Response:**

Taken on Notice

**Question 2:**

Can the Shire President tell those in the gallery who the authorised person will be that is stated in item 9.2.2 No. 17 part 4 New Clause 4.6 and what Psychological qualifications does the 'authorised' person have which will allow a 'lawful assessment' of any person in York?

**Response:**

The CEO or delegated officer.

**Question 3:**

Are Councillors aware that West Australian Parliament is to be advised if there are any contentious issues contained within any new local laws?

**Response:**

An external Consultant is dealing with the Local Laws and due processes are being followed.

**Question 4:**

Are Councillors also aware Local Laws that contain contentious issues are required to be scrutinized by the Joint Standing Committee of the West Australian Parliament to guard against the making of local laws that are either unlawful by going beyond the power that is delegated or are unlawful for other reasons?

**Response:**

CEO – yes. All due processes will be followed.

**Question 5:**

As I believe Agenda item 9.2.2 – Local Law No 17 part 4 New Clause 4.6 does contain contentious issues that go beyond the power delegated and are unlawful for other reasons – namely impinging on the democratic right of ‘freedom of movement’, will the Shire President give an undertaking to Ratepayers of York that the proposed Local Law Refusal of entry to local government property No 17 part 4 New Clause 4.6 will be forwarded directly to and reviewed by the Western Australian Parliament Joint Standing Committee together with copies of the Public Question time from this meeting?

**Response:**

Local Laws are reviewed by a State Government Committee and are to be adopted by five different Shires including York (SEAVROC).

**Question 6:**

Are Councillors aware this proposed ‘local law’ will include the Library, Town Hall, Lesser, Greenhills and Talbot Halls, Visitors Centre, Telecentre, Swimming Pool, Forrest Oval (and all sporting venues within), York Radio Station, Peach and Avon Parks, York Cemetery (old and new), Old Fire Station, Yorkie’s Carriage and the Doctors Surgery (should the Shire purchase the old school) and are Councillors also aware this local law would include them, members of their family, their friends and their neighbours?

**Response:**

Taken on Notice

**Question 7:**

State laws are already in place – why is the York CEO Mr Ray Hooper seeking to upgrade his role to include what appears to be that of Policeman as well as Judge and Jury?

**Response:**

Taken on Notice

Mr Simon Saint  
87 Avon Terrace  
York WA 6302

**Question 1:**

Is section 9.1 of the Shire of York Standing Orders still applicable or have any amendments been made. When members of the public address Council they respectfully rise, does the Shire think it would be courteous to reciprocate and do the same?

**Response:**

Standing orders have not been followed since the appointment of the Commissioner.



**Question 2:**

On the 12<sup>th</sup> August, 2008 the Council issued and displayed a public statement by way of a memorandum. In the statement three members of the public were named and referred to as 'relative newcomers'. The same three members of the public were questioned as to whether they will 'put their hands up in 2009 to do something positive for York'.

(a) In the Council's opinion was this statement made in the best interest of the public?  
Y/N

(b) Please explain why this action was considered to be in the public's best interest?

(c) Could the Council please define "relative newcomer"?

(d) Could the Council define 'doing something positive for York'?

(e) Would the Council agree this statement may have caused unwarranted offence and embarrassment to those members of the public named?

Document Tabled.

**Response:**

(a) Yes. Under the circumstances at that time

(b) The negative publicity about York at that time

(c) Taken on Notice

(d) Taken on Notice

(e) Taken on Notice

**Question 3:**

Would the Council agree that the Planning and Development Act 2005 Division 3 Infringement notices (1<sup>st</sup> July, 2009) section 228., is a lawful policy of Local Government?

(a) Do you agree and approve of the policy?

**Response:**

Yes as a State Government policy.

**Question**

I refer to the Code of Conduct for Council Members, Committee Members and Staff 4.4 Compliance with Lawful Orders

Council Members, Committee Members and staff will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

**Question**

(b) Why then did you not see fit to give effect to this lawful policy in my case?

**Response:**

Taken on Notice

**Question 4:**

When the Shire President is wearing his JP's hat, does this absolve him from the official Code of Conduct for Elected Members of Council?

**Response:**

Totally irrelevant. Witnessing documents as a JP is outside the role as a Councillor.

**Question:**

Quote from Code of Conduct for Council Members, Committee Members and Staff

**2.1 Conflict of Interest**

- (a) Council Members, Committee Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.

**4.2 Honesty and Integrity**

Council Members, Committee Members and staff will:

- (a) observe the highest standards of honesty and integrity and avoid conduct which might suggest any departure from these standards;

Why then did the Shire President witness and endorse a Notice of Prosecution for unapproved signage with the full knowledge that he the Shire President was the subject of the signage, please explain how you could possibly be perceived as remaining impartial and avoiding a conflict of interest?

**Response:**

Taken on Notice

**Question 5:**

Does council abide by its own heritage policy in relation to the colour of footpaths?

**Response:**

Council works with a Heritage Advisor on projects.

**Question:**

Can the Shire confirm they will not be using any more pink concrete?

**Response:**

Yes

Ms Darlene Barratt  
PO Box 797  
York WA 6302

**Question 1:**

During the meeting of 7<sup>th</sup> July it was voted to close the shire meeting 5-0. At what point did the vote take place to reconvene the meeting 6-0 when soon as the meeting was ended Trevor Randell was out outside talking to Simon Saint and Tony Boyle was talking to Carl Bell then we came back in to the meeting no vote was done in front of us. When did this vote take place?

**Response:**

Taken on Notice

**Question 2:**

I would like to point out to the Councillors that will be voting to accept the outcome of the Rosmill case today. How can you vote to accept the outcome of the Rosmill case when:

1. Figures from the first case have not been correctly disclosed
2. No one knows the exact monetary outcome of the supreme court case at this point in time?

**Response:**

Noted

Mr Mark Butterworth  
PO Box 208  
York WA 6302

**Question:**

Are Councillors aware that by voting to prosecute Rosmill Pty Ltd through the Northam Court that this set the process for the resultant appeal and increased costs through other courts and action.

**Response:**

Noted

Ms Susan Schmidt  
PO Box 528  
York WA 6302

**Question:**

Does Council agree that ego's of some people are getting in the way of making decisions?

**Response:**

Noted

**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 June 21,2010**

Confirmation

**RESOLUTION**

**010810**

**Moved: Cr Scott**

**Seconded: Cr Boyle**

***"That subject to 9.1.1. – Sewer Connection – Pioneer Lodge & Units – Resolution 040710 should read budget allocation of \$12,430.00 plus 6 percent to cover increased material costs the minutes of the Ordinary Council Meeting held July 19, 2010 be confirmed as a correct record of proceedings."***

**CARRIED (5/0)**

**8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

*Nil*

**9. OFFICER'S REPORTS**



## **9.1 Development Services**



## **9. OFFICER'S REPORTS**

### **9.1 DEVELOPMENT REPORTS**

#### **9.1.1 Proposed change of purpose for Reserve 22140**

*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.*

<b>FILE NO:</b>	<b>N/A</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>9 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Reserve 22140, Macartney Street, York</b>
<b>APPLICANT:</b>	<b>Longsword Pty Ltd</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Patrick Ruettjes, Manager Planning Services</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Location Plan; Correspondence from Longsword Pty Ltd</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

Council is asked to write to the Minister for Lands through State Land Services to request a change of purpose for Reserve 22140 (York Town Lot 550) from 'Municipal Purposes – Municipal Depot Site' to 'Municipal Purposes – Town Centre Car Parking and Associated Land Uses' with power to lease to enable the construction of car parking for the York Town Centre.

#### **Background:**

Reserve 22140 (York Town Lot 550), located on Macartney Street, York, covers an area of 712 m<sup>2</sup> and is zoned 'Recreation and Open Space' under the Shire of York Town Planning Scheme No. 2 (the 'Scheme'). It is Crown Land vested in the Shire of York for the purpose of 'Municipal Purposes – Municipal Depot Site', which came into effect in 1940. The reserve in question is not developed for the purpose of 'Municipal Depot'. It is currently vacant land located immediately east of the railway reserve of the Northam – Albany Railway Line.

Longsword Pty Ltd recently purchased the adjacent Lot 547 Macartney Street which is zoned 'Special Use Zone SU2' under the Scheme with uses of the 'Town Centre' zone being permitted uses, such as commercial/retail/shops. Longsword has expressed its interest in leasing Lot 550/Reserve 22140 for the purpose of car parking when Lot 547 is developed.

#### **Consultation:**

The proposal has been discussed at a meeting with the adjoining landowner who wishes to develop Lot 547 Macartney Street. Preliminary discussions have also taken place with the Department of Regional Development and Lands – State Land Services.

#### **Statutory Environment:**

Land Administration Act 1997

##### *Part 4 — Reserves*

##### *41. Minister may reserve Crown land*

*Subject to section 45(6), the Minister may by order reserve Crown land to the Crown for one or more purposes in the public interest. [...]*

46. *Placing of care, control and management of reserves*
- (1) *The Minister may by order place with any one person or jointly with any 2 or more persons the care, control and management of a reserve for the same purpose as that for which the relevant Crown land is reserved under section 41 and for purposes ancillary or beneficial to that purpose and may in that order subject that care, control and management to such conditions as the Minister specifies.*
  - (2) *The Minister may, with the consent of the management body of a reserve and of the holders of any interests within the reserve, by order vary any condition to which the care, control and management of the reserve is subject. [...]*
49. *Management plans*
- (1) *A management body may submit to the Minister for his or her approval a plan for the development, management and use of the Crown land in its managed reserve for the purpose of that managed reserve.*
  - (2) *The Minister may request a management body or proposed management body to submit to the Minister in an approved form, within such period as is specified in that request, for his or her approval a plan for the development, management and use of the Crown land in the managed reserve of the management body for the purpose of that managed reserve.*
  - (3) *A management body must, before submitting a plan to the Minister under subsection (1) or in response to a request under subsection (2) —*
    - (a) *consider any conservation, environmental or heritage issues relevant to the development, management or use of the Crown land in its managed reserve for the purpose of that managed reserve; and*
    - (b) *incorporate in the plan a statement that it has considered those issues in drawing up the plan.*
  - (4) *If a management body submits a plan to the Minister under subsection (1) or in response to a request under subsection (2) and the Minister approves that plan and notifies the management body of that fact, the management body may develop, manage and use the Crown land concerned —*
    - (a) *in accordance with the plan; or*
    - (b) *if the Minister approves a variation of the plan, in accordance with the plan as varied.*
50. *Revocation of management orders*
- (1) *When a management body —*
    - (a) *agrees that its management order should be revoked; or*
    - (b) *does not comply with its management order or with a management plan which applies to its managed reserve or does not submit a management plan in compliance with a request made under section 49(2),**the Minister may by order revoke that management order.*
  - (2) *If, in the absence of agreement or non compliance referred to in subsection (1), the Minister considers that it is in the public interest to revoke a management order, the Minister may by order revoke the management order. [...]*

**Policy Implications:**

Nil.



**Financial Implications:**

There are no direct financial implications resulting from the recommendations of this report.

**Strategic Implications:**

Key Result Area 1 – Objective 1:

*“To develop a framework to facilitate planning and decision-making in order to identify and meet community needs, develop opportunities and implement change.”*

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Yes**

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

The Shire of York does not hold any power to lease or any financial interest in Reserve 22140, i.e. in event of a disposal of the reserve it does not receive any funds.

The site cannot be developed as a depot site due to its size and location. It is considered that town centre parking is the best use for the reserve. If developed as car parking, it is expected to ease car parking pressure as it is located in a very central location in walking distance to the central business area and existing accommodation as well as immediately next to the future Lot 547 development site.

**Environmental Implications:**

The Reserve is located immediately next to the Northam – Albany Railway Line and therefore affected by noise and vibration from the railway line which excludes most potential uses of the land. The proposed use as car park is considered to be compatible with the constraints of the land.

**Comment:**

It is considered that car parking for the York Town Centre is the best long term use for York Town Lot 550/Reserve 22140 given its central location close to shops and accommodation. The site is far too small for a depot and a semi industrial use such as a depot should not be located in the town centre anyway. The proximity of the railway line also rules out any future residential uses or the development as future parkland.

The adjoining landowner, Longsword Pty Ltd, is interested in developing and managing the site for car parking as it is anticipated that they will lodge an application for planning consent for Lot 547 in the near future. It should be noted that under a lease agreement between the Shire and the landowner, the land will remain public land and accessible for car parking at all times.

It is therefore recommended to write to the Minister for Lands/State Land Services requesting the change of purpose and obtaining a management order with power to lease in order to facilitate car parking for the town centre.

Cr Randell declared an interest and left the room at 3.45pm

**RESOLUTION  
020810**

**Moved: Cr Boyle**

**Seconded: Cr Scott**

***“That Council:***

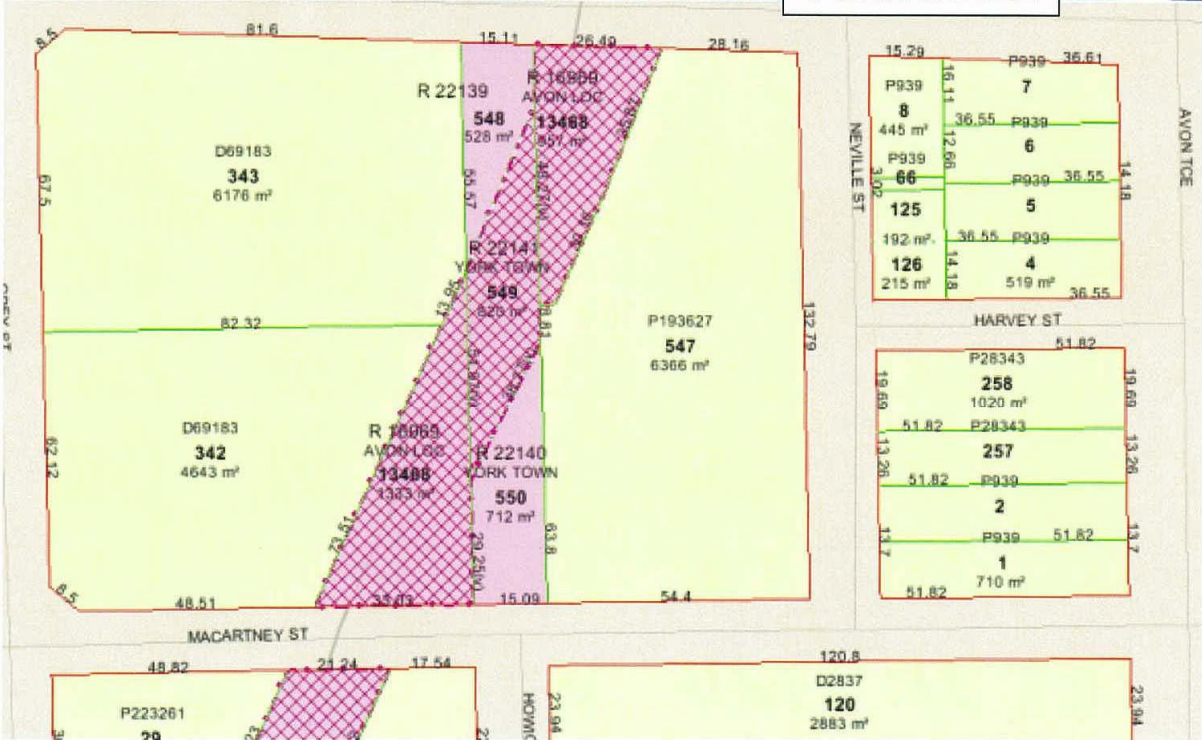
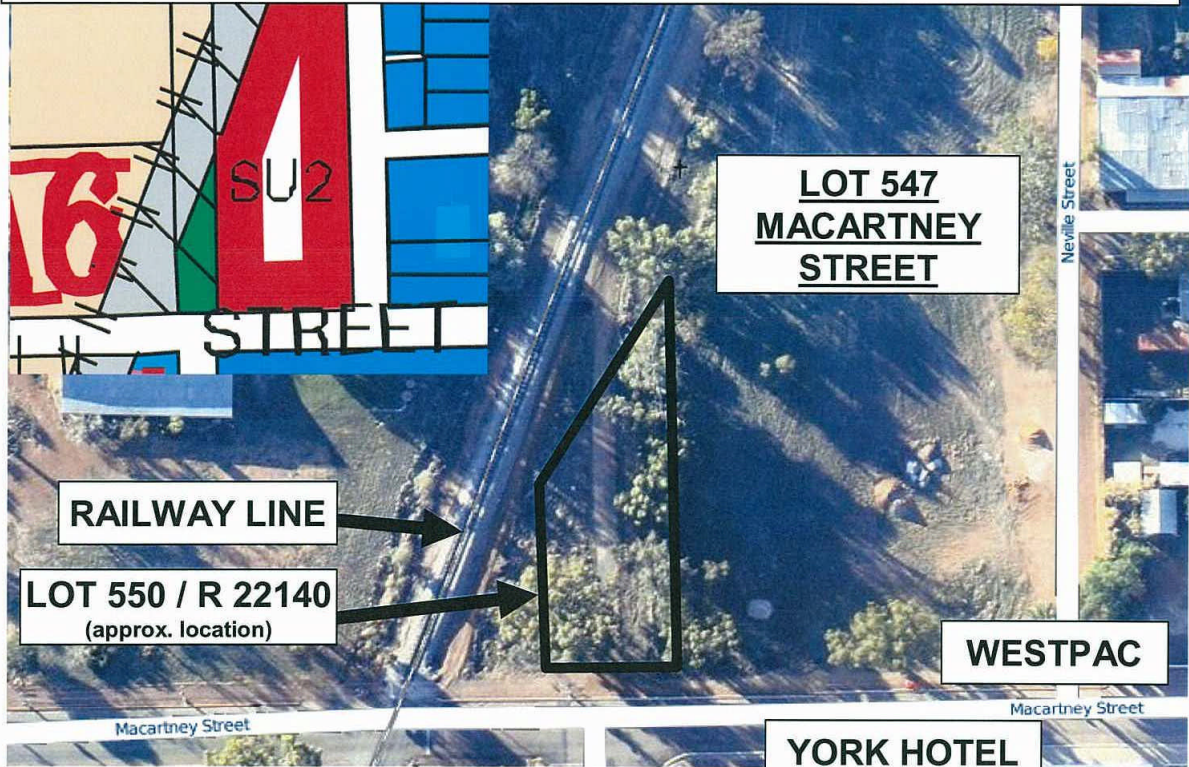
***With respect to the proposed change of purpose for Reserve 22140, York Town Lot 550, Macartney Street, York, resolve to indicate to the applicant and the Department for Regional Development and Lands – State Land Services that:***

- 1. It requests the Minister for Lands to change the purpose of Reserve 22140 from ‘Municipal Purposes – Municipal Depot Site’ to ‘Municipal Purposes – Town Centre Car Parking and Associated Land Uses’; and***
- 2. It requests the Minister for Lands to obtain power to lease for Reserve 22140 for the purpose of ‘Municipal Purposes – Town Centre Car Parking and Associated Uses’.***

***CARRIED: 4/0***

Cr Randell re-entered the room at 3.47pm.

## RESERVE 22140 – LOCATION PLAN



# LONG SWORD

Longsword Pty Ltd  
atft Longsword Unit trust

938 Hay Street  
PERTH WA 6000  
GPO Box 2762  
PERTH WA 6001

Ray Hooper  
Chief Executive Officer  
Shire of York  
PO BOX 22  
York WA 6302

Dear Ray

## **YORK TOWN LOT 550 - 16 MACARTNEY STREET, YORK**

Thank you for your correspondence of 13<sup>th</sup> July in relation to the above property.

As per your advice we would be grateful in the first instance if Council could proceed with applying to the Minister for Lands for a change of purpose for the reserve from Municipal Depot to Parking and Associated access with power to lease.

Our architects are currently preparing plans for the site to be submitted for your consideration prior to submitting to Council for Development Approval.

Thank you again for your advice and comments.

Sincerely,

**Brad R Smyth**  
0412 388 222.

**26 July 2010**

CC Pat Hooper – Shire President

## **9. OFFICER'S REPORTS**

### **9.1 DEVELOPMENT REPORTS**

#### **9.1.2 Scheme Amendment 36 – Modification to Schedule 15**

***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.***

<b>FILE NO:</b>	<b>PS.TPS.31</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>9 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Lot 7082 Helena Road, St Ronans</b>
<b>APPLICANT:</b>	<b>Andrew Johnston, EnviroSure</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Patrick Ruettjes, Manager Planning Services</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Proposed revised subdivision plan</b>
<b>DOCUMENTS TABLED:</b>	<b>Scheme Amendment 36 documentation</b>

#### **Summary:**

Council is asked to endorse additional modifications to the Schedule 15 of Scheme Amendment No. 36 to the Shire of York Town Planning Scheme No. 2 (the 'Scheme') which seeks to rezone Lot 7082 Helena Road, St Ronans, from 'General Agriculture' to 'Conservation' and forward the decision to the Environmental Protection Authority ('EPA') and the Department of Planning/Western Australian Planning Commission ('WAPC').

#### **Background:**

Council at its ordinary meeting of 12 May 2008 initiated Scheme Amendment No. 36 to rezone Lot 7082 Helena Road, St Ronans, from 'General Agriculture' to 'Conservation'. The Environmental Protection Authority has requested further information which was provided and requested changes to the proposed Schedule 15. At the ordinary meeting of 17 August 2009, Council resolved to modify the proposed Schedule 15 in order to obtain consent to advertise from the EPA in accordance with section 48A of the Environmental Protection Act 1986. The additional information was submitted to the EPA but failed to obtain consent to advertise again. The applicant attempted to lodge an application for subdivision with the WAPC which was refused. Months of intensive negotiation and discussion with the EPA and the applicant followed resulting in an updated Subdivision Guide Plan and modified Schedule 15 being presented to consideration for Council.

The major modification in the Subdivision Guide Plan is the minimum lot size being lifted from 15 hectares to 50 hectares. Therefore, the number of proposed lots is reduced from 27 to 12.

The last meeting between the applicant, EPA and Shire of York resulted in the following major design and provision changes to Amendment 36:

*"A summary of the major design changes presented in the meeting include:*

- The layout has now been reduced to twelve (12) conservation lots at an average of fifty-three (53) hectares (original proposal was twenty seven lots, average 23 hectares);*
- The existing cleared vehicle access road will now be utilised for lot access (avoiding the requirement to build a new loop road);*
- Overhead powerlines will not need to be installed (as far as can be ascertained at this stage of the process) in preference for solar or other renewable technologies; and*



- *The Proponent 'Supplementary Information Statement' (response to CRN 221601 DEC 7839), will instead be replaced by the requirement for Conservation Covenants and an Independent Fauna Report to be referred to the Shire of York for consideration as new provisions governing Scheme Amendment 36.*

#### *Conservation Covenants*

- *To provide the EPA with more clarity regarding the obligations of future landowners, the proponents will now formally ask the Shire of York to consider amending the Town Planning Scheme No. 2 Amendment 36 to ensure the assignment of conservation covenants be a mandatory requirement.*

#### *Conservation Significant Species*

- *To address the EPA concerns regarding seven conservation significant species (refer CRN 221601 DEC 7839), it is proposed that the proponents will now formally ask the Shire of York to consider amending the Town Planning Scheme No. 2 Amendment 36 to require the submission (by the proponent) of an Independent Fauna Report, draft wording proposed as follows (for EPA feedback):*

#### *Independent Fauna Report to be submitted*

- *To be issued by a qualified fauna consultant.*
- *Qualified fauna consultant to assess whether all reasonable steps have been taken in design to minimise disturbance to fallen or standing trees used for breeding by the following conservation significant species:*
  - *Carnaby's Black Cockatoo (Calyptorhynchus latirostris)*
  - *Baudin's Black-Cockatoo (Calyptorhynchus baudinii)*
  - *Forest Red-tailed Black-Cockatoo (Calyptorhynchus banksii)*
  - *Chuditch (Dasyurus geoffroii)*
  - *Brush-tailed Phascogale (Phascogale tapoatafa)*
  - *Barking owl (Ninox connivens)*
  - *White-browed Babbler (Pomatostomus superciliosus)*
- *Qualified fauna consultant to prepare a report that verifies all reasonable steps have been taken to ensure that all clearing (i.e. Building Envelopes, Fire Mgt Zones, Fire Breaks) are based on findings of the survey to minimise disturbance to fallen or standing trees, and impacts to conservation significant species."*

The following preliminary comments were received from the EPA:

*"The reduced lot yield, increased lot sizes and proposal for a mandatory Conservation Covenant are a particularly important step forward. Additionally your proposal to target clearing based on results of more intensive fauna survey (level 2) is also supported. [...]"*

*OEPA ['Office of the EPA'] is generally supportive of the proposed amendments to your original submission, and looks forward to reviewing your amended submission in due course."*

**Consultation:**

The Scheme Amendment will be forwarded to the Environmental Protection Authority and – upon receipt of the consent to advertise – will be advertised for 42 days in accordance with the Town Planning Regulations 1967.

**Statutory Environment:**

Planning and Development Act 2005  
Shire of York Town Planning Scheme No. 2  
Town Planning Regulations 1967

Environmental Protection Act 1986

*Division 3 — Assessment of schemes**48A. Authority to decide whether or not schemes to be assessed*

*(1) When a scheme is referred to the Authority under the relevant scheme Act, the Authority shall, if it considers that the scheme —*

*(a) should not be assessed by it under this Division, so inform in writing the responsible authority within 28 days after that referral, but may nevertheless give advice and make recommendations to the responsible authority and any other relevant person on the environmental issues raised by the scheme;*

*(b) should be assessed by it under this Division —*

*(i) so inform in writing the responsible authority and any relevant decision making authority within 28 days after that referral and send within 60 days after that referral any instructions issued by the Authority under section 48C(1)(a) concerning the scope and content of an environmental review of the scheme; and*

*(ii) assess under this Division changes in reservation and zoning proposed by the scheme;*

*or*

*(c) is by its nature incapable of being made environmentally acceptable, so inform in writing the responsible authority and the Minister within 28 days after that referral.*

**Policy Implications:**

Nil.

**Financial Implications:**

Nil.

**Strategic Implications:**

Key Result Area 1 – Objective 1:

*“To develop a framework to facilitate planning and decision-making in order to identify and meet community needs, develop opportunities and implement change.”*

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Yes**

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

The proposed subdivision of a conservation zone is expected to be a sustainable solution offering viability for the landowner and enabling the protection of the Wandoo forest at the same time.

**Social Implications:**

The proposed conservation lots are proposed to provide a special rural living option with a strong focus on protecting the native Wandoo bushland. Conservation covenants and strict conditions are expected to be imposed.

**Environmental Implications:**

The conservation zone is expected to offer a long term conservation approach to protecting the Wandoo forest of the Lot 7082 and offering an economically viable solution at the same time. The lot is located east of the Wandoo National Park. Conditions and conservation covenants have been recommended by the EPA to protect the natural vegetation.

**Comment:**

The modifications yet again reflect the requirement from the EPA to amend the Schedule 15 and are the only option to progress Amendment 36 to the advertising stage. The proposed amended Subdivision Guide Plan with 12 lots instead of 27 lots reflects the EPA requests. The previous provisions have to be included in the recommendation as well.

It is therefore recommended to modify Scheme Amendment No. 36 by changing the provisions in the proposed Schedule 15.



**RESOLUTION  
030810**

**Moved: Cr Boyle**

**Seconded: Cr Walters**

***“That Council:***

***Pursuant to Part 5 of the Planning and Development Act 2005, in respect to Amendment No. 36 to the Shire of York Town Planning Scheme No. 2, resolves to -***

***3. Amend in accordance with Section 75 of the Planning and Development Act 2005 the Shire of York Town Planning Scheme No. 2, in respect of Amendment No. 36 by***

***I) Rezoning Lot 7082 Helena Road, St Ronans, from ‘General Agriculture’ to ‘Conservation’;***

***II) Inserting into the list of zones in Part 3.1 of the Scheme the new zone – ‘Conservation’;***

***III) Inserting to the Scheme text the following clause 4.16 ‘Conservation Zone’:***

***‘4.16 Conservation Zone***

***4.16.1 Objective***

***The objective of this zone is to conserve areas of natural vegetation, whilst permitting limited development for human occupancy with strict conditions of land uses.***

***4.16.2 Requirements***

***The following provisions shall apply generally to all land included in the ‘Conservation Zone’ in addition to any provisions which are more specifically applicable to individual ‘Conservation Areas’.***

***Prior to providing for a Conservation Zone over a particular property, Council shall require the landowner or agent to prepare a submission supporting the creation of the Zone and such submission shall include:***

***1) A plan showing the location of the lot/s proposed to be included in the zone together with the area surrounding and its uses, which are likely to be affected by proposed zone having regard to the nature and purpose of the proposed lots and the intended uses.***

***2) The reasons for the selection of the particular area with reference to the location, land characteristics and land capability which are to support the intended uses.***

***3) A visual analysis of the land as viewed from the surrounding vantage points.***

- 4) Description the flora and fauna present on the land, its condition and threats from exotic plants, weeds and animals and the measures required to prevent degradation for such introduced species.**
- 5) A Subdivision Guide Plan which shows:**
- a) the proposed lots including lot sizes and dimensions;**
  - b) existing and proposed roads;**
  - c) building envelopes – 5,000m<sup>2</sup> not to be split for minimal destruction to vegetation;**
  - d) any improvements or impairments to the land including buildings, fencing, bores, dams, wells, or other impediments;**
  - e) extent of natural vegetation on the land and a broad description of the species;**
  - f) areas to be revegetated (if applicable);**
  - g) areas of exclusion to occupation such as watercourses, wetlands, severe slopes and other natural features;**
  - h) Fire Management Plan showing strategic fire breaks and fire fighting facilities;**
  - i) relevant information on water supplies for domestic and fire fighting purposes; and**
  - j) effluent disposal systems as appropriate in the land capability assessment.**
- 6) Planning approval is required for all development including a single house and any outbuildings.**
- 7) Any clearing of indigenous vegetation shall comply with the clearing of Native Vegetation Regulations as administered by the Department of Environment and Conservation and shall be limited to the making of roads, creation of fire breaks and within the depicted building envelope.**
- 8) The keeping of animals is not permitted.**

**9) Strategic Fire Breaks shall be provided outside the building envelopes and shall conform to the approved Fire Management Plan and be maintained in compliance with the Bush Fires Act and the Shire of York Firebreak Notices.**

**10) The planting of exotic or introduced species outside of the building envelopes is not permitted.**

**11) The vendor of any lot shall make arrangements to the satisfaction of the Council to ensure prospective purchasers are aware of the conditions of occupancy of the requirements of FESA for the fire risks pertaining to the property.'**

**IV) Amending the Zoning Table by adding the new zone - Conservation Zone with the following use classes:**

USES		CONSERVATION
1	aged or dependent persons' dwelling	X
2	ancillary accommodation	IP
3	caretakers dwelling	X
4	civic building	X
5	club premises	X
6	consulting rooms	X
7	dog kennels	X
8	education establishment	X
9	fast food outlet	X
10	fuel depot	X
11	grouped dwelling	X
12	home business	AA
13	home occupation	AA
14	hotel	X
15	industry - cottage	SA
16	industry - extractive	X
17	industry - general	X
18	industry - light	X
19	industry - noxious	X
20	industry - rural	X
21	industry - service	X
22	intensive agriculture	X
23	motel	X
24	motor vehicle repair	X
25	office	X
26	piggery	X
27	plant nursery	AA
28	poultry farm	X
29	public recreation	X
30	public utility	AA
31	residential building	X
32	restaurant	X
33	rural pursuit	X
34	service station	X
35	shop	X
36	single house	P
37	tavern	X
38	transport depot	X
39	veterinary centre	X

V) **Inserting the following 'Schedule 15' into the Scheme text:**

**SCHEDULE 15 – CONSERVATION ZONE**

SCHEDULE 15

CONSERVATION ZONE

Site	Description of Land	Conditions
1	Lot 7082 on Deposited Plan 225081, Helena Road, St Ronans	<p>In addition to the general provisions in Clause 4.16, the following provisions shall apply:</p> <p><b>1. Subdivision Guide Plan</b></p> <p>1.1 Subdivision shall be generally in accordance with the Subdivision Guide Plan endorsed by the Chief Executive Officer.</p> <p>1.2 The minimum Lot size shall be 50 ha.</p> <p>1.3 Areas indicated on the Subdivision Guide Plan for revegetation shall be re-vegetated prior to subdivision.</p> <p><b>2. Building Envelopes</b></p> <p>2.2 Building Envelopes shall be defined on the subdivision guide plan.</p> <p>2.3 The maximum area for a Building Envelope shall be 5,000m<sup>2</sup>.</p> <p>2.4 Buildings, structures and domestic gardens shall only be located within the Building Envelopes as shown on the Subdivision Guide Plan.</p> <p>2.5 Building Envelopes may be amended subject to the approval of Council.</p> <p><b>3 Keeping of Stock and Pets</b></p> <p>3.1 The keep of stock is prohibited.</p> <p>3.2 Domestic pets which do not pose a threat to native flora and and/or fauna, may be kept within residential dwellings and surrounding Building Envelopes. For the purposes of this Clause cats and rabbits are considered to pose a threat to native flora and/fauna and shall not be kept within the area affected by the Subdivision Guide Plan.</p> <p>3.3 Domestic pets must be confined within the Building Envelope. Fencing shall be erected to Council's satisfaction to prevent domestic pet access to areas outside the Building Envelope.</p>

1	Lot 7082 on Deposited Plan 225081, Helena Road, St Ronans	<p><b>4 Clearing</b></p> <p>4.1 Clearing shall be permitted within a Building Envelope.</p> <p>4.2 Should a tree within a building envelope be identified by Council as significant in respect to providing habitat for native fauna or being an outstanding specimen Council may require the tree to be retained notwithstanding Clause 4.1 above.</p> <p>4.3 Clearing for the following purposes may be permitted subject to Council's approval:</p> <p>I. Clearing for the construction of a driveway for vehicular access to a Building Envelope. Only one driveway shall be permitted per Lot and clearing shall minimise impacts on native flora and fauna.</p> <p>II. Revegetation of areas damaged during the construction of a building or driveway may be required at Council's discretion.</p> <p>III. Fallen timber shall not be removed or cleared from areas outside the Building Envelope.</p> <p><b>5 Fencing</b></p> <p>5.1 No boundary fencing shall be permitted other than as shown on the Subdivision Guide Plan and around each Building Envelope.</p> <p>5.2 Fencing shall be designed and constructed so as to minimise site disturbance. Where fencing is to be provided it is required to be primarily open in nature. Solid fencing shall not be permitted.</p> <p><b>6 Water Supply</b></p> <p>6.1 Each dwelling is required to be provided with a rain water tank with a minimum catchment capacity of 92,000 litres.</p> <p><b>7 Servicing</b></p> <p>7.1 All services from the road reserve to the Building Envelope shall be below ground level and shall follow the alignment of the driveway to minimise clearing.</p> <p><b>8 Effluent Disposal</b></p> <p>8.1 All dwellings shall be connected to an Aerobic Treatment Unit.</p> <p>8.2 Effluent disposal systems shall not be located within 30 metres of a watercourse.</p>
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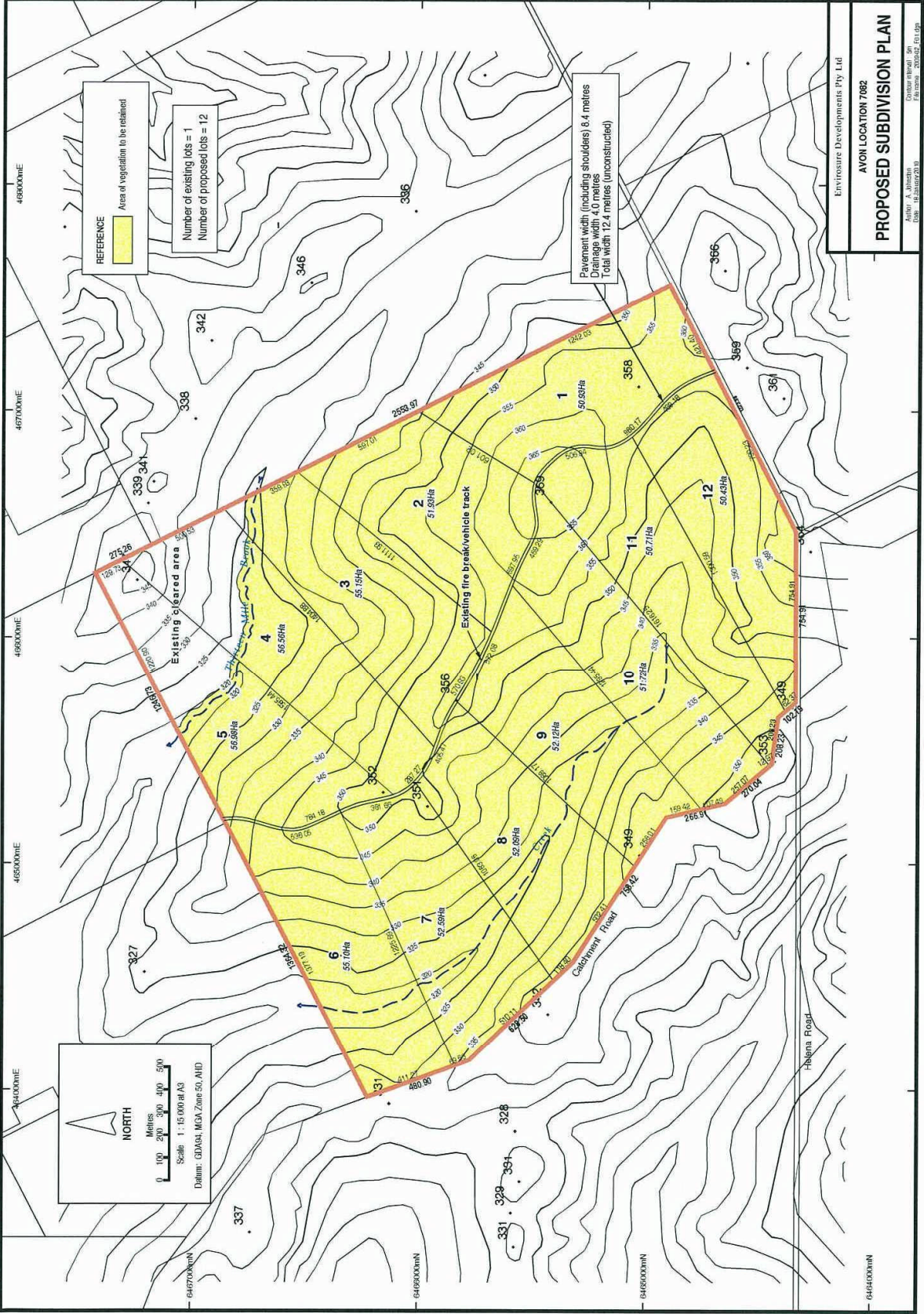
1	Lot 7082 on Deposited Plan 225081, Helena Road, St Ronans	<p><b>9 Fire Protection</b></p> <p>9.1 The subdivider shall prepare a Fire Management Plan that identifies the need for and the construction requirements relative to strategic firebreaks, water supplies and equipment and any other fire management requirements that may be deemed necessary, to the specifications and satisfaction of the Local Government and the Fire and Emergency Services Authority of Western Australia. The approved Fire Management Plan shall be implemented prior to subdivision of the land.</p> <p><b>10 Road and Access</b></p> <p>10.1 Subdivisional roads shall be designed in such a manner to minimise impacts on bushland and areas of significant vegetation.</p> <p><b>11 Applications for Planning Consent</b></p> <p>11.1 Notwithstanding Clause 4.2 (b) all development within the Subdivision Guide Plan area requires the Planning Consent of Council.</p> <p><b>12 Environmental Management Plan</b></p> <p>12.1 An Environmental Management Plan shall be prepared prior to subdivision and endorsed by Council. The Environmental Management Plan shall address control of feral pests, weed management, dieback management and clearing.</p> <p>12.2 All landowners shall comply with the requirements of the Environmental Management Plan.</p> <p>12.3 The Environmental Management Plan may be amended by Council at its discretion from time to time.</p> <p><b>13 Notification to Prospective Purchasers</b></p> <p>13.1 Provision shall be made to the satisfaction of Council to ensure that prospective purchasers of land within the Subdivision Guide Plan are given a copy of these provisions prior to entering into an agreement to purchase the land.</p>
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1	Lot 7082 on Deposited Plan 225081, Helena Road, St Ronans	<p><b>14. Conservation Covenant</b></p> <p>14.1 A conservation covenant in perpetuity shall be registered on the Certificate of Title of the conservation lot as a condition of subdivision approval.</p> <p><b>15. Independent Fauna Report</b></p> <p>15.1 Qualified fauna consultant to assess whether all reasonable steps have been taken in design to minimise disturbance to fallen or standing trees used for breeding by the following conservation significant species:</p> <p>I. Carnaby's Black Cockatoo (<i>Calyptorhynchus latirostris</i>)</p> <p>II. Baudin's Black-Cockatoo (<i>Calyptorhynchus baudinii</i>)</p> <p>III. Forest Red-tailed Black-Cockatoo (<i>Calyptorhynchus banksii</i>)</p> <p>IV. Chuditch (<i>Dasyurus geoffroii</i>)</p> <p>V. Brush-tailed Phascogale (<i>Phascogale tapoatafa</i>)</p> <p>VI. Barking owl (<i>Ninox connivens</i>)</p> <p>VII. White-browed Babbler (<i>Pomatostomus superciliosus</i>)</p> <p>15.2 Qualified fauna consultant to prepare a report that verifies all reasonable steps have been taken to ensure that all clearing (i.e. building envelopes, fire management zones, fire breaks) are based on findings of the survey to minimise disturbance to fallen or standing trees, and impacts to conservation significant species.</p>
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4. ***Authorise the Shire President and the Chief Executive Officer to execute the relevant documentation;***
5. ***Forward the Town Planning Scheme Amendment to the Environmental Protection Authority requesting consent to advertise; and***
6. ***Upon receipt of consent to advertise from the Environmental Protection Authority, advertise the amendment for a period of 42 days in accordance with the Town Planning Regulations 1967."***

**CARRIED: 5/0**







## **9. OFFICER'S REPORTS**

### **9.1 DEVELOPMENT REPORTS**

#### **9.1.3 Scheme Amendment 44 - Mount Matilda / Grassvale - Adoption Report**

*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.*

<b>FILE NO:</b>	<b>PS.TPS.39</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>11 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Lots 4, 5, 6 and 7 Gwambygine Estate</b>
<b>APPLICANT:</b>	<b>Greg Rowe &amp; Associates on behalf of Aniana Pty Ltd</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Patrick Ruettjes, Manager Planning Services</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>A – Scheme Amendment mapping B – Indicative future lot layout (2 options) C – Proposed Staging Plan D – Schedule of Submissions</b>
<b>DOCUMENTS TABLED:</b>	<b>Scheme Amendment documentation, 20 August 2009 Council Minutes</b>

#### **Summary:**

Council is asked to adopt Scheme Amendment No. 44 ('AM44') to the Shire of York Town Planning Scheme No. 2 (the 'Scheme') by rezoning Lots 4, 5, 6 and 7 Gwambygine Estate (located on Great Southern Highway and Ovens Road, Gwambygine) from 'General Agriculture' to 'Rural Residential' with additional use of a 'Shop' for final approval with modifications.

#### **Background:**

The 4 lots in question comprise a total of 342.9495 ha and have been subject to Scheme Amendment 24 previously which had been refused by the Minister for Planning. The amendment had been reinstituted at the Special Council Meeting of 20 August 2009.

The area has been identified in the Shire of York Local Planning Strategy as part of the Mount Hardey Rural Residential Area within stages 2 and 3.

Following receipt of the consent to advertise from the Environmental Protection Authority ('EPA'), AM44 has been advertised in accordance with the Town Planning Regulations 1967. Major changes to the original layout have been made by the applicant in response to the submissions (see Appendices B and D). Some lots have been combined and the total number of lots proposed has been reduced from 148 to 135 (Option A) or 131 (Option B). The proposed rural residential development is expected to occur in four stages (see attached Appendix C – Proposed Staging Plan)

Access has been identified as a major issue for the proposed rural residential rezoning, as there is currently no formal access to the properties. Reserve 8123 (Orchid Conservation Reserve) runs between the Northam – Albany Railway Line and the landowner has to start discussions with the River Conservation Society holding the management order over the reserve with a view to gain formal access through the reserve.

In order to alleviate the access issue, it is proposed to build a road to the north into Lot 102 which is owned by the same landowner as the subject lots. The attached subdivision guide plans reflect this additional access. Standard road conditions will apply and the road has to be built to the specifications of the local government, the Public Transport Authority (for the

upgrade of the Grassvale Homestead railway crossing) and Main Roads WA (for the intersection with Great Southern Highway).

The Department of Planning has advised that AM44 can be considered on its merits in the context of the development of rural residential areas in York in general. Implications from the staging and context of the Shire of York Local Planning Strategy will be assessed accordingly.

**Consultation:**

The Scheme Amendment No. 44 had received consent to advertise from the Environmental Protection Authority and has been advertised for 42 days in accordance with the Town Planning Regulations 1967. A Schedule of Submissions is attached (Appendix D).

The submissions have been considered and major modifications have been proposed. The number of lots has been reduced from 148 to 131-135 and the number of proposed lots abutting the adjacent Lot 3 has been reduced from 8 to 5 to allow for a transition between the proposed rural residential and the adjacent 'General Agriculture' properties. An alternative road access is proposed through Lot 102 (Grassvale Homestead).

**Statutory Environment:**

Planning and Development Act 2005  
Shire of York Town Planning Scheme No. 2  
Town Planning Regulations 1967

**Policy Implications:**

Nil.

**Financial Implications:**

Nil.

**Strategic Implications:**

Key Result Area 1 – Objective 1:

*"To develop a framework to facilitate planning and decision-making in order to identify and meet community needs, develop opportunities and implement change."*

**Voting Requirements:**

**Absolute Majority Required:**                      **No**

**Site Inspection:**

**Site Inspection Undertaken:**                      N/A

**Triple bottom Line Assessment:**

**Economic Implications:**

The landowner/developer is prepared to facilitate the proposed development for rural residential lots at Mount Matilda and pay for the necessary infrastructure. Additional rate income for the Shire and additional income for the State Government through stamp duty and other taxes is expected. The proposed development is expected to inject money into the local economy during the construction phase.

**Social Implications:**

Sound and sustainable structure planning for the benefit of the community and the consideration of economic viability for the developer/landowner/investor will be paramount for the project. While rural residential land is generally more expensive to sustain than conventional residential, it offers more choice for residents with a variety of lot sizes.

**Environmental Implications:**

Sustainable development will benefit the environment, but consideration needs to be given to social and economic implications as well. Sustainable development therefore means viable for the developer, good outcome and benefit for the community and the environment. While rural residential land has a larger ecological footprint than conventional residential, this can be addressed by promoting renewable energy solutions. Rainwater tanks will be compulsory for each house proposed in the amendment area. Fire management will be addressed to the satisfaction of FESA.

Drainage and the discharge of water to the Avon River need to be thoroughly addressed. The existing watercourse on the southern side of the development property requires protection for the retention of remnant vegetation.

Building envelopes are intended to ensure Aerobic Treatment Units for effluent disposal are located in accordance with the nature of the soil types and surface and sub-surface rock base.

An updated land capability study will have to be presented. It should be noted that the subject land is almost completely cleared from native vegetation.

**Comment:**

Following discussions with the applicant and landowner with the Department of Planning and Main Roads, major changes to the original concept plan have been brought forward.

The changes address some of the submissions received by reducing the overall lot number, the number of lots abutting the adjacent Lot 3 and the provision of alternative access through Lot 102 (Grassvale Homestead).

Water Management and future access through Reserve 8123 have to be addressed by the applicant / landowner in order to progress the proposed development further.

It is proposed to finally adopt Scheme Amendment No. 44 with modification as per the following recommendation.

**RESOLUTION  
040810****Moved: Cr Boyle****Seconded: Cr Randell**

***“That Council, pursuant to Part 5 of the Planning and Development Act 2005, in respect to Amendment No. 44 to the Shire of York Town Planning Scheme No. 2, resolves to -***

- 1. Adopt, in accordance with Part 5 of the Planning and Development Act 2005, for final approval the proposed amendment with modification by rezoning Lots 4, 5, 6 and 7 on Plan 224735 (Gwambygine Estate) located on Great Southern Highway, Gwambygine, from ‘General Agriculture’ to ‘Rural Residential’ with the additional use of a ‘Shop’ on Part Lot 7 (proposed Lot 87);***

**2. Insert the following provisions into Schedule 6:**

No	Description of Land	Conditions
	Lot 4, 5, 6 and 7 Great Southern Highway, Balladong (Gwambygine Estate).	<p>Requirements</p> <ol style="list-style-type: none"> <li>1. Subdivision and Development Subdivision shall be generally in accordance with the Subdivision Guide Plan adopted by the Council and endorsed by the Western Australian Planning Commission.</li> <li>2. Water Supply Each dwelling shall be connected to Scheme Water. In addition each dwelling shall be connected to a rainwater tank of 20,000 litres capacity. Any lots not connectable to a reticulated water scheme will require a tank with a storage capacity of 120,000 litres minimum.</li> <li>3. Effluent Disposal Shall be connected to an Aerobic Treatment Unit (ATU) to the satisfaction of the Council and the Department of Health. A dwelling shall not be occupied without the prior approval of such a system.  An onsite effluent disposal system shall not be located within any distances designated by the Health Department, Department of Water or Department of Environment and Conservation from any defined watercourse, dam catchment or areas subject to waterlogging. A greater separation may be required to account for soil conditions, slope drainage and vegetation.</li> <li>4. Buildings All buildings shall be contained within the defined building envelope as depicted on the Subdivision Guide Plan.  Relocated buildings and sea containers are prohibited. No buildings shall be constructed of highly reflective materials.</li> <li>5. Land Uses/Use Classes:  Single Dwelling (P) Ancillary Accommodation (IP) Home Business (AA) Home Occupation (AA) Industry – Cottage (AA) Public Utility (AA) Rural Pursuit (AA)</li> <li>6. Crossovers Each lot shall have a crossover to the public road to the specifications and location as approved by Council.</li> <li>7. Battle-axe Access Legs All access tracks in battle-axe lots shall be of a width no less than five metres and shall be sealed to the satisfaction of the Council.</li> </ol>

No	Description of Land	Conditions
	Lot 4, 5, 6 and 7 Great Southern Highway, Balladong (Gwambygine Estate).	<p>8. Fencing Fencing of each lot shall be constructed prior to the sale of the lot and such fencing shall be uniform throughout the estate.</p> <p>Fencing may not be located on boundaries where these may have a detrimental effect on the environmental areas.</p> <p>No fencing to be allowed within the buffer areas designated on the Subdivision Guide Plan.</p> <p>9. Remnant Vegetation No indigenous vegetation shall be removed from any lot except for:</p> <ul style="list-style-type: none"> <li>a) To comply with the Bush Fires Act 1954;</li> <li>b) As may be required to construct an approved development within the defined building envelope;</li> <li>c) To gain adequate and safe access to an approved development;</li> <li>d) Any tree that is dead, diseased or dying and which may present a hazard.</li> </ul> <p>10. Keeping of Stock The keeping of livestock and clearing of vegetation in the areas shown on the Subdivision Guide Plan as landscape buffer and vegetation protection are is not permitted without prior approval from the Local Government.</p> <p>11. Fire Management Plans The applicant shall provide a fire management plan for the subdivision demonstrating access by fire fighting vehicles, water supply and connection to any strategic firebreak.</p> <p>12. Access to Great Southern Highway No direct access to Great Southern Highway shall be permitted other than from a subdivisional road, as approved by Main Roads WA.</p> <p>13. Vendor Responsibility The Developer/Subdivider shall inform prospective purchasers of the lots, in writing, of the provisions of the Council's Town Planning Scheme relating to the development and management of the land.</p>

**3. Insert the following 'Additional Use A10' into Schedule 2:**

	Particulars of Land	Additional or Restricted Uses
A10	Part Lot 7 on Plan 224735	The additional use subject to planning consent being granted by the local government may be a shop. Development requirements in accordance with clause 4.13.



- 4. Authorise the Shire President and the Chief Executive Officer to execute the relevant documentation; and**
- 5. Forward Scheme Amendment No. 44 to the Western Australian Planning Commission and the Minister for Planning requesting final approval.”**

**CARRIED: 5/0**





EXISTING ZONING



PROPOSED ZONING

LOCAL SCHEME RESERVES  
ZONES  
AGRICULTURE - LOCAL  
RURAL RESIDENTIAL

ZONES  
RURAL RESIDENTIAL  
ADDITIONAL USES



NORTH  
SCALE not to scale

ADOPTION/REFUSAL

ADOPTION [Regulation 13(1)]  
ADOPTED by resolution of the Council of the  
Shire of York at the Ordinary Meeting of the  
Council held on the \_\_\_\_ of \_\_\_\_

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

1. FINAL ADOPTION BY COUNCIL  
Adopted for Final Approval by Resolution of  
the Shire of York at the  
Meeting of Council held on the \_\_\_\_  
day of \_\_\_\_  
The Common Seal of the Shire of York  
was hereunto affixed by authority of a  
resolution of the Council in the presence of:

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

2. RECOMMENDED / SUBMITTED FOR  
FINAL APPROVAL :

DELEGATED UNDER S.16 OF PLANNING  
AND DEVELOPMENT ACT 2005

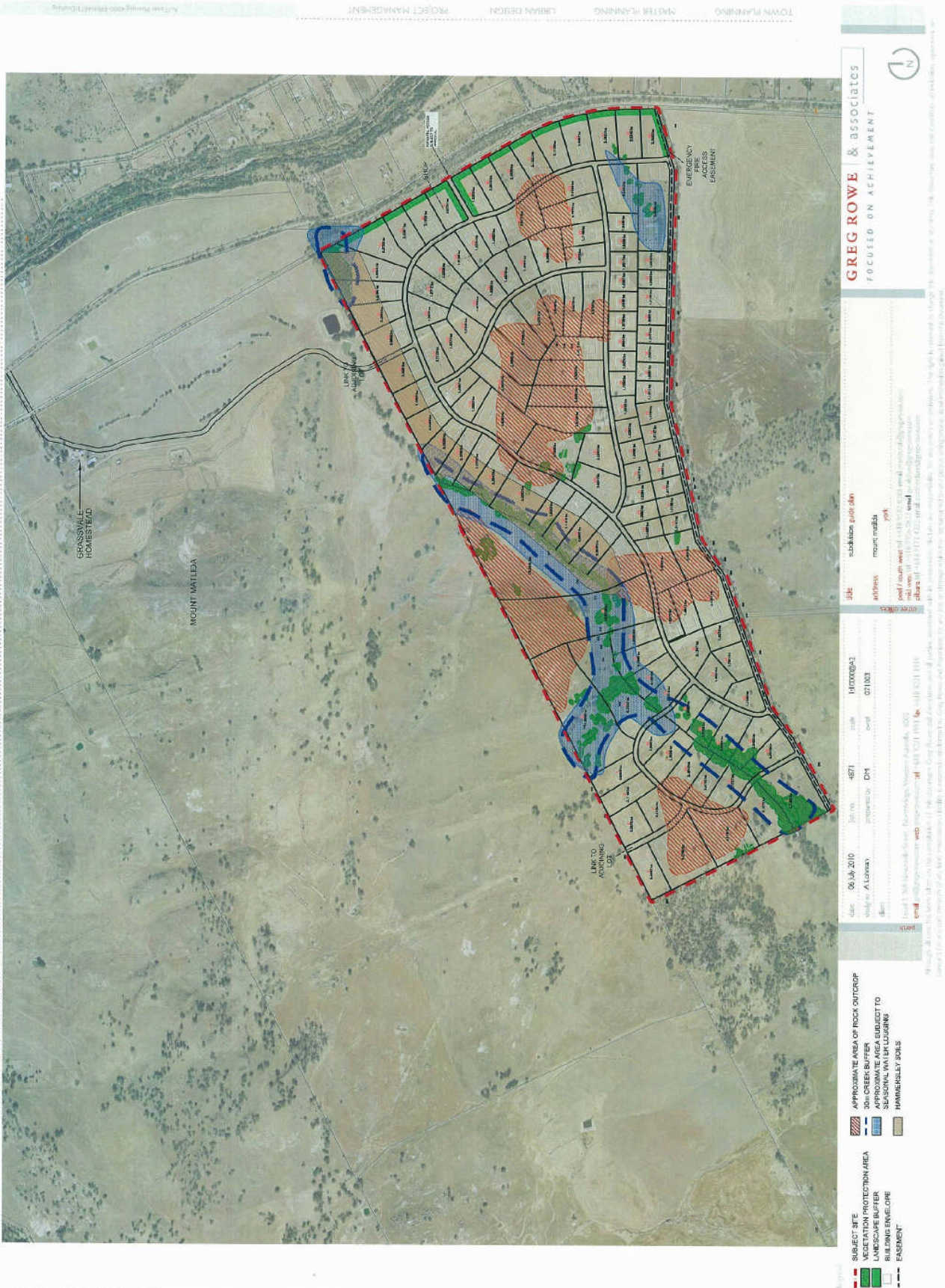
Date: \_\_\_\_

3. FINAL APPROVAL GRANTED

MINISTER FOR PLANNING

Date: \_\_\_\_



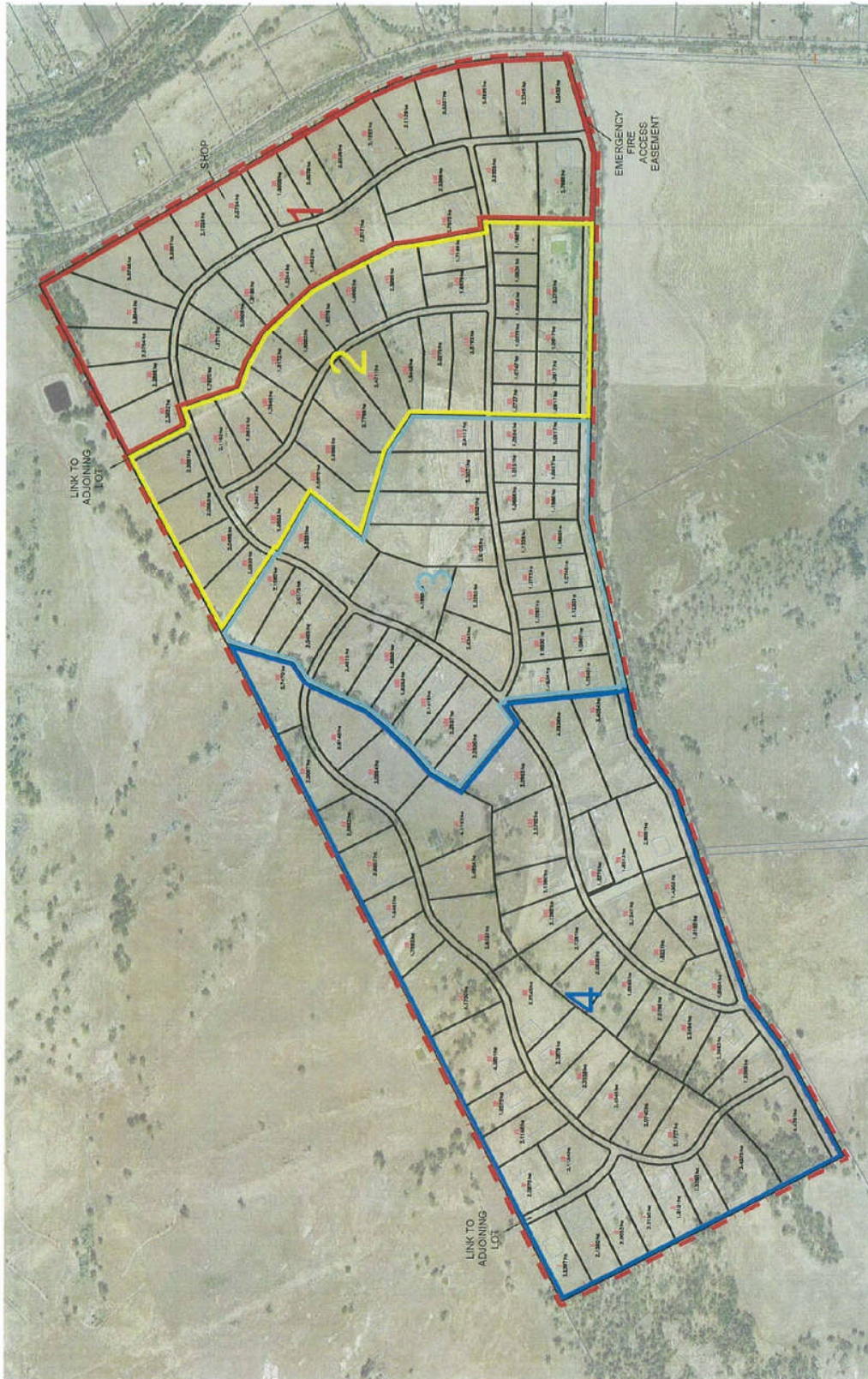








Item 9.1.3  
Appendix C



GREG ROWE SURVEY  
PLAN 100/200/300/400/500/600/700/800/900/1000/1100/1200/1300/1400/1500/1600/1700/1800/1900/2000/2100/2200/2300/2400/2500/2600/2700/2800/2900/3000/3100/3200/3300/3400/3500/3600/3700/3800/3900/4000/4100/4200/4300/4400/4500/4600/4700/4800/4900/5000/5100/5200/5300/5400/5500/5600/5700/5800/5900/6000/6100/6200/6300/6400/6500/6600/6700/6800/6900/7000/7100/7200/7300/7400/7500/7600/7700/7800/7900/8000/8100/8200/8300/8400/8500/8600/8700/8800/8900/9000/9100/9200/9300/9400/9500/9600/9700/9800/9900/10000

staging plan  
mount malinda york

100000

1571

06/04/2010

100000

1571

06/04/2010

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06/04/2010

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1571

SUBJECT SITE





**SHIRE OF YORK – TOWN PLANNING SCHEME NO. 2  
SCHEME AMENDMENT NO. 44 - SCHEDULE OF SUBMISSIONS**

<b>Submitter</b>	<b>Submission Received</b>	<b>Officer's Comments</b>
Department of Water	<p>The Department of Water has considered this proposal and requests the following to be included in the decision:</p> <ul style="list-style-type: none"> <li>Submission of a Local Water Management Strategy (LWMS) which contains the level of information that reflects the level of risk to water resources. The LWMS should be approved by the DoW prior to the finalisation of the local planning scheme amendment. Consideration should be given to the risk of flooding in those proposed residential areas adjacent to watercourses and surface water inflows. The impact of development on the downstream receiving environment also should be addressed, including the potential impact upon the Avon River. Flood storage areas should be development outside the natural watercourse.</li> <li>The proposal is located within a proclaimed surface water area. In accordance with the <i>Rights in Water and Irrigation Act 1914</i>, the extraction of surface water for intensive activities including dust suppression may require a licence. Modification to a watercourse, its bed or banks requires a permit from the Department of Water.</li> <li>The subject property is not located within a proclaimed area for groundwater under the <i>Rights in Water and Irrigation Act 1914</i>. The presence of and yield from groundwater aquifers in the subject area is not guaranteed; test holes should be drilled to locate a suitable groundwater supply. Extraction of any groundwater from artesian aquifers however is subject to licensing by the Department of Water.</li> </ul>	<p>Noted.</p> <p>The LWMS will have to be compiled by the landowner/applicant to the satisfaction of the Department of Water.</p>
Heritage Council of WA	As it appears that there are no heritage places affected by the Scheme Amendment, the Office of Heritage will not be making a submission on this matter.	Noted.
Tourism WA	Tourism WA has no comment to make at this stage.	Noted.
Department of Mines and Petroleum	<p>Geological Survey of Western Australia (GSWA) has undertaken a brief review of the mineral potential in the area on behalf of the Department of Mines and Petroleum.</p> <p>The area is predominantly underlain by Archean granite and minor layered gneiss. There are no known mineral resources or mining tenements.</p> <p>Gwambygne granite quarry is located to the south of the area and is within 1.1km radius of the Scheme Amendment (Map 1). The quarry is disused at the moment but still has significant resources of high quality dimension stone. It is advised that potential to reopen the quarry exists and accordingly the developers have to be informed.</p>	<p>Noted.</p> <p>Will be addressed by the consultants.</p>

**Item 9.1.3  
Appendix D**

Water Corporation	<p>With respect to the proposal above, the Water Corporation has no objections in principle; however we do offer the following comments.</p> <p>Preliminary water services planning for this additional development area and adjoining proposed development within this vicinity will require the construction of a dedicated water main from the elevated storage tank located in the York Townsite to this area and additionally to serve land above 220 AHD will require a ground storage tank with sufficient elevation within the development area and the associated pump station, at the developers cost.</p> <p>In examination of the report supporting the amendment, MRWA have noted that Lot 7 on Deposited Plan (DP) 224735, one of the subject lots, abuts the Railway Reserve 16969. This section of the Railway Reserve is separated from the Northam-Cranbrook Road by Reserve 8123, Lot 40 on DP 43141, for its entirety. The Management Order for Reserve 8123 lists vesting in the River Conservation Society Inc.</p> <p>Whilst the physical access to the gazetted road reserve that abuts to south of Lots 4, 5, 6 and 7 crosses Reserve 16969 and 8123, the easternmost boundary of this road terminates at the Railway Reserve boundary. In effect, this road does not have legal access across the Railway and abutting Reserve to Northam-Cranbrook Road.</p> <p>How the proponent intends to access the Northam-Cranbrook Road through Reserve 16969 and 8123 does not appear to be addressed in the consultants report supporting the amendment.</p> <p>Without this information from the proponent, MRWA cannot assess any requirements with respect to the proposed Town Scheme No 2 Amendment 44.</p> <p>MRWA will assess any requirements when further information is received from the proponent.</p>	<p>Noted.</p> <p>The developer is responsible to provide adequate infrastructure to the development. This is reflected in the proposed Schedule 6.</p>
Main Roads	<p>Subsequent discussions with MRWA have resulted in an alternative access being proposed through Lot 102 (Grassvale Homestead). This is reflected in the modified subdivision guide plans put forward by the applicant (see Appendix B).</p> <p>The proponent will have to address the access issue with State Land Services and the River Conservation Society in order to facilitate additional stages of the proposed rural residential development.</p>	<p>Noted.</p>
Department of Health	<p>The DOH has no objection to the rezoning proposal, subject to all developments complying with the recommendations for land capability (effluent disposal) identified in the report prepared by ENV Australia (Environmental Assessment – Lots 4, 5, 6 and 7 Great Southern Highway Gwambygine / Balladong, December 2006).</p> <p>We are strongly opposed to the current proposal to rezone Lots 4, 5, 6 and 7 on Deposited Plan 224735 (Gwambygine Estate) located on Great Southern Highway, Balladong from 'General Agriculture' to 'Rural residential' (Rezoning Proposal).</p> <p>We are also opposed to the Council decision of 17 August 2009 (RESOLUTION 030809) which among other items supported the modification of the Shire of York Local Planning Strategy by removing all stages and timeframes for future residential and rural residential areas from the Shire of York Local Planning Strategy. We noted that the Resolution was only supported by three of the six elected representatives as three of the Councillors declared an interest in the item.</p>	<p>Noted.</p> <p>The proposed removal of stages for the Mount Hardey Rural Residential Area identified in the Shire of York LPS, which includes the subject lots, has not been considered for advertising by the Western Australian Planning Commission. The Commission, however, has advised that it can consider AM44 on its merits.</p>



<p>Landowner (cont.)</p>	<p>We are not aware that the Western Australian Planning Commission has supported the advertising of the proposed modifications to the Local Planning Strategy.</p> <p>In terms of expected demand for Rural Residential Lots within the Shire of York we are aware that the Local Planning Strategy forecast a Rural Residential Lot requirement within the greater Shire, for Lots of 1 ha or greater of between 2 to 20 as per the personal advice of the Chief Executive Officer.</p> <p>We have recently inspected the York Estates which provides for Rural Residential Lots. Of the 150 lots only approximately 27 Lots have houses and approximately another 3 Lots have other buildings such as a shed. This means that currently in this estate alone there are approximately 120 Lots which are still to be developed with a residence. A number of these Lots are currently for sale.</p> <p>The Subdivision guide plan for the Rezoning Proposal which was included in the minutes of the Special Council Meeting of 20 August 2009 provides for 150 Rural Residential Lots.</p> <p>Given that there is already a substantial stock of undeveloped Rural Residential lots in existing estates the creation of an additional 150 Rural Residential Lots as a result of this Rezoning Proposal will far exceed the general demand for Rural Residential living areas within the life of the Scheme. By this time there will be a requirement to formally review the Shire Local Planning Strategy and a revised Strategy should reflect the expected planning demands at that time and into the future.</p> <p>We have noted in the briefing paper that was presented to the Special Council Meeting held on 20 August 2009 that reference was made to stage 1 on the eastern side of the river next to Mount Hardey – an area that had been identified in the 2007 Local Planning Strategy as being “Future Rural Residential”. The briefing paper reported that one of the four larger lots is subject to legal matters and the two of the larger lots are vested in the National Trust and it was understood that they cannot be released in the short term.</p> <p>Much greater detail needs to be provided to the general public as to why these 3 Lots are now not potentially available to be considered as “Future Rural Residential Stage 1”. There was no information in the briefing paper as to when these 3 Lots could become available for development, other than to indicate the National Trust lots cannot be released in the short term, as provided for in the Local Planning Strategy.</p> <p>Lot 81 Top Beverley Road is included in the Stage 1 of the Mount Hardey Future Rural Residential living area. Presumably, as this Lot was included as a Stage 1 development then this area also has the potential to add significantly in the near future to the number of Rural Residential lots.</p>	<p>Advertising has since taken place and the modifications have been endorsed by Council.</p> <p>The majority of lots in the area called ‘York Estates’ is zoned ‘Residential R2.5/10’ and ‘Residential R5/10’ under the Shire of York Town Planning Scheme No. 2. This ultimately provides for minimum lot sizes of 4,000m<sup>2</sup> and 2,000m<sup>2</sup> instead of 1ha or larger for rural residential areas.</p> <p>The revised plans depict 131 / 135 lots.</p> <p>The applicant and landowner have identified future demand and are therefore progressing the proposal.</p> <p>None of the Stage 1 areas identified for rural residential in the Mount Hardey area has been developed so far.</p> <p>The Stage 1 areas are subject to Scheme Amendments 28 (Mount Hardey) and 31 (Great Southern Highway). It is understood that Amendment 28 is nearing completion and therefore former Lot 81 Top Beverley Road located in Stage 1 is likely to be brought forward for rural residential development following the gazettal of Amendment 28.</p>
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<p>Landowner (cont.)</p>	<p>An extract of the Minutes (pages 11 and 12) of the Special Council Meeting held on 20 August 2009 is included as Attachment 1. We noted in particular that the 4 lots subject to this Scheme Amendment have been subject to Scheme Amendment 24 previously which was refused by the Minister for Planning through the Western Australian Planning Commission.</p> <p>With regard to the Gwambygine Townsite and Mount Hardey Locality – Section 2.4.7 of the Local Planning Strategy (Attachment 2) we wish to enquire whether the structure planning exercise specified under Action 132 has been undertaken. If so, the results of this exercise should be available to the public to consider in the context to the Rezoning application.</p> <p>Action 132 reads:</p> <p>Undertake a structure planning exercise for the proposed rural residential area on Map 4, which will include: identifying opportunities and constraints; outline how development and transport networks will be coordinated; and provide guidance for future servicing, community, environmental protection and open space needs.</p> <p>Given the above observations we are convinced that the proposed Scheme Amendment Rezoning to provide for some 150 Rural Residential Lots is not warranted.</p> <p>Notwithstanding our opposition to the Scheme Amendment we also provide the following comments on the Subdivision Guide Plan:</p> <p>5 lots immediately adjacent to our eastern boundary have a significant proportion of the land area as being an area of rock outcrop. This will have a bearing on the location of residential building envelopes. This could mean that the residential building envelopes are very close to our eastern boundary.</p> <p>The proposed road configuration does not in our view provide adequate exits in the event of a major fire event on the estate.</p> <p>There is inadequate protection of the waterway and the adjacent vegetation. The Lot configuration does not ensure that the waterway is protected or preserved.</p> <p>There does not appear to be any provision of Public Open Space throughout the proposed estate.</p> <p>The Rural Residential development will inevitably introduce a significant dog population into the area. These dogs will pose a significant risk to stock located on the surrounding rural properties.</p> <p>In our view a major shortcoming of the Proposed Amendment is that it does not reflect the intent of the current Local Planning Strategy. These issues that we have raised in this correspondence would need to be considered by both the Shire and the Western Australian Planning Commission at the time the Local Planning Strategy is formally re-considered following the required public advertisement.</p>	<p>The documentation for the structure plan has been available at the front counter during the advertising period and a copy has been forwarded to the submitters.</p> <p>The number of lots abutting the adjacent lot has been reduced from 8 to 5 lots.</p> <p>The aspect of Fire Management has been addressed in the submitted Fire Management Plan which has been available for perusal.</p> <p>This has been addressed in the submission by the Department of Water.</p> <p>It is not considered necessary to provide public open space in rural residential areas.</p> <p>This is not a planning consideration.</p>
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## **9.2 Administration Reports**



## **9. OFFICER'S REPORTS**

### **9.2 ADMINISTRATION REPORTS**

#### **9.2.1 Proposed Health Amendment Local Law 2010**

<b>FILE NO:</b>	<b>LE.LLW</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>19 July 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>APPLICANT:</b>	<b>Shire of York</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Darren Long – DL Consulting</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Proposed Health Amendment Local Law 2010</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

To allow:

- (1) the Presiding Person to give notice to the meeting of the intent to make a new Health Amendment local law 2010;
- (2) the Presiding Person to give notice of the purpose and effect of the proposed Health Amendment local law 2010,
- (3) for the Council to adopt the proposed Health Amendment local law 2010, and
- (4) to allow for advertising of the Health Amendment local law 2010 for public comment.

#### **Background:**

The current principal Health local law was first adopted by Council on 4 August 2000, and gazetted on 17 January 2001.

To comply with the provisions of section 3.16 of the *Local Government Act* 1995, the Shire of York commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a series of amendments were required to the principal Health local law. The areas of the Shire's operations that relate to health local laws have been affected by other legislation are summarised below.

#### *Food Act 2008*

Amongst other things, the Food Act 2008 regulates 'food businesses', including their registration, conduct and the imposition of fees and charges by local governments. This Act made significant amendments to the Health Act including:

- The repeal of those Parts that deal with eating houses, including the removal of a local government's powers to make local laws in respect of eating houses (Part V, Division 3); and
- The removal of other local law making powers such as sections 134(49), 52a, 199(14), 207 and 220.

The intention of the Food Act is to remove anomalies and different compliance regimes that exist between the large number of local laws that operate within the State, while at the same time protecting public health and maintaining the role that local governments play in maintaining standards.

#### *Waste Avoidance and Resource Recovery Act 2007*

The most relevant provisions of the *Waste Avoidance and Resource Recovery Act* (WARR) came into force on 1 July 2008.

This Act repealed various provisions of the Health Act 1911 that dealt with the powers of local governments in relation to the collection and removal of rubbish, and had the effect of transferring the powers of a local government to make local laws about waste to the WARR Act (item 4 of Schedule 4).

In terms then of dealing with the parts of the old Health Bylaws that relate to waste, it is proposed that a separate local law will be made that deals only with waste under the WARR Act.

#### *New Public Health Act*

The State Government has been aiming to have updated legislation in place for some time to replace the Health Act 1911. The Health Department of WA has advised that its promulgation is imminent. This however, has been the case for some considerable time, and there appears to be no immediate prospect of it happening.

The purpose of this report is to allow the Presiding Person to:

- (1) give notice to the meeting of the intent to make a new Health Amendment Local Law; and
- (2) give notice of the purpose and effect of the proposed Health Amendment Local Law,
- (3) for the Council to adopt the proposed Health Amendment Local Law, and
- (4) to allow for advertising of the Health Amendment Local Law for public comment.

#### **Consultation:**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Health Amendment local law, (gazettal copy), and the National Competition Policy review must be sent to the relevant Minister for comment.

#### **Statutory Environment:**

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Health Act 1911

Food Act 2008

Food Standards Code

Waste Avoidance and Resource Recovery Act 2007

#### **Policy Implications:**

There are no policy implications for this item.

#### **Financial Implications:**

Advertising costs of approximately \$600 associated with state-wide advertising.

#### **Strategic Implications:**

Resource Management.

**Voting Requirements:**  
**Absolute Majority Required:**           **No**

**Site Inspection:**  
**Site Inspection Undertaken:**           **Not Applicable**

**Triple bottom Line Assessment:**  
**Economic Implications:**  
Not applicable.

**Social Implications:**  
Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**Environmental Implications:**  
Not applicable.

**Comment:**  
The proposed amendments to the Shire of York Health Local Law are set out in the attachment to this report.

In making a new local law, Council must comply with the provisions of section 3.12 of the Act.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Health amendment Local Law is to incorporate updated provisions into the principal Health Local Law that reflect current terminology and meet legislative requirements.

The effect of the proposed Health Amendment Local Law is that the provision of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.

**RESOLUTION  
050810**

**Moved: Cr Randell**

**Seconded: Cr Scott**

***“That Council:***

- 1. adopt the proposed Shire of York Health Amendment Local Law 2010, as contained in the Attachment for the purposes of advertising;***
- 2. pursuant to section 3.12 of the Local Government Act 1995, give Statewide public notice that it intends to make the Shire of York Health Amendment Local Law 2010, as contained in the Attachment:***
  - (a) the purpose of which is to incorporate updated provisions into the principal Health local law that reflect current terminology and meet legislative requirements; and***
  - (b) the effect is that the provisions of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.”***

**CARRIED: 5/0**

**HEALTH ACT 1911**  
**LOCAL GOVERNMENT ACT 1995**  
*Shire of York*  
**HEALTH AMENDMENT LOCAL LAW 2010**

Under the powers conferred by section 342 of the *Health Act 1911*, Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of York resolved on [date] to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Health Amendment Local Law 2010*.

**2. Application**

This local law shall apply throughout the district of the Shire of York.

**3. Commencement**

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

**4. Principal local law**

In this local law, the *Shire of York Health Local Laws 2000* as published in the *Government Gazette* on 3 April 2001 is referred to as the principal local law. The principal local law is amended as follows-

**5. Arrangement amended**

The arrangement is amended as follows –

- (1) Insert, immediately after item “3.5.1”, the following text “3.5.2 Revocation of licence”;
- (2) In Part 4, delete the heading Division 2 and all sections there under;
- (3) In Part 4, amend the heading Division 3 by deleting the number “3” and substituting the number “2”;
- (4) Renumber items “4.3.1” to “4.3.3”, inclusive, to “4.2.1” to “4.2.3”, respectively;
- (5) Insert, immediately after item “5.4.7”, the following text “5.4.8 Restrictions on feeding wild birds”;
- (6) Insert, immediately after item “6.2.3”, the following text -  
“6.2.4 Measures to be taken by an owner or occupier  
6.2.5 Measures to be taken by occupier  
6.2.6 Removal of undergrowth or Vegetation  
6.2.7 Filling in Excavations etc  
6.2.8 Drains, Channels and Septic Tanks  
6.2.9 Drainage of land”
- (7) Delete item 6.3.6;
- (8) Renumber items “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively;
- (9) Insert, immediately before renumbered item “7.1.2”, the following text, “7.1.1 Environmental Health Officer may visit, inspect and report”;
- (10) Amend item “8.3.1” by inserting, before the word “keeper” the words “Duties of”, and after the word “keeper” deleting the words “or manager to reside in the lodging house”;
- (11) Delete item “9.1.8”.

## 6. Part 1 Section 1.3 amended

Section 1.3 is amended as follows-

- (a) In the definition of “**approved**” delete the words “Council of the Shire of York” and insert “local government”;
- (b) The definition of “**Council**” is deleted;
- (c) Insert, in the appropriate alphabetical order, the definition “**Food Standards Code**” means the Australian New Zealand Food Standards Code as defined in the *Commonwealth Food Standards Australia New Zealand Act 1991*;
- (d) Insert, in the appropriate alphabetical order, the definition ““**local government**” means the Local Government of the Shire of York and its officers;”
- (e) Insert, in the appropriate alphabetical order, the definition ““**Morgue**” means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;”
- (f) The definition of “**water**” is deleted and the definition ““**water**” means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and amended and endorsed by the Minister for Health from time to time;” is inserted;
- (g) Insert, in the appropriate alphabetical order, the definition ““**WC**” means a water closet pan;”

## 7. Part 2 Section 2.1.1 amended

Section 2.1.1 is amended by inserting, in the appropriate alphabetical order, the definition ““**Guidelines**” means the Guidelines for Concerts, Events and Organised Gatherings as published by the Department of Health, and amended from time to time;”

## 8. Part 2 Section 2.1.4 amended

Section 2.1.4 is deleted and the following inserted –

- “(1) The organiser of an outdoor festival shall provide sanitary conveniences in accordance with the recommendations contained within the Department of Health document Guidelines for Concerts, Events and Organised Gatherings;
- (2) Where, under sub-section (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number;
- (3) The Environmental Health Officer may vary the requirements of sub-section (1) upon the written request of the organiser.”.

## 9. Part 2 Section 2.1.5 amended

Section 2.1.5 is amended by inserting the following after subsection (b)-

- “(c) the floor of any internal toilet shall be-
  - (i) of concrete or of other approved impervious material of an approved thickness; and
  - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
- (d) the floor of any external toilet shall be –
  - (i) of concrete or of other approved impervious material of an approved thickness; and
  - (ii) graded to the door or alternatively an approved outlet.”

## 10. Part 2 Section 2.1.8 amended

Section 2.1.8 is amended by inserting a new subsection (2) as follows –

- “(2) A mechanical ventilation system provided under subsection (1) shall be maintained in good working order and condition.”



#### **11. Part 2 Section 2.1.11 amended**

Section 2.1.11 is amended by inserting a new subsection (2) as follows –

“(2) Every temporary sanitary convenience shall be installed in accordance with the requirements of the *Health (Temporary Sanitary Convenience) Regulations 1997*.”

#### **12. Part 2 Section 2.2.1 amended**

Section 2.2.1 (1)(a) is amended by deleting the words “an adequate ceiling” and substituting the words “a ceiling that complies with the requirements of the Building Code”.

#### **13. Part 2 Section 2.2.4 amended**

Subsection 2.2.4 is amended as follows-

(a) Delete subsection 2.2.4(2) and substitute the following-

“A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with cooking facilities and a sink supplied with hot and cold water, which are adequate in the opinion of an Environmental Health Officer.”

(b) In subsection 2.2.4 (3), delete the words “stove, oven” and substitute “cooking facilities”; and

(c) In subsection (4)(a), delete the words “the Office of Energy” and substitute “Energy Safety”.

#### **14. Part 3 Section 3.1.1 amended**

Paragraph (m) of section 3.1.1 is amended by deleting the words “the Office of Energy” and substituting “Energy Safety”.

#### **15. Part 3 Section 3.1.2 amended**

Paragraph (b) of subsection 3.1.2, is amended by inserting after the word “property” the words “, and ensure stormwater is disposed of directly into an appropriate drain or soak-well or directly onto a paved surface, provided the paved surface has an adequate fall away from any building structure.”

#### **16. Part 3 Section 3.2.4 amended**

Subsection 3.2.4 is amended as follows –

(a) In subsection 3.2.4 (2)(b), insert the numbers “-2002” after the numbers “1668.2”;

(b) In subsection 3.2.4(3)(a), delete the numbers “3666:1989” and insert “/NZS 3666.2-2002”

#### **17. Part 3 Division 5 amended**

Division 5 is amended by inserting a new section 3.5.2 as follows –

##### **“3.5.2 Revocation of Licence**

(1) Subject to subsection (3), the Council may, at any time, revoke the licence of a morgue for any reason, which in the opinion of the Council, justifies the revocation.

(2) Without limiting the generality of subsection (1), the Council may revoke a licence upon any one or more of the following grounds –

(a) That the morgue has not, to the satisfaction of the Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;

(b) That the proprietor of the morgue has –

(i) Been convicted of an offence against these local laws in respect of a morgue;

(ii) not complied with a requirement of this Part; or

(iii) not complied with a condition of licence;

(c) *that the Council, having regard to a report from the Police Service, is satisfied that the proprietor or manager is not a fit and proper person; and*

(d) *that by reason of alterations or additions or neglect to repair and renovate, the condition of the morgue is such as to render it, in the opinion of the Council, unfit to remain registered.*

- (3) Before revoking the licence of a morgue under this section, the Council shall give notice to the proprietor requiring him or her, within a time specified in the notice, to show cause why the licence should not be revoked.
- (4) Whenever the Council revokes the licence of a morgue, it shall give the proprietor notice of the revocation and the licence shall be revoked as from the date on which the notice is served on the proprietor.”

**18. Part 4 Section 4.1.4 amended**

Paragraph (c) of Section 4.1.4 is amended by deleting the words “the Council or”, and inserting after the word “Health”, the words “, the Chief Executive of the Department of Environment and Conservation or the local government”.

**19. Part 4 Division 2 deleted**

In Part 4 delete all of Division 2.

**20. Part 5 Section 5.1.2 amended**

Delete the existing section 5.1.2 and insert the following –

**“5.1.2 Footpaths etc, to be kept clean**

An owner or occupier of premises shall keep any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from refuse and other obstacles which are or have been in the possession or control of the owner or occupier which the owner or occupier has caused or allowed to be on the footpath, pavement, area or right of way.”.

**21. Part 5 Section 5.1.3 amended**

Section 5.1.3 is amended by deleting the following “ (1) Subject to subsection (2), an” and substituting the word “An”, and;

Deleting subsection (2).

**22. Part 5 Section 5.1.6 amended**

Subsection 5.1.6 (2) is amended by deleting the last word “therefrom” and substituting the words “there from”.

**23. Part 5 Section 5.2.3 amended**

Section 5.2.3 is amended by inserting a new subsection (3) as follows –

“(3) The owner or occupier of premises where rabbits are kept, shall ensure that all rabbits are kept in a suitable enclosure that effectively prevents them from escaping.”

**24. Part 5 Section 5.2.6**

Section 5.2.6 is amended by inserting a new subsection (4) as follows –

“(4) The requirements of subsections (2) and (3) shall not limit the practice by farmers, pastoralists and the like of disposing of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health.”.

**25. Part 5 Section 5.3.1 amended**

Section 5.3.1 is amended as follows –

- (a) Insert, in the appropriate alphabetical position, the definition ““**stable**” means any building in which a horse is stabled or kept and includes any shed, loose box, stall, or shelter used for the keeping, stabling, feeding, watering, grooming, sheltering, shoeing or veterinary treatment of horses.”.

**22. Part 5 Section 5.4.3 amended**

Section 5.4.3 is amended as follows –

- (a) In subsection (a), delete the word “is” where it is first used and substitute the word “are”;
- (b) In subsection (b), after the word “enclosure” insert the words “provided with a floor consisting of concrete, brick paving or any other suitable impervious surface;”;
- (c) In subsection (d), delete the word “is” where it is first used and substitute the word “are”;
- (d) In subsection (d), after the words “distance”, delete the word “and”;
- (e) In subsection (e), after the word “Officer”, insert the word “; and”; and

(f) After subsection (e), insert a new subsection (f) as follows:

- “(f) a structure or enclosure in which poultry is kept is situated no closer than 1.2m to any side or rear property boundary.”

**27. Part 5 Section 5.4.5 amended**

Section 5.4.5 is amended in subsection (b), by inserting after the word “cote,” the words “cage or enclosure”;

**28. Part 5 Section 5.4.6 amended**

Section 5.4.6 is amended as follows –

- (a) In subsection (1), delete the words “the Council” and substitute the words “Environmental Health Officer”;
- (b) In subsection (2), delete the words “the Council” and substitute the words “Environmental Health Officer”;

**29. Part 5 New Section 5.4.8**

After Section 5.4.6 (2), insert a new section 5.4.8, in the correct numerical order, as follows –

**“5.4.8 Restrictions on Feeding Wild Birds**

A person shall not feed a pigeon, dove, seagull, ibis, raven or other wild bird, so as to cause a nuisance or be injurious or dangerous to health.”.

**30. Part 6 Section 6.1.5 amended**

Subsection (3) of section 6.1.5 is amended by inserting after the word “section”, the words “, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.”.

**31. Part 6 New Sections 6.2.4, 6.2.5, 6.2.6, 6.2.7, 6.2.8 and 6.2.9**

After Section 6.2.3 (3), insert the following new Sections in the correct numerical order –

**“6.2.4 Measures to be taken by an Owner or Occupier**

An owner or occupier of premises -

- (a) where there is a fountain, artificial pool, artificial pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall take adequate and reasonable measures to prevent mosquitoes breeding; and
- (b) where there is a water tank, well, cistern, vat or barrel, shall -
  - (i) keep it protected with a mosquito-proof cover; and
  - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

**6.2.5 Measures to be taken by Occupier**

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall -

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

**6.2.6 Removal of Undergrowth or Vegetation**

- (1) Where it appears to the Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the Environmental Health Officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.
- (2) An owner or occupier of premises shall comply with a direction from, and within the time allowed by, the Environmental Health Officer under this section.

### **6.2.7 Filling in Excavations etc.**

Unless written permission to the contrary is obtained from the Council, a person who cuts turf or removes soil or other material from any land shall forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface so as not to retain water.

### **6.2.8 Drains, Channels and Septic Tanks**

An owner or occupier of land shall -

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land -
  - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an Environmental Health Officer; and
  - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

### **6.2.9 Drainage of Land**

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the Council, effectively drain the land and, for that purpose, shall -

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that -
  - (i) the water on the land may flow into the drains without obstruction; and
  - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.”.

## **32. Part 6 Section 6.3.1 amended**

Section 6.3.1 is amended by inserting, in the appropriate alphabetical position, the definition “**contemporary rodenticide bait**” means the exclusion of Warfarin baits due to resistance and inclusion of Bromadiolone or Coumatetralyl or any future Department of Health approved rodenticide.”

## **33. Part 6 Section 6.3.6 deleted**

Delete section 6.3.6.

## **34. Part 7 New Section 7.1.1**

- (1)
- (2) In Part 7, Division 1, insert a new Section 7.1.1 as follows –

### **“7.1.1 Environmental Health Officer may visit, inspect and report**

An Environmental Health Officer –

- (a) may visit and inspect any house, its occupants, fixtures and fittings; and
- (b) who has reason to believe that there has been a breach of the Act, any regulation made under the Act or these local laws relating to infectious diseases shall, as soon as possible, submit a written report on the matter to the Council.”;

- (2) Renumber sections “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively.

## **35. Part 7 Renumbered Section 7.1.2 amended**

Subsection (1) of renumbered section 7.1.1 is amended by deleting the words “Council or an”.

### **36. Part 7 Renumbered Section 7.1.3 amended**

Renumbered Section 7.1.3 is amended as follows –

- (a) In subsection (1), delete the word “Council” where-ever it appears and substitute the words “Environmental Health Officer”; and
- (b) In subsection (1), delete, after the word “direct”, the words “an Environmental Health Officer”;
- (c) In subsection (2), delete, after the word “enable,”, the words “an Environmental Health Officer”;
- (d) In subsection (4), insert, after the word “section,” the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

### **37. Part 7 Renumbered Section 7.1.11 amended**

Subsection (3) of renumbered Section 7.1.11 is amended by inserting, after the word “section,”, the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

### **38. Part 8 Section 8.1.2 amended**

Paragraph (b) of Section 8.1.2 is amended by deleting the number “111” and substituting the number “8.1.3”.

### **39. Part 8 Section 8.1.3 amended**

Paragraph (c) of Section 8.1.3 is amended by deleting the words “prescribed in Schedule 12” and substituting the words “as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995”.

### **40. Part 8 Section 8.1.4 amended**

Section 8.1.4 is amended by deleting the word “Council” and substituting the words “Environmental Health Officer”.

### **41. Part 8 Section 8.1.5 amended**

Paragraph (b) Section 8.1.5 is amended by deleting the words “prescribed in Schedule 12” and substituting the words “as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995”.

### **42. Part 8 Section 8.1.6 amended**

Section 8.1.6 is amended by deleting the word “Council” and substituting the words “Environmental Health Officer”.

### **43. Part 8 Section 8.2.2 amended**

Section 8.2.2 is amended as follows –

- (a) Delete paragraph (b) and substitute with the following –
  - “(b) complies with any of the requirements of Standard 3.2.3 of the Food Standards Code; and”
- (b) Insert a new paragraph (c) as follows –
  - “(c) has a hand wash basin and a double bowl sink or dishwashing facility, each provided with an adequate supply of hot and cold water.”

### **44. Part 8 Section 8.2.5 amended**

In Section 8.2.5 -

- (a) insert a new subsection (1) as follows –
  - “(1) For the purposes of this section –  
“**communal toilet**” means a room which has more than one toilet with each toilet being divided from the other toilets with a cubicle surrounding it, whether or not the walls of that cubicle extend to the floor or the ceiling or both of the room;

**"communal bathroom"** means a room which has more than one shower or more than one bath or any combination of more than one shower and one bath, whether or not they are divided by cubicles, designed with the intention that the bathroom may be used by more than one person at any particular time;

**"individual toilet"** means a room that has walls extending from the floor to the ceiling and contains a single toilet;

**"individual bathroom"** means a room which has only one shower or only one bath or only one shower and only one bath and is designed to be used by only one person at any particular time."; and

(b) Renumber all subsections as follows –

- (i) Subsection (1) to (2);
- (ii) Subsection (2) to (3);
- (iii) Subsection (3) to (4);
- (iv) Subsection (4) to (5);
- (v) Subsection (5) to (6);
- (vi) Subsection (6) to (8); and

(c) Amend paragraph (b) of subsection (2) by inserting, before the word "wash", the word "hand";

(d) Amend subsection (6) by deleting the word "Each" and substituting the words "Subject to subsection (8) each communal"; and inserting after the word "and", the word "communal";

(e) Insert a new subsection (7) as follows –

"(7) Subject to subsection (8) each individual toilet and individual bathroom shall –

- (a) be so situated, separated and screened so as to ensure privacy;
- (b) be apportioned to each sex;
- (c) be fitted with a mechanism by which the door may be locked from the inside and the individual toilet or individual bathroom as approved by an Environmental Health Officer; and
- (d) be provided with adequate electric lighting."

#### **45. Part 8 Section 8.2.7 amended**

Subsection (2) of Section 8.2.7 is amended by deleting the words "advised by the fire and Emergency Services Authority of Western Australia and approved by Council" and substituting the words "required by the Building Code".

#### **46. Part 8 Section 8.2.11 amended**

Paragraph (8)(a) of Section 8.2.11 is amended by inserting –

- (a) after the numbers "1530.2", the following "-1993"; and
- (b) after the numbers "1530.3", the following "-1999".

#### **47. Part 8 Section 8.3.1 amended**

Section 8.3.1 is deleted and the following is substituted –

##### **"8.3.1 Duties of Keeper**

No keeper of a lodging house shall absent themselves from such house, unless they leave a reputable person in charge thereof."

#### **48. Part 8 Section 8.3.9 amended**

Section 8.3.9 is amended as follows –

- (1) In paragraph (c) the word "hand", after the word "wash", is deleted and inserted before the word "wash"; and
- (2) In paragraph (h) delete the numbers "139" and substitute the number "8.3.10".

#### **49. Part 9 Section 9.1.2 amended**

Section 9.1.2 is amended by deleting the word "Town" and substituting the word "Local" .

**50. Part 9 Section 9.1.4 amended**

Paragraph (b) of Section 9.1.4 is amended by deleting the words “*Offensive Trades (Fees)*” and substituting the words “*Health ( Offensive Trade Fees)*”.

**51. Part 9 Section 9.1.5 amended**

Section 9.1.5 is amended by inserting, after the numbers “11”, the words “and list relevant conditions”.

**52. Part 9 Section 9.1.8 deleted**

Section 9.1.8 is deleted.

**53. Part 9 Section 9.2.4 amended**

Delete the word “hand”, after the word “wash”, and insert it before the word “wash”.

**54. Part 9 Section 9.2.6 amended**

Section 9.2.6 is amended by –

- (1) inserting the number (1) before the word “The”; and
- (2) inserting a new subsection (2) as follows –

“(2) The occupier shall manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person.”.

**55. Part 9 Section 9.2.7 amended**

Section 9.2.7 is amended by inserting –

- (a) in paragraph (d), after the word “directed”, the words “by an Environmental Health Officer”; and
- (b) in paragraph (e), after the word “efficient”, the words “and approved”.

**56. Part 9 Section 9.2.11 amended**

Section 9.2.11 is amended by inserting a new subsection (2) as follows –

“(2) While any premises remain registered under this Division, a person shall not, without the written permission of the Environmental Health Officer, make of permit any change or alteration whatsoever to the premises internally.”.

**57. Schedule 1 amended**

In Schedule 1 delete the words “Wash hand basins” and substitute the words “Hand wash basins” in both places where they appear.

Dated: [date]

The Common Seal of the Shire of York was affixed by authority of a resolution of the Council in the presence of—

J P HOOPER, Shire President.

R P HOOPER, Chief Executive Officer.

Consented to—

DR TARUN WEERAMANTHRI, Executive Director Public Health.

Dated: [date].





## **9. OFFICER'S REPORTS**

### **9.2 ADMINISTRATION REPORTS**

#### **9.2.2 Proposed Local Government Property Amendment Local Law 2010**

<b>FILE NO:</b>	<b>LE.LLW</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>19 July 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>APPLICANT:</b>	<b>Shire of York</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Darren Long – DL Consulting</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Proposed Local Government Property Amendment Local Law 2010</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

To allow:

1. the Presiding Person to give notice to the meeting of the intent to make a new Local Government Property Amendment local law 2010;
2. the Presiding Person to give notice of the purpose and effect of the proposed Local Government Property Amendment local law 2010,
3. for the Council to adopt the proposed Local Government Property Amendment local law 2010, and
4. to allow for advertising of the Local Government Property Amendment local law 2010 for public comment.

#### **Background:**

The current principal Local Government Property local law was first adopted by Council on 4 August 2000, and gazetted on 17 January 2001.

To comply with the provisions of section 3.16 of the *Local Government Act* 1995, the Shire of York commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a series of amendments were required to the principal Local Government Property local law.

The purpose of this report is to allow the Presiding Person to:

1. give notice to the meeting of the intent to make a new Local Government Property Amendment Local Law; and
2. give notice of the purpose and effect of the proposed Local Government Property Amendment Local Law,
3. for the Council to adopt the proposed Local Government Property Amendment Local Law, and
4. to allow for advertising of the Local Government Property Amendment Local Law for public comment.

#### **Consultation:**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Local Government Property Amendment local law 2010, (gazettal copy), and the National Competition Policy review must be sent to the relevant Minister for comment.

**Statutory Environment:**

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

**Policy Implications:**

There are no policy implications for this item.

**Financial Implications:**

Advertising costs of approximately \$600 associated with state-wide advertising.

**Strategic Implications:**

Resource Management.

**Voting Requirements:**

**Absolute Majority Required:           No**

**Site Inspection:**

**Site Inspection Undertaken:           Not Applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

Not applicable.

**Social Implications:**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**Environmental Implications:**

Not applicable.

**Comment:**

The proposed amendments to the Shire of York Local Government Property Local Law are set out in the attachment to this report.

In making a new local law, Council must comply with the provisions of section 3.12 of the Act.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Local Government Property Amendment Local Law 2010 is to restrict and prohibit certain activities on local government property and review the modified penalties.

The effect of the proposed Local Government Property Amendment Local Law 2010 is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.

**RESOLUTION**

**060810**

**Moved: Cr Boyle**

**Seconded: Cr Scott**

***“That Council:***

- 1. adopt the proposed Shire of York Local Government Property Amendment Local Law 2010, as contained in the Attachment for the purposes of advertising;***
- 2. pursuant to section 3.12 of the Local Government Act 1995, give Statewide public notice that it intends to make the Shire of York Local Government Property Amendment Local Law 2010, as contained in the Attachment:***
  - (a) the purpose of which is to restrict and prohibit certain activities on local government property and review the modified penalties; and***
  - (b) the effect is to control the use of local government property and create offences for inappropriate behaviour in or on local government property.”***

***CARRIED: 4/1***



**LOCAL GOVERNMENT ACT 1995**

*Shire of York*

**LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2010**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of York resolved on [insert adoption resolution date here] to make the following local law.

**1. Citation**

This local law is cited as the *Shire of York Local Government Property Amendment Local Law 2010*.

**1. Commencement**

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

**2. Principal Local Law**

In this Local Law, the *Shire of York Local Government Property Local Law* published in the *Government Gazette* on 17 January 2001 is referred to as the principal Local Law. The principal Local Law is amended as follows –

**4. Preliminary**

- (1) In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.
- (2) Wherever the words “*Liquor Licensing Act 1988*” appear in the local law substitute the words “*Liquor Control Act 1988*”.

**5. Table of Contents amended**

The Table of Contents is amended as follows -

- (1) Insert, immediately after item 1.5, the following text “1.6 Overriding power to hire or agree”
- (2) Amend item 3.6 by deleting the words “and variation of”;
- (3) Insert immediately after item 4.5, the following text “4.6 Refusal of entry to local government property”;
- (4) Renumber item “4.6” to “4.7”;
- (5) Insert, immediately after 5.1, the following text “5.2 Consumption of food or drink may be prohibited”;
- (6) Renumber items “5.2” to “5.3”, inclusive, to “5.3” to “5.4”, respectively;
- (7) Under Part 5, delete all of Division 4 and substitute the following text  
“  
**Division 4 – Aerodrome (airport)**  
5.6 Access of animals restricted”.
- (8) Delete all of Part 7;
- (9) Delete all of Part 8;
- (10) Renumber Parts “9” to “11”, inclusive, to “7” to “9”, respectively;
- (11) Renumber item “9.1” to “7.1”;
- (12) Renumber items “10.1” to “10.4”, inclusive, to “8.1” to “8.4”, respectively;
- (13) Renumber items “11.1” to “11.6”, inclusive, to “9.1” to “9.6”, respectively;
- (14) Delete the text “SCHEDULE 3 – GOLF COURSE RESERVE”.

**6. Part 1 Clause 1.2 amended**

- (1) Delete the definition “**boat**”;
- (2) Insert, in the appropriate alphabetical order the following –  
““**Code**” means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities, as published by the Executive Director Public Health, from time to time, pursuant to the provisions of section 344A (2) of the Health Act 1911;  
“**Health Act**” means the Health Act 1911, as amended;”
- (3) Amend the definition “**vehicle**” as follows –
  - (a) Delete paragraph (e);
  - (b) In paragraph (d) delete the text “; and” and substitute “.”; and
  - (c) In paragraph (c), insert, after the semicolon, the word “and”.

**7. Part 1 Clause 1.4 amended**

Delete subclause (2).

**8. Part 1 New Clause 1.6**

Insert, in the appropriate alphabetical order, a new clause 1.6 as follows –

**“1.6 Overriding power to hire or agree**

Despite anything to the contrary in this local law, the local government may –

- (a) Hire local government property to any person; or
- (b) Enter into an agreement with any person regarding the use of any local government property.”

**9. Part 2 Clause 2.7 amended**

- (1) Delete paragraphs (e), (f) and (j);
- (2) Renumber paragraphs “(g) to (i) inclusive to “(e) to (g)” respectively.

**10. Part 2 Clause 2.8 amended**

- (1) In subclause (1), delete paragraphs (e) and (h)
- (2) In subclause (1), renumber paragraphs “(f) to (g)” inclusive to “(e) to (f)” respectively;
- (3) In subclause (1), insert a new paragraph (g) as follows –  
“(g) bring, ride or drive an animal.”

**11. Part 3 Clause 3.2 amended**

In subclause (5), insert, after the number “(2)”, the words “ or where the requirements of subclause (3) or (4) have not been satisfied.”.

**12. Part 3 Clause 3.3 amended**

Insert, in the appropriate numerical order, a new subclause (4) as follows –

“(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.”.

**13. Part 3 Clause 3.4 amended**

- (1) In subclause (1) delete the words “Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to— “ and substitute “Examples of the conditions that the local government may impose on a permit are conditions relating to –”.
- (2) In subclause (2) delete the words “Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—” and substitute “Examples of the type and content of the conditions on which a permit to hire local government property may be issued –”.

**14. Part 3 Clause 3.6 amended**

- (1) In the title of clause 3.6, delete the words “and variation of”;
- (2) In subclause (1) delete the number “(1); and
- (3) Delete subclause (2).

**15. Part 3 Clause 3.9 amended**

In subclause (2), delete the words “mutatis mutandis” and substitute “as though it were an application for a permit”.

**16. Part 3 Clause 3.13 amended**

Insert, in the appropriate alphabetical order, new paragraphs (p), (q) and (r) as follows –

- “(p) deposit or store any thing on local government property;
- (q) conduct or take part in any gambling game, context or bet, or offer to bet, publicly; or
- (r) erect, install, operate or use any broadcasting, public address system, loud speaker or other device for the amplification of sound on local government property;”.

**17. Part 4 New Clause 4.6**

- (1) Insert, in the appropriate alphabetical order, a new clause 4.6 as follows –

**“4.6 Refusal of entry to local government property**

- (1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person who he or she believes has behaved or is likely to behave in a manner contrary to the provisions of this Part;
  - (2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person;
  - (3) A decision made under this clause is a decision to which clause 8.1 applies.”
- (2) Renumber clause “4.6” to “4.7”.

**18. Part 5 Clause 5.1 amended**

- (1) Subclause (1) is amended by deleting the words “may direct to leave or shall remove or cause to be removed from,”;
- (2) In subclause (1)(a), delete subparagraph (i) and substitute the following –
  - “(i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;
- (3) In subclause (1)(a), insert a new subparagraph (ii) as follows -
  - (ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable or, or not providing, adequate supervision of, or care, for that person;”
- (4) Renumber subparagraphs “(ii)” to “(iii)” inclusive to “(iii)” to “(iv)” respectively;
- (5) Insert, in the appropriate numerical order, a new subclause (2) as follows –
  - “(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must –
    - (a) Direct the person to leave; and
    - (b) If the person refuses to leave or fails to leave, remove the person or arrange for the person to be removed, from the pool area.”.

**19. Part 5 New Clause 5.2**

- (1) Insert, in the appropriate numerical order, a new clause 5.2 as follows -

**“5.2 Consumption of food or drink may be prohibited**

A person must not consume any food or drink in an area where consumption is prohibited by a sign.”

- (2) Renumber Clause “5.2” to “5.3” inclusive to “5.3” to “5.4” respectively.

**20. Part 5 Renumbered Clause 5.4 amended**

- (1) In subclause (1), insert a new paragraph (c) as follows –

“(c) families – then where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.”

- (2) Insert, in the appropriate numerical order, a new subclause (2) as follows –

“(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by an parent, guardian, or care giver, where the child is –

(a) Under the age of 7 years; or

(b) Otherwise permitted by an authorised person to use the relevant entry.”

**21. Part 5 New Clause 5.5**

Insert, in the appropriate numerical order, a new clause 5.5 as follows –

**“5.5 Use of Shower Facilities**

A person may use a shower facility in change rooms only on condition that –

- (a) The facilities must be used by the person only for the purposes of cleansing and washing themselves;
- (b) Use of the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant; or
- (c) The facilities must not be used for the purposes of laundering or washing any clothing or other articles.”

**22. Part 5 Division 4 amended**

Delete Division 4 and substitute the following –

“ *Division 4 – Aerodrome (Airports)*

**5.6 Access of animals restricted**

- (1) Subject to section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984, a person shall not bring an animal on to an aerodrome unless –

- (a) the animal is being air freighted from the aerodrome;
- (b) the animal has been air freighted to the aerodrome; or
- (c) the person is authorised to do so by the local government.

- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

- (3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).”

**23. Part 7 deleted**

Delete all of Part 7.

**24. Part 8 deleted**

Delete all of Part 8.

**25. Part 9 amended**

- (1) Renumber “Part 9” to “Part 7”;

- (2) Renumber clause “9.1” to “7.1”;

- (3) Amend renumbered clause 7.1 by deleting the words “When the local government makes a decision as to whether it will –” and substituting “Division 1 of Part 9 of the Act applies to a decision under this local law –”, and delete the words “the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulation apply to that decision.”



**26. Part 10 amended**

- (1) Renumber “Part 10” to “Part 8”;
- (2) Renumber clauses “10.1” to “10.4” inclusive to “8.1” to “8.4” respectively;

**27. Part 11 amended**

- (1) Renumber “Part 11” to “Part 9”;
- (2) Renumber clauses “11.1” to “11.6” inclusive to “9.1” to “9.6” respectively.

**28. Schedule 1 amended**

Delete Schedule 1 and substitute the following –

“  
**SCHEDULE 1**  
**LOCAL GOVERNMENT ACT 1995**  
Shire of York Local Government Property Local Law  
**PRESCRIBED OFFENCES**

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	350
4.4	Under influence of liquor or prohibited drug	125
4.7(2)	Failure to comply with sign on local government property	125
5.3	Unauthorised entry to fenced or closed local government property	125
5.4	Gender not specified using entry of toilet block or change room	125
6.1(1)	Unauthorised entry to function on local government property	125
9.1	Failure to comply with notice	250
	All other offences not specified	125

**29. Schedule2 New Part 2**

Insert a new Part 2 as follows –

“  
**PART 2 – APPLICATION**

**2.1 Animals on local government property**

- (1) Unless authorised by a written law, or by a permit or a determination, a person must not:
  - (a) tether any animal to:
    - (i) a tree, shrub, tree guard, or
    - (ii) a wall or fence, unless it is an approved tethering point so indicated by a sign;
  - or
  - (b) permit any animal to enter into any local government property.
- (2) Subclause (1) does not apply to a guide dog used for the assistance of visually impaired persons.

**2.2 Vehicles on local government property**

- (1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or drive on local government property unless –
  - (a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;
  - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –

- (i) providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
  - (c) the person is driving an emergency vehicle in the course of his or her duties; or
  - (d) the vehicle is a motorised wheel chair, and the driver of that vehicle is a disabled person.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person;
- (3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder of an authorised person

### **2.3 Activities prohibited on local government property**

- (1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the Local government for that purpose, or as otherwise provided by a determination or permit.
- (2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, or skateboard —
- (a) inside or on the curtilage to, a building;
  - (b) in a pool area;
- (3) Unless authorised by a permit or by an authorised person, a person must not take a glass container—
- (a) within 5m of the edge of a swimming pool on local government property;
  - (b) on to a children's playground; or
  - (c) within any area of local government property where a sign prohibits glass containers.

### **2.4 Deposit of refuse, rubbish or liquid waste**

- (1) A person must not, on local government property deposit or discard the waste or rubbish from any animal.
- (2) A person must not, on local government property, deposit or discard refuse, rubbish or liquid waste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.”.

## **30. Schedule 3 deleted**

Delete Schedule 3.

Dated: [date]

The Common Seal of the Shire of York was affixed by the authority of a resolution of the Council in the presence of—

J P HOOPER, Shire President.

R P HOOPER, Chief Executive Officer.

## **9. OFFICER'S REPORTS**

### **9.2 ADMINISTRATION REPORTS**

#### **9.2.3 Proposed Parking and Parking Facilities Amendment Local Law 2010**

<b>FILE NO:</b>	<b>LE.LLW</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>20 July 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>APPLICANT:</b>	<b>Shire of York</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Darren Long – DL Consulting</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Proposed Parking and Parking Facilities Amendment Local Law 2010</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

To allow:

1. the Presiding Person to give notice to the meeting of the intent to make a new Parking and Parking Facilities Amendment local law 2010;
2. the Presiding Person to give notice of the purpose and effect of the proposed Parking and Parking Facilities Amendment local law 2010,
3. for the Council to adopt the proposed Parking and Parking Facilities Amendment local law 2010, and
4. to allow for advertising of the Parking and Parking Facilities Amendment local law 2010 for public comment.

#### **Background:**

The current principal Parking and Parking Facilities local law was first adopted by Council on 4 August 2000, and gazetted on 17 January 2001.

To comply with the provisions of section 3.16 of the *Local Government Act* 1995, the Shire of York commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a series of amendments were required to the principal Parking and Parking Facilities local law.

The purpose of this report is to allow the Presiding Person to:

1. give notice to the meeting of the intent to make a new Parking and Parking Facilities Amendment Local Law; and
2. give notice of the purpose and effect of the proposed Parking and Parking Facilities Amendment Local Law,
3. for the Council to adopt the proposed Parking and Parking Facilities Amendment Local Law, and
4. to allow for advertising of the Parking and Parking Facilities Amendment Local Law for public comment.

#### **Consultation:**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Parking and Parking Facilities Amendment local law 2010, (gazettal copy), and the National Competition Policy review must be sent to the relevant Minister for comment.

**Statutory Environment:**

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Road Traffic Code 2000

**Policy Implications:**

There are no policy implications for this item.

**Financial Implications:**

Advertising costs of approximately \$600 associated with state-wide advertising.

**Strategic Implications:**

Resource Management.

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Not Applicable.**

**Triple bottom Line Assessment:**

**Economic Implications:**

Not applicable.

**Social Implications:**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**Environmental Implications:**

Not applicable.

**Comment:**

The proposed amendments to the Shire of York Parking and Parking Facilities Local Law are set out in the attachment to this report.

In making a new local law, Council must comply with the provisions of section 3.12 of the Act.

The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Parking and Parking Facilities Amendment Local Law 2010 is to amend the Shire of York Parking and Parking Facilities local law to include additional provisions that reflect current legislative requirements, and to review the modified penalties.

The effect of the proposed Parking and Parking Facilities Amendment Local Law 2010 is to ensure that the local law is consistent with other legislation.

**RESOLUTION  
070810**

**Moved: Cr Scott**

**Seconded: Cr Randell**

***“That Council:***

- 1. adopt the proposed Shire of York Parking and Parking Facilities Amendment Local Law 2010, as contained in the Attachment for the purposes of advertising;***
- 2. pursuant to section 3.12 of the Local Government Act 1995, give Statewide public notice that it intends to make the Shire of York Parking and Parking Facilities Amendment Local Law 2010, as contained in the Attachment:***
  - (a) the purpose of which is to amend the Shire of York Parking and Parking Facilities local law to include additional provisions that reflect current legislative requirements, and review modified penalties; and***
  - (b) the effect is to ensure that the local law is consistent with other legislation.”***

**CARRIED: 4/1**



## LOCAL GOVERNMENT ACT 1995

### SHIRE OF YORK

#### PARKING AND PARKING FACILITIES AMENDMENT LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on [insert adoption resolution date here] to make the following local law.

#### 1. Citation

This local law is cited as the *Shire of York Parking and Parking Facilities Amendment Local Law 2010*.

#### 2. Commencement

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

#### 3. Principal Local Law

In this local law, the Shire of York Parking and Parking Facilities Local Law published in the *Government Gazette* on 22 February 2000 is referred to as the principal local law. The principal local law is amended as follows—

#### 4. Preliminary

- (1) In construing the following modifications, where a modification requires the renumbering of a clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected;
- (2) The Shire of York Parking and Parking Facilities Local Law is amended as follows:
  - (a) Delete the word “stall” where it appears in this local law and substitute the word “bay”;
  - (b) Delete the word “stalls” where it appears in this local law and substitute the word “bays”;

#### 5. Table of Contents amended

The Table of Contents is amended as follows -

- (1) Delete item 2.3;
- (2) Renumber item “2.4” to “2.3”;
- (3) Renumber Parts “4” and “5”, inclusive, to Parts “5” and “6” respectively;
- (4) Renumber items “4.1” to “4.6”, inclusive, to “5.1” to “5.6”, respectively;
- (5) Renumber items “5.1” to “5.3”, inclusive, to “6.1” to “6.3”, respectively;
- (6) Insert a new Part 4 as follows –

“

#### PART 4 – STOPPING GENERALLY

- 4.1 No stopping
- 4.2 No Parking
- 4.3 Stopping in a parking bay for people with disabilities”;

- (7) Delete Schedule 4.

#### 6. Part 1 Clause 1.3 amended

Clause 1.3 is amended as follows –

- (1) Delete the definition “**carriageway**” and substitute the following ““**carriageway**” has the meaning given to it in the Code”;
- (2) The definition “**Code**” is amended by deleting the number “1975” and substituting the number “2000”;

- (3) Insert, in the appropriate alphabetical order, the definition “**“no parking sign”** means a sign with the words ‘no parking’ in red letters on a white background, or the letter ‘P’ within a red annulus and a red diagonal line across it on a white background;”
- (4) Insert, in the appropriate alphabetical order, the definition “**“no stopping area”** has the meaning given to it in the Code;”
- (5) Insert, in the appropriate alphabetical order, the definition “**“no stopping sign”** means a sign with words ‘no stopping’ in red letters on a white background, or the letter ‘S’ within a red annulus and a red diagonal line across it on a white background;”
- (6) Delete the definition “**Pedestrian Crossing**”;
- (7) Insert, in the appropriate alphabetical order, the following definition

**“right of way”** means a portion of land that is –

- (a) Shown and marked ‘Right of Way’ of ‘ROW’, or coloured or marked in any other way to signify that the portion of land is a right of way, on any plans or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
- (b) Shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
- (c) Shown and marked as a right of way on a map or deposited plan with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include –
  - (i) A private driveway; or
  - (ii) A right of way created by easement between two parties;

## **7. Part 2 Clause 2.1 amended**

Clause 2.1 is amended as follows –

- (a) Inserting, before the word “The”, the number “(1)”;
- (b) Deleting the words “and also indicate by signs”;
- (c) Inserting a new subclause (2), in the appropriate numerical order as follows –

“(2) Where the local government makes a determination under subsection (1), it shall erect signs to give effect to the determination.”.

## **8. Part 2 Clause 2.3 deleted**

- (1) Clause 2.3 is deleted.
- (2) Renumber clause “2.4” to “2.3”.

## **9. Part 2 Renumbered Clause 2.3 amended**

- (1) Subclause (1) of renumbered clause 2.3 is amended as follows –
  - (a) Delete paragraphs (a), (b) and (c); and
  - (b) Renumber paragraph (d) to (a).
- (2) Insert a new subclause (3) as follows –

“Notwithstanding the provisions of subclause (1)(a) a driver may park a vehicle in a permissive parking bay (except in a parking area for people with disabilities) for twice the length of time allowed, provided that:

- (a) The drivers vehicle displays an ACROD sticker; and
- (b) A person with disabilities to which that ACROD sticker relates is either the driver of or a passenger in the vehicle.”.



#### **10. Part 3 Clause 3.2 amended**

- (1) Subclause (1) is amended by deleting the words “, or part of a parking station”;
- (2) Subclause (3) is amended as follows –
  - (a) Delete the word ‘not’ and substitute the word “only”;
  - (b) Delete the words “unless the stall is” and substitute the words “where there is no bay”;
  - (c) Insert, after the letters “M/C”, the words “in the parking region”.

#### **11. Part 3 Clause 3.3 amended**

Clause 3.3 is amended by –

- (a) inserting, before the word “person”, the words “Unless otherwise permitted by a sign, ”;
- (b) Deleting the letter “A” and substitute the letter “a” on the first line;

#### **12. Part 3 Clause 3.7 amended**

Clause 3.7 is amended as follows –

- (1) In paragraph (e) of subclause (2), delete the number “9” and substitute the number “10”;
- (2) Paragraph (g) of subclause (2) is amended by deleting the words “or other elevated structure or within a tunnel or underpass”;
- (3) Paragraph (k) of subclause (2) is deleted;
- (4) Renumber paragraph (l) to (k);
- (5) In subclause (3), delete the number “9” and substitute the number “10”;
- (6) Paragraph (a) of subclause (3) is deleted;
- (7) Paragraph (b) of subclause (3) is amended by deleting the words “established on a two way carriageway”;
- (8) Renumber paragraph (b) to (a) and paragraph (c) to (b) in subclause (3);
- (9) In subclause (4), delete the number “18” and substitute the number “20”;
- (10) Paragraph (a) of subclause (4) is deleted; and
- (11) Renumber paragraph (b) to (a) and paragraph (c) to (b).

#### **13. Part 3 Clause 3.9 amended**

Clause 3.9 is amended as follows –

- (1) The title of the clause is amended by deleting the number “2” and substituting the number “5”;
- (2) In the first line, delete the number “2” and substitute the number “5”.

#### **14. New Part 4 inserted**

Insert a new part 4 as follows –

### **“Part 4 – Stopping Generally**

#### **4.1 No Stopping**

A driver shall not stop on a part of a carriageway, or in an area –

- (a) to which a 'no stopping' sign applies; or
- (b) during the times a sign specifies a '*no stopping*' restriction is in operation.

#### **4.2 No Parking**

- (1) A driver shall not stop on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver is-
  - (a) dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.
- (2) For the purposes of subclause (1) – “unattended”, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

#### **4.3 Stopping in a parking bay for people with disabilities**

- (1) A driver shall not stop in a parking area for people with disabilities unless:
  - (a) the driver's vehicle displays an ACROD sticker; or
  - (b) either the driver or the passenger in that vehicle is a person with disabilities.
- (2) In this clause a 'parking area for people with disabilities' is a length or area:
  - (a) to which a 'permissive parking' sign displaying a "people with disabilities" symbol applies;
  - (b) to which a 'people with disabilities parking' sign applies;
  - (c) indicated by a road marking that consists of, or includes, a "people with disabilities" symbol; or
  - (d) set aside within a parking region as a 'parking bay for use of a disabled person' under the *Local Government (Parking for Disabled Persons) Regulations 1988*."

#### **15. Part 4 amended**

Part 4 is amended by deleting the number "4" where ever it appears and substituting the number "5";

#### **16. Part 5 amended**

Part 5 is amended as follows –

- (1) In subclause (3) of clause 5.1, delete the number "\$1,000" and substitute the number "\$5,000", and delete the number "\$100" and substitute the number "\$500";
- (2) Renumber clause 5.1 to 6.1, 5.2 to 6.2 and 5.3 to 6.3;
- (3) Delete the number "5" in the Part title and substitute the number "6".

#### **17. First Schedule amended**

Delete the table of roads and substitute the following –

- |  |                    |
|--|--------------------|
| 1. Macartney Street                                      | 6. Monger Street   |
| 2. Howick Street   | 7. South Street    |
| 3. Railway line (between Henrietta and Christie Streets) | 8. Lowe Street     |
| 4. Henrietta Street                                      | 9. Christie Street |
| 5. Thorn Street  | 10. Neville Street |

#### **18. Second Schedule amended**

Delete the Second Schedule and substitute the following –

**Second Schedule**  
**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF YORK**  
**Parking and Parking Facilities Local Law**

**PRESCRIBED OFFENCES**

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to park wholly within parking bay	60
2	3.2 (1)(a)	Parking wrong class of vehicle	100
3	3.2 (1)(b)	Parking by persons of a different class	100
4	3.2 (1)(c)	Parking during prohibited period	100
5	3.2 (2)(a)	Parking in no parking area	80
6	3.2(2)(b)	Parking contrary to signs or limitations	60
7	3.2(2)(c)	Parking vehicle in motor cycle only area	60
8	3.2(3)	Parking motor cycle in bay not marked 'M/C' where 'M/C' bays are provided	60
9	3.2(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	65
10	3.3(a)	Failure to park on the left of two-way carriageway	80
11	3.3(b)	Failure to park on boundary of one-way carriageway	60
12	3.3(a) or 3.3(b)	Parking against the flow of traffic	80
13	3.3(c)	Parking when distance from farther boundary less than 3 metres	60
14	3.3(e)	Causing obstruction	125
15	3.5(a) or (b)	Failure to park at approximate right angle or parallel to carriageway	60
16	3.6(2)	Failure to park at an appropriate angle	60
17	3.7(2)(a)	Double parking	125

18	3.7(2)(b)	Parking on or adjacent to a median strip	80
19	3.7(2)(c)	Denying access to private drive or right of way	125
20	3.7(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	125
21	3.7(2)(e)	Parking within 9 metres of traffic island	60
22	3.7(2)(f)	Parking on footpath/pedestrian crossing	150
23	3.7(2)(h)	Parking contrary to continuous line markings	60
24	3.7(2)(i)	Parking on intersection	150
25	3.7(2)(j)	Parking within 1 metre of fire hydrant or fire plug	80
26	3.7(2)(k)	Parking within 6 metres of intersection	60
27	3.7(3)(a) or (b)	Parking vehicle within 9 metres of departure side of bus stop, children's crossing or pedestrian crossing	60
28	3.7(4)(a) or (b)	Parking vehicle within 18 metres of approach side of bus stop, children's crossing or pedestrian crossing	60
30	3.8(2)(a)	Parking commercial vehicle, bus or caravan on verge	60
31	3.8(2)(b)	Parking on verge contrary to sign	60
32	3.9	Parking vehicle with tare of over 2000kgs for over 2 hours	100
33	3.10	Parking over length vehicle in excess of 2 hours	100
34	3.11	Parking contrary to direction of Authorized Person	60
35	3.14(c)	Parking a trailer/caravan on a thoroughfare	100
36	3.15(2)	Parking on land that is not a parking facility without consent	125
37	3.15(3)	Parking on land not in accordance with consent	125
38	3.16	Driving or parking on reserve	125
39	4.1(1)	Stopping contrary to a 'no stopping' sign	125
40	4.1(2)	Parking contrary to a 'no parking' sign	85

41	4.1(3)	Stopping within continuous yellow lines	125
42	5.1	Stopping in disabled parking area	120
43	6.6	Leaving vehicle so as to obstruct a public place	80
44		All other offences not specified	80

## 17. Fourth Schedule

Delete the Fourth Schedule.

Dated: [date].

The Common Seal of the Shire of York was affixed by the authority of a resolution of the Council in the presence of—

J P HOOPER, Shire President.

R P HOOPER, Chief Executive Officer.



## **9. OFFICER'S REPORTS**

### **9.2 ADMINISTRATION REPORTS**

#### **9.2.4 Emergency Services Levy – Agreement – Option B**

<b>FILE NO:</b>	<b>FI.RTS.6</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>30 July 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Not Applicable</b>
<b>APPLICANT:</b>	<b>Fire &amp; Emergency Services Authority of WA</b>
<b>SENIOR OFFICER:</b>	<b>R Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>T Cochrane, A/DCEO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Not Applicable</b>
<b>APPENDICES:</b>	<b>Appendix A – Agreement</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

That Council authorise the Shire President and the Chief Executive Officer to affix the common seal of the Shire to the amended Deed of Agreement between Council and the Fire and Emergency Services Authority relating to the collection and payment arrangements.

#### **Background:**

When the Emergency Services Levy (ESL) was introduced in the 2003/04 financial year, Western Australian local authorities were given two options to forward the monies collected on behalf of the State these being:

Option A – Collect and remit monies on a monthly basis, as it is paid by the property owner.

Option B – Pay the total amount of ESL raised to the Fire and Emergency Services Authority (FESA) as a lump sum annually when invoiced to the property owner.

Option A requires a significant amount of staff time to reconcile and prepare monthly returns to FESA and as such Option B was entered into for the administration of the levy for a further period until the 30<sup>th</sup> June 2011.

#### **Consultation:**

Staff.

#### **Statutory Environment:**

Fire and Emergency Services Act.

#### **Policy Implications:**

Not applicable.

#### **Financial Implications:**

There will be a minor impact on Council's cashflow for the financial year. Payments are required by the 21<sup>st</sup> day of September, December, March and June.

Council paid approximately \$110,000 during the 2009/10 financial year and receives approximately \$30,000 by way of grants from the ESL for Bush Fire Brigade operating expenditures. Capital expenditures (i.e. purchase of new Bush Fire trucks) are also paid for by the ESL.

#### **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:**  
It is recommended that the Agreement – Option B be signed and the Shire seal be affixed.

**RESOLUTION  
080810**

**Moved: Cr Scott**

**Seconded: Cr Boyle**

***“That Council:***

- 1.       endorse “Option B” payment arrangement for the Emergency Services Levy, collected on behalf of the State, in the interests of operational efficiency; and***
- 2.       authorise the Shire President and the Chief Executive Officer to affix the common seal of the Shire to the Deed of Agreement between Council and the Fire and Emergency Services Authority, relating to the collection and payment arrangements.”***

***CARRIED: 4/1***



THIS AGREEMENT is made the 1st day of July 2010

BETWEEN

**THE FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA**, a body corporate established by the Fire and Emergency Services Authority of Western Australia Act 1998 of 480 Hay Street Perth ("**FESA**")

AND

the local government whose name and address appear in Item 1 of the Schedule hereto ("**LG**")

WHEREAS

- (A) Under section 36ZJ of the Fire and Emergency Services Authority of Western Australia Act 1998 ("**the FESA Act**") FESA may, with the approval of the Minister, enter into a written agreement with a local government that provides for the local government to pay to FESA an amount equal to the total amount of levy payable for a levy year on all leviable land in the local government's district.
- (B) LG is a local government incorporated under the Local Government Act 1995 and has agreed to enter into this ESL agreement with FESA.
- (C) The Minister for Police, Emergency Services, Road Safety has approved FESA's entering into this ESL agreement.

NOW THE PARTIES HERETO AGREE AND DECLARE as follows:-

- 1. Words and expressions specifically defined in the FESA Act whenever used in this ESL agreement shall have the same meaning as in the FESA Act unless expressly defined herein or the context otherwise requires.
- 2. This ESL agreement is made subject to the provisions of the FESA Act and the parties hereto shall observe, perform and comply with all applicable provisions of the FESA Act and the Regulations thereunder and any Ministerial guidelines for the time being issued by the Minister under section 36Y of the FESA Act ("**the Guidelines**") as if fully set forth herein as agreements by the parties.
- 3. This ESL agreement shall commence on the date mentioned in Item 2 of the Schedule ("**the Commencement Date**") and shall continue in force for the term or period specified in Item 3 of the Schedule ("**the Term**") expiring on the date specified in Item 4 of the Schedule ("**Expiry Date**").
- 7. LG shall calculate the total amount of levy payable for each separate levy year the subject of this ESL agreement on all leviable land, excluding land owned by the LG, for the time being in LG's district ("**the Total ESL**") at the time or times and in the manner specified in the FESA Act and Regulations thereunder and the Guidelines.

5.
  - (a) LG shall pay to FESA the Total ESL for the current levy year without abatement or deduction, whatsoever EITHER:
    - (i) by four instalments on the twenty-first day of the months of September, December, March and June respectively of that levy year; OR
    - (v) with the prior written consent of FESA, by one single instalment on the twenty-first day of September in the levy year.

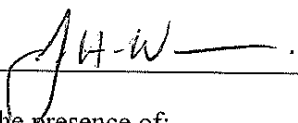
The payment option to apply will be specified in Item 5 of the Schedule ("**Elected Payment Option**").
  - (b) The September, December and March instalments under clause 5(a)(i) shall each be for an amount equal to thirty per cent (30%) of the Total ESL for that levy year.
  - (c) The June instalment under clause 5(a)(i) shall be for an amount equal to ten per cent (10%) of the Total ESL for that levy year.
  - (d) The June instalment under clause 5(a)(i) shall be increased or reduced (as may be appropriate) by the full nett amount of any adjustments to the amount of levy payable for that levy year which LG has been required to make during that levy year in consequence of the amendment of the gross rental value of land under section 36H(2) of the FESA Act or the determination of objections and appeals under Division 8 of Part 6A of the FESA Act, or in any other circumstances expressly provided for in FESA's Manual of Operating Procedures for the time being and from time to time.
  - (e) LG must ensure that each instalment under clause 5(a)(i) or 5(a)(ii) (as the case may be) is received by FESA no later than 5.00 p.m. on the date hereinbefore fixed for payment of that instalment, and in this respect time shall be of the essence of this agreement PROVIDED that if the date fixed for payment of an instalment is a Saturday, a Sunday or a gazetted public holiday in Western Australia, LG must ensure that the instalment is received by FESA prior to that date on a day which is not a Saturday, Sunday or gazetted public holiday.
6.
  - (a) Within fourteen (14) days after the date of issue by LG of its levy assessment notices in each levy year during the Term, LG must duly complete and deliver to FESA an Emergency Services Levy Assessment Profile Return Form in accordance with Schedule 4 of FESA's Manual of Operating Procedures.
  - (b) In the event that an Emergency Services Levy Assessment Profile Return Form is not delivered by 1 September of the leviable year concerned, FESA will estimate the ESL payable for land that is located within the LG area concerned. This ESL billing estimate will determine the first three quarterly instalments. Any variation between the LG assessment and the FESA estimate will be adjusted in the final (fourth) instalment, in accordance with the process detailed in section 6(c).

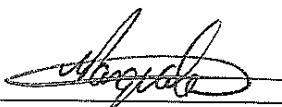
- (c) Prior to 31 May in each and every levy year during the Term, LG must duly complete and provide to FESA an ADVICE OF EMERGENCY SERVICES LEVY ADJUSTMENT ("ADVICE") in the form of an 'Annexure A' (to the ESL Manual of Operating Procedures) containing full written details of any adjustments made or required to be made to any of the figures previously supplied to FESA by LG under the provisions of this ESL agreement, to ensure that the final payment due on 21 June can be accurately calculated in accordance with clause 5(d).
  - (d) Where any adjustments or additional adjustments have been made or are required to be made to any of the figures previously supplied to FESA by LG under the provisions of this ESL agreement and full written details of those adjustments or additional adjustments have not already been supplied by LG to FESA under clause 6(c) hereof because those details were not known to LG prior to the due date for provision of those details under clause 6(c), LG must complete and provide to FESA prior to the next ensuing 31 August a form or further form of ADVICE with respect to those adjustments or additional adjustments (as the case may be).
  - (e) The instalment due on the following 21 September under clause 5(a)(i) shall be increased or reduced (as may be appropriate) by the full nett amount of any adjustments referred to in the ADVICE provided by LG under clause 6(d).
  - (f) Where LG with the prior written consent of FESA pays to FESA the Total ESL for the current levy year by one single instalment under clause 5(a)(ii), the provisions of clauses 5(b), 5(c), 5(d) and 6(e) shall not apply and LG must pay to FESA the full amount of any adjustment due and owing to FESA contemporaneously with its provision of the ADVICE. FESA must refund to LG the full amount of any overpayment by LG within 21 days of receipt of the ADVICE.
7. FESA shall pay to LG the fees determined by the Minister from time to time under section 36W of the FESA Act for LG's assessment, collection and recovery of the levy and levy interest in each levy year during the Term not later than 31 October in the levy year.
8. (a) EXCEPT as expressly provided in this ESL agreement, FESA shall not be liable or obliged to pay or reimburse LG for any loss, costs, fees, charges, duties, expenses or liabilities whatsoever in respect of or arising out of or related to the assessment, collection and recovery of the levy or levy interest or the performance of LG's obligations under this ESL agreement or the FESA Act.
- (b) LG must pay to FESA in full all monies payable by LG to FESA under this ESL agreement on the due dates for payment thereof notwithstanding that LG has failed or been unable to collect, recover or receive any of those monies from the person or persons liable for payment thereof for whatever reason or cause.

9. (a) If LG commits a breach or default of any provision of this ESL agreement or the FESA Act which is capable of being remedied by subsequent performance, FESA may, without prejudice to any right of action or remedy which has accrued or may accrue in favour of either party, by notice in writing to LG specify the breach or default and require LG within a reasonable time specified in the notice to remedy the breach or default.
- (b) FESA may, by notice in writing to LG, immediately terminate this ESL agreement in whole or in part, but without prejudice to any right of action or remedy which has accrued or may accrue in favour of either party where:-
- (i) LG is in breach or default of a material or essential term of this ESL agreement, whether or not FESA has given notice under paragraph (a) herein in relation to that breach or default;
  - (ii) LG has failed to comply with a notice under paragraph (a) of this clause;
  - (iii) LG commits a breach or default under this ESL agreement or the FESA Act which is not capable of being remedied, whether or not FESA has given notice under paragraph (a) in relation to that breach or default; or
  - (iv) the council of LG is suspended or dismissed under Part 8 of the Local Government Act 1995.
10. The provisions of this Agreement may only be changed by written agreement between the parties.

IN WITNESS whereof the parties have executed this ESL agreement on the day and  
hereinbefore written.

SIGNED for and on behalf of  
THE FIRE AND EMERGENCY SERVICES  
AUTHORITY OF WESTERN AUSTRALIA  
by Jo Harrison-Ward, Chief Executive Officer  
and being a person duly authorised under  
section 38(5) of the FESA Act:

  
\_\_\_\_\_  
in the presence of: Chief Executive Officer

  
\_\_\_\_\_  
Witness

THE COMMON SEAL of  
THE SHIRE OF YORK  
was hereunto affixed by the authority of a resolution  
of the Council in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Chief Executive Officer

## **THE SCHEDULE**

### **Item 1 ("LG"):**

THE SHIRE OF YORK

### **Item 2 ("Commencement Date"):**

1st July 2010

### **Item 3 ("Term"):**

12 months

### **Item 4 ("Expiry Date"):**

30<sup>th</sup> June 2011

### **Item 5 ("Elected Payment Option"):**

5(a)(i)

## ANNEXURE A

### ADVICE OF EMERGENCY SERVICES LEVY ADJUSTMENT

Return For Financial Year:

[Insert Local Government Name]

[Australian Business No.]

Ref	Property Use	Current Year ESL Only - As Applicable to Each ESL Category											
		ESL Category 1		ESL Category 2		ESL Category 3		ESL Category 4		ESL Category 5		TOTAL	
		No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)
1	Residential												
2	Vacant												
3	Farming												
4	Commercial												
5	Industrial												
6	Miscellaneous												
7	Mining Tenements												
8	ESL Category 5												
9	TOTAL												

Declaration of Accuracy & Compliance

Name of Declaring Officer

Position Title of Declaring Officer

Contact Details of Declaring Officer

Note: This advice is to be submitted to notify FESA of ESL billing adjustments carried out in levy year because billing errors have been rectified, interim valuations, which altered the 1st July GRV, have been processed and ESL charge cappings have been amended.





## **9. OFFICER'S REPORTS**

### **9.2 ADMINISTRATION REPORTS**

#### **9.2.5 Endorse – Advertising of Dual Appointed Fire Control Officer - Quairading**

<b>FILE NO:</b>	<b>RS.BFC.1</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>2 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Not Applicable</b>
<b>APPLICANT:</b>	<b>Shire of Quairading</b>
<b>SENIOR OFFICER:</b>	<b>R Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>T Cochrane, A/DCEO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Nil</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

To endorse the action of advertising the dual Fire Control Officer for the Shire of Quairading for the 2010/11 period.

#### **Background:**

The Shire of Quairading requested that John Smart be appointed the dual fire control officer.

#### **Consultation:**

Shire of Quairading.

#### **Statutory Environment:**

The Bush Fires Act 1954 – Section 40:

#### ***“40. Local governments may join in appointing and employing bush fire control officers***

- (1) Two or more local governments may by agreement join in appointing, employing and remunerating bush fire control officers for the purposes of this Act.*
- (2) Bush fire control officers so appointed may exercise their powers and authorities and shall perform their duties under this Act in each and every one of the districts of the local governments which have joined in appointing them.”*

#### **Policy Implications:**

Not applicable to this report.

#### **Financial Implications:**

Council incurred costs associated with advertising, however this was completed in one transaction after approving the dual fire control officers for the Shires of Beverley and Cunderdin.

#### **Strategic Implications:**

Not applicable to this report.

#### **Voting Requirements:**

<b>Absolute Majority Required:</b>	<b>No</b>
<b>Site Inspection:</b>	
<b>Site Inspection Undertaken:</b>	<b>Not applicable</b>

#### **Triple bottom Line Assessment:**

##### **Economic Implications:**

Not applicable to this report.

**Social Implications:**

Councils working together to ensure greater coverage.

**Environmental Implications:**

Not applicable to this report.

**Comment:**

The Council is requested to endorse the appointments.

**RESOLUTION****090810****Moved: Cr Boyle****Seconded: Cr Scott*****“That Council:***

- 1. endorse the appointment of a dual fire control officer from the Shire of Quairading – Mr John Smart – Fire Control and Fire Weather Officer subject to the Bush Fires Act 1954 – Section 40 to enable him to exercise his powers and authorities and perform duties under this Act.***

***Advice Note:******Advertising has been completed.”******CARRIED: 5/0***

9. OFFICER'S REPORTS  
9.2 ADMINISTRATION REPORTS  
9.2.6 Lease Sporting Clubs

FILE NO:	CCP.20
COUNCIL DATE:	16 August 2010
REPORT DATE:	30 July 2010
LOCATION/ADDRESS:	Portion of Reserve 121
APPLICANT:	Ag-Star Sports
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, A/DCEO
DISCLOSURE OF INTEREST:	Cr Brian Lawrance
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

**Summary:**

Endorse approval to the Ag-Star Sports to utilise the Airfield Paddocks for cropping – Reserve 121.

**Background:**

Gary Lawrance on behalf of the Ag-Star Sports provided the following correspondence:

*"I am writing on behalf of Ag-Star Sports, which is the football, hockey and tennis clubs combined.*

*We are enquiring to see if we are allowed to continue to crop the airfield paddocks on Spencers Brook Road, We have had use of these paddocks for 3 years and all three clubs would greatly appreciate the use of the again."*

No records can be located on file in relation to the Hockey, Football and Tennis Clubs combining to crop the airfield, however the arrangement was mentioned at the Annual Elector's Meeting held on the 18<sup>th</sup> February 2008 where a question was raised regarding the current use of the Airfield for cropping and at that time it was explained that it was understood that the Tennis, Football and Hockey Clubs have formed a 'company' to operate the cropping programme and share the proceeds.

Council on the 21<sup>st</sup> April 1997 approved the following arrangement:

***"That:***

- 1. The Council approve the requests from the York Hockey Association and the York Football Club for the use of reserves 121 and 13323;***
- 2. That the Football Club be permitted the use of reserve 121 and the Hockey Association be permitted the use of reserve 13323 each for a period of 1 year."***

Council at its Ordinary Council meeting held on the 19<sup>th</sup> April 2004 resolved that:

***"That the Council approve the use of the Reserves (Airfield) to be shared on a yearly basis the Hockey Club this financial year 2004/05 followed by the Football Club 2005/06."***

**Consultation:**

Staff and Mr G Lawrance on behalf of Ag-Star Sports.

**Statutory Environment:**

Local Government Act section 3.58 Disposing of Property; and  
Functions and General Regulations regulation 30 (2) (b) (i).

**“30. Dispositions of property to which section 3.58 of Act does not apply**

**(2) A disposition of land is an exempt disposition if —**

**(b) the land is disposed of to a body, whether incorporated or not —**

**(i) the objects of which are of a charitable, benevolent, religious,  
cultural, educational, recreational, sporting or other like nature;”**

**Policy Implications:**

No policy implications arise from this report.

**Financial Implications:**

No financial implications to Council.

**Strategic Implications:**

Not applicable.

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Not applicable**

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

Approval will act as fundraising for the clubs involved to provide for upgraded facilities and infrastructure.

**Social Implications:**

The combination of these clubs' improves viability and sustainability of the individual clubs.

**Environmental Implications:**

Consideration to be given to the Avon River Foreshore.

**Comment:**

Given the possibility of development in the area of an Equine Precinct, it is suggested that use of the reserves be limited to one year, and be subject to cancellation of the lease if required.

**RESOLUTION  
100810**

**Moved: Cr Randell**

**Seconded: Cr Boyle**

**“That Council:**

- 1. grant approval for the cropping of a portion of Reserve 121 by Ag-Star Sports, which is a combination of the Tennis, Hockey and Football Clubs for an initial five (5) year period from 6 May 2010; and**
- 2. advise Ag-Star Sports that the arrangement can be cancelled at the discretion of Council should the land be required for development of the Equine Precinct.”**

**CARRIED: 5/0**

## **9. OFFICER'S REPORTS**

### **9.2 REPORT TEMPLATE**

#### **9.2.7 Appeal – Shire of York V Rosmill Pty Ltd**

<b>FILE NO:</b>	<b>GR2.1056</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>10 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Great Southern Highway, York</b>
<b>APPLICANT:</b>	<b>N/A</b>
<b>SENIOR OFFICER:</b>	<b>R Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>R Hooper, CEO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Advice from McLeods (6 August 2010)</b>
<b>DOCUMENTS TABLED:</b>	<b>Appeal Proceedings</b>

#### **Summary:**

Following a hearing in the Magistrates Court in Northam in November 2009 and the resultant dismissal of the prosecution the Shire of York lodged an appeal through the Supreme Court.

#### **Background:**

The processes for this case commenced in 2007 for the installation of a septic system for a development on Lot 3 Great Southern Highway owned by Rosmill Pty Ltd.

#### **Consultation:**

McLeods

#### **Statutory Environment:**

Health Act 1911 (WA) – Sections 107(2)(a) and 361.

#### **Policy Implications:**

Nil

#### **Financial Implications:**

Expenditure of approximately \$12,000 was incurred for the prosecution and appeal in 2009/10 and was accounted for in that year. An allowance of \$8,000 has been included in the 2010/11 budget.

#### **Strategic Implications:**

Nil

#### **Voting Requirements:**

**Absolute Majority Required:**      **No**

#### **Site Inspection:**

**Site Inspection Undertaken:**      **Not applicable**

#### **Triple bottom Line Assessment:**

##### **Economic Implications:**

Potential precedence for development applications which require written approvals to be in place prior to work commencing.

##### **Social Implications:**

Municipal funds have been used in both the original prosecution and subsequent appeal to underpin compliance requirements under statutes.

**Environmental Implications:**

Nil

**Comment:**

The grounds for the appeal were as follows:

1. The learned Magistrate erred in law in finding approval under section 107(2)(a) of the Health Act 1911 is not required until the installation of an apparatus for the treatment of sewage is complete whereas the learned Magistrate should have found approval under section 107(2)(a) was required prior to the commencement of any works in relation to the installation of an apparatus for the treatment of sewage.
2. The learned Magistrate erred in law in finding the Respondent's belief that it had approval to install an apparatus for the treatment of sewage raised the defence of honest and reasonable but mistaken belief in the existence of any state of things pursuant to section 24 of the Criminal Code whereas the learned Magistrate should have found that the Respondent's belief constituted an ignorance of the law in that:
  - a. The Respondent believed it had verbal approval to install the apparatus whereas as [sic] an approval under section 107(2)(a) of the Health Act 1911 must be in writing; and
  - b. the learned Magistrate found an approval under section 107(2)(a) of the Health Act 1911 must be in writing.
3. The learned Magistrate erred in law in finding that the Respondent's belief that it had approval to install an apparatus for the treatment of sewage was an honest and reasonable but mistaken belief in the existence of any state of things for the purposes of section 24 of the Criminal Code whereas the learned Magistrate should have found the Respondent's belief was not reasonable on the basis that the apparatus for the treatment of sewage actually installed by the Respondent was different to the apparatus shown on the application for approval submitted by the Respondent and which the Respondent believed had been approved.

The appeal conditions were as follows:

- 72 Approval from a local authority is required prior to the commencement of installation pursuant to s 107(2)(a) of the Health Act. Accordingly, the excavation work done in January 2008 required approval. No such approval was given. Therefore, ground 1 is made out.
- 73 Whilst it is arguable that verbal approval is possible the better view is that written approval is required. However, that does not go to the essence of the mistaken belief claimed. It was open on the evidence to claim a mistaken belief that an approval had been given prior to any work commencing and thus ground 2 fails.
- 74 Proposed ground 3 raised an entirely new issue that was not put in argument to the magistrate. In any event, on the available evidence, that ground could not succeed. Accordingly, it is not reasonably arguable and leave in respect of it must be refused.
- 75 Since the appellant would need to succeed in respect of both grounds 1 and 2 in order for this appeal to be allowed (because they afforded alternative bases for conviction), the appeal must be dismissed.

## **OFFICER RECOMMENDATION**

***“That Council:***

***Note the outcome of the Supreme Court appeal Shire of York V Rosmill Pty Ltd (WASC 189)”***

### **Advice Note:**

No indication of approval, verbal or otherwise, is to be given to any applicant in instances where the written approval of the local government is required prior to the commencement of any development, construction, installation, operation or occupation.

## **RESOLUTION**

**110810**

**Moved: Cr Hooper**

**Seconded: Cr Randell**

***“That Council:***

***Defer this report until full financial details are available.”***

***CARRIED: 5/0***







PG:HK:YORK-23839

Our Ref

Your Ref

6 August 2010

The Chief Executive Officer  
Shire of York  
PO Box 22  
YORK WA 6302

Dear Sir

**Shire of York v Rosmill Pty Ltd - Appeal proceedings**

We refer to your recent telephone conversation with Peter Gillett of this office in relation to the above appeal.

We confirm our verbal advice that His Honour Justice Hall handed down his decision in relation to the appeal on 28 July 2010. We **attach** a copy of Justice Hall's decision for your information.

As discussed, the Shire was successful in relation to ground 1 of its appeal, relating to approval under section 107(2)(a) of the Health Act 1911 was required prior to the commencement of any works in relation to the installation of an apparatus for the treatment of sewage. However, Justice Hall dismissed the appeal on the basis that the Magistrate was correct to find that Rosmill Pty Ltd believed it had approval to install the apparatus despite that approval being given verbally and the fact that the septic system installed by Rosmill was different to that shown on the application which Rosmill believed had been approved.

While we have some reservations about Justice Hall's conclusions as to the nature of Rosmill's belief and the Magistrate's findings in that regard, it was difficult to ascertain the Magistrate's reasons for her findings from the transcript. Accordingly, we cannot categorically state that Justice Hall was wrong in the conclusions he reached.

Having dismissed the appeal, the court also ordered the Shire to pay Rosmill's costs of the appeal to be taxed if not agreed. We will contact the Shire once we receive a draft bill of costs from Rosmill's solicitors.

In the meantime, if you have any queries in relation to the above, please contact Peter Gillett of this office.

Yours faithfully

Contact: Peter Gillett  
Direct line: 9424 6229  
Email: [pgillett@mcleods.com.au](mailto:pgillett@mcleods.com.au)

SHIRE OF YORK	
FILE: 652 - 10836	
OFFICER: Tyhscha	INITIALS:
10 AUG 2010	
1115252	
REFERRED TO COUNCIL	
DATE: 16/8/10	INITIALS: PG



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**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORT**  
**9.2.8 Customer Service Standards**

<b>FILE NO:</b>	<b>OR.CIM.5</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>10 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>APPLICANT:</b>	<b>Nil</b>
<b>SENIOR OFFICER:</b>	<b>R Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>R Hooper, CEO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Nil</b>
<b>DOCUMENTS TABLED:</b>	<b>WA Ombudsman – Guidelines for Dealing with Unreasonable Complaint Conduct</b>

**Summary:**

The Shire of York requires a process to communicate with members of the public in a reasonable timeframe without being constrained by unrealistic timelines which impact on the governance of and delivery of services to the community as a whole.

**Background:**

A small number of community members submit correspondence with unreasonable timeframes attached and follow these up continually if their timelines are not met.

Additionally some community members write directly or request copies to all Councillors with an expectation that all individual elected members will respond separate to any Shire of York response.

Some correspondence received requests information in relation to third parties which cannot be released without the other party's approval and which should be dealt with under Freedom of Information processes and the associated costs and charges.

**Consultation:**

Department of Local Government  
WA Ombudsman's Office

**Statutory Environment:**

There is no provision in the Local Government Act 1995 requiring a local government to respond to any individual item of correspondence.

## **LOCAL GOVERNMENT ACT 1995**

### **5.91 . Interpretation**

A reference in this Division to a council member, a committee member or an employee performing a function under a written law other than this Act does not include a reference to a council member, a committee member or an employee performing a function in a capacity other than that of council member, a committee member or an employee, as the case may be, under this Act.

## **5.92 . Access to information by council, committee members**

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

(2) Without limiting subsection (1), a council member can have access to —

- (a) all written contracts entered into by the local government; and
- (b) all documents relating to written contracts proposed to be entered into by the local government.

## **5.93 . Improper use of information**

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

## **5.94 . Public can inspect certain local government information**

A person can attend the office of a local government during office hours and, unless it would be contrary to [section 5.95](#), inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection —

- (a) any code of conduct;
- (aa) any regulations prescribing rules of conduct of council members referred to in [section 5.104](#);
- (ab) any register of complaints referred to in [section 5.121](#);
- (b) any register of financial interests;
- (c) any annual report;
- (d) any annual budget;
- (e) any schedule of fees and charges;
- (f) any plan for the future of the district made in accordance with [section 5.56](#);
- (g) any proposed local law of which the local government has given Statewide public notice under [section 3.12\(3\)](#);
- (h) any local law made by the local government in accordance with [section 3.12](#);

(i) any regulations made by the Governor under [section 9.60](#) that operate as if they were local laws of the local government;

(j) any text that —

(i) is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or

(ii) would be adopted by a proposed local law of which the local government has given Statewide public notice under [section 3.12\(3\)](#);

(k) any subsidiary legislation made or adopted by the local government under any written law other than under this Act;

(l) any written law having a provision in respect of which the local government has a power or duty to enforce;

(m) any rates record;

(n) any confirmed minutes of council or committee meetings;

(o) any minutes of electors' meetings;

(p) any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been —

(i) tabled at a council or committee meeting; or

(ii) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting;

(q) any report of a review of a local law prepared under [section 3.16\(3\)](#);

(r) any business plan prepared under [section 3.59](#);

(s) any register of owners and occupiers under [section 4.32\(6\)](#) and electoral rolls;

(t) any contract under [section 5.39](#) and variation of such contract;

(u) such other information relating to the local government —

(i) required by a provision of this Act to be available for public inspection; or

(ii) as may be prescribed.

*[Section 5.94 amended by No. 49 of 2004 [s. 42\(7\)](#); No. 1 of 2007 s. 7.]*

## **5.95 . Limits on right to inspect local government information**

(1) A person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information —

- (a) which is not current at the time of inspection; and
- (b) which, in the CEO's opinion, would divert a substantial and unreasonable portion of the local government's resources away from its other functions.

(2) A person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information referred to in paragraph (m), (n), (p) or (u) of that section if the information relates to any debt owed to the local government by a person other than the first-mentioned person.

(3) Subject to subsection (4), a person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information referred to in paragraph (n) or (p) of that section if the meeting or that part of the meeting to which the information refers —

- (a) was closed to members of the public; or
- (b) in the CEO's opinion, could have been closed to members of the public but was not closed.

(4) Subsection (3) does not apply in relation to information —

- (a) that is a record of the decisions made at a meeting of a council, a committee or electors; or
- (b) of a kind prescribed as being information that can be inspected by members of the public despite subsection (3).

(5) A person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information referred to in paragraph (t) of that section if —

- (a) the information relates to a matter other than the salary or the remuneration or benefits payable under the contract; and
- (b) the information is prescribed as being of a private nature.

(6) Subject to subsection (7), a person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information —

- (a) referred to in a paragraph of that section that is prescribed as being confidential information for the purposes of this subsection; or
- (b) referred to in that section of a type prescribed as confidential for the purposes of this subsection,

for the period of time prescribed in relation to the information.

(7) Subsection (6) does not apply in respect of information in relation to a local government if —

(a) the information is prescribed as information that is confidential but that may be available for inspection if the local government so resolves; and

(b) the local government has resolved that the information is to be available for inspection.

(8) A person's right to inspect information referred to in [section 5.94](#) does not extend to the inspection of information referred to in paragraph (m) of that section if the information is information that has been omitted by regulations made under [section 4.38](#) from the electoral roll for the protection of an elector or his or her family.

*[Section 5.95 amended by No. 49 of 2004 [s. 54.](#)]*

#### **5.96 . Copies of information to be available**

If a person can inspect certain information under this Division, the person may request a copy of the information and, unless regulations prescribe otherwise, the local government is to ensure that copies are available and that the price at which it sells copies does not exceed the cost of providing the copies.

*[Section 5.96 amended by No. 17 of 2009 [s. 31.](#)]*

#### **5.97 . Freedom of Information Act 1992 not affected**

Nothing in this Division affects the operation of the [Freedom of Information Act 1992](#) .

*[Heading inserted by No. 17 of 2009 [s. 32.](#)]*

#### **Policy Implications:**

Nil

#### **Financial Implications:**

All responses to correspondence incur costs which are generally covered by administration allocations in the annual budgets.

Some community members write items of correspondence well above the average for the population resulting in a disproportionate amount of municipal funds being expended on them without any measurable benefit to the community as a whole.

#### **Strategic Implications:**

##### **Strategy 7.1**

**Ensure the Council's decisions are based on community needs and its activities have a strong customer service focus.**

#### **Voting Requirements:**

**Absolute Majority Required: No**

#### **Site Inspection:**

**Site Inspection Undertaken: Not applicable**

#### **Triple bottom Line Assessment:**

##### **Economic Implications:**

Not applicable to planning and development or statutory processes which have specific maximum response timeframes.

**Social Implications:**

It is acknowledged and accepted that all community members are entitled to the courtesy of an acknowledgement of receipt of correspondence and a response to the matters raised within a reasonable timeframe providing this does not impinge on the rights of other parties.

**Environmental Implications:**

Not Applicable

**Comment:**

There are only two people associated with the Shire of York who are authorised to make statements on behalf of the local government and these are the Shire President and Chief Executive Officer under delegated authority.

Individual Councillors and staff cannot provide statements on the position of Council on specific matters.

The Local Government Act 1995 also makes a clear distinction between the governance and operational roles within a local government and any expectation that elected members will act in the operational area is unrealistic and outside of the powers available to them.

Council members and staff strongly support high customer service standards and acknowledge the professional and common courtesy needed as part of the communication process. An issue only arises where a small number of people generate large volumes of correspondence on a specific or individual matter which impacts on the mechanics of providing services to the community as a whole.

Under the Records Management Act correspondence to and from elected members must be recorded through the Shire records management system and all correspondence should be directed to the Shire Office initially.

**RESOLUTION****120810****Moved: Cr Hooper****Seconded: Cr Randell*****“That Council:******Endorse the following communication processes as Customer Service standards to the community as a whole:***

- ***Acknowledgement of receipt of all correspondence requiring action or a response within seven (7) days of receipt through the records system.***
- ***An initial response to the matters raised to be forwarded within 28 days of the initial receipt.***
- ***Where the information or action required involves a third party the correspondent is to be advised of the Freedom of Information processes within 14 days of the initial receipt.***
- ***When a response has been provided no further response will be made unless significant new information is submitted on the specific issue.”***

**CARRIED: 4/1**



### **9.3 Works Reports**



## **9. OFFICER'S REPORTS**

### **9.3 WORKS REPORTS**

#### **9.3.1 Traffic Management for Works on Roads – Main Roads WA Authorisation**

<b>FILE NO:</b>	<b>TR.RDT3</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>9 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>APPLICANT:</b>	<b>N/A</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Simon Patterson, Engineer &amp; Works Manager</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Appendix A – Instrument of Authorisation</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

In January 2010 Main Roads WA wrote to Council advising the Shire to sign an "Instrument of Agreement" relating to traffic management. In response, in its Special Meeting of 22 February 2010 Council determined "That Council Authorises the Chief Executive Officer to sign and seal the Main Roads WA "Instrument of Authorisation Relating to Traffic Management for Events".

Main Roads WA has since written to Council advising that Main Roads had "incorrectly drafted" the agreement and it should have related to "Works on Roads" instead of "Events". Main Roads WA forwarded the correct "Instrument of Authorisation" to be signed by Council.

This report recommends that Council sign the Instrument. This will enable the Shire to conduct road works without needing Main Roads approval for each individual activity.

#### **Background:**

In summary, the Instrument requires the following commitments from Council:-

1. That Council will follow the relevant standards when managing traffic during works on roads
2. That Council will develop and follow appropriate procedures to ensure it follows relevant standards when managing traffic during events.

It is recommended that Council approves the signing of the Instrument of Authorisation as it will enable works on roads to be managed efficiently.

#### **Consultation:**

Nil

#### **Statutory Environment:**

Road Traffic Act 1974

Road Traffic Code 2000

Road Traffic (Events on Roads) Regulations 1991

Australian Standard 1742.3-2009

Main Roads' Traffic Management for Works on Roads Code of Practice

#### **Policy Implications:**

Nil

**Financial Implications:**

Delegated authority to Council to oversee traffic management during events will increase planning efficiency and therefore is likely to reduce costs to Council.

**Strategic Implications:**

This Instrument of Authorisation will enable Council to manage traffic on Council's roads into the future

**Voting Requirements:**

**Absolute Majority Required:** No

**Site Inspection:**

**Site Inspection Undertaken:** Not applicable

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

Entering into this agreement will gain Council ongoing savings as it will negate the need for Council to make individual applications to Main Roads WA each time works are required on roads.

**Social Implications:**

A high level of efficiency during Council's road related operations will improve the Shire's ability to complete its functions for the benefit of the whole community.

**Environmental Implications:**

Nil

**Comment:****RESOLUTION  
130810**

**Moved: Cr Boyle**

**Seconded: Cr Scott**

***"That Council:***

***Authorises the Chief Executive Offer to sign and seal the Main Roads WA "Instrument of Authorisation Relating to Traffic Management for Works on Roads".***

***CARRIED: 5/0***

**WESTERN AUSTRALIA  
ROAD TRAFFIC CODE 2000  
REGULATION 297(2)  
INSTRUMENT OF AUTHORISATION**

**RELATING TO  
TRAFFIC MANAGEMENT FOR WORKS ON ROADS**

Pursuant to Regulation 297(2) of the Road Traffic Code 2000 the Commissioner of Main Roads ("the Commissioner") hereby authorises .....  
(Insert name of Local Government)

("Authorised Body") by itself, its employees, consultants, agents and contractors (together "Representatives") to, from the date indicated below, erect, establish, display, alter or take down such traffic signs and traffic control devices of whatsoever type or class (except for permanent traffic control signals) as may be required for the purpose and duration of any works, survey or inspection, associated with the construction, maintenance or repair on a road (other than a main road or highway), any adjoining land or any portion thereof within its jurisdiction, SUBJECT ALWAYS to the following terms and conditions:

- (a) the Authorised Body shall at all times observe, perform and comply with the provisions of the "Traffic Management for Works on Roads Code of Practice" (as amended or replaced from time to time in consultation with the Traffic Management for Works on Roads Advisory Group) issued by Main Roads Western Australia ("the Code") referring to the version which is current at the time of the relevant works, a copy of which can be obtained from Main Roads Western Australia from [www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au);
- (b) the Authorised Body shall develop and implement procedures that will satisfy the Commissioner that traffic management implemented by the Authorised Body, its employees, agents and contractors will in all respects conform to and comply with the requirements of the Code; and
- (c) the Authorised Body shall ensure that its Representatives comply with the terms and conditions identified above at paragraphs (a) and (b) as if they were named in those paragraphs in place of the Authorised Body.

By executing and returning the acknowledgment at the foot of this authorisation, the Authorised Body agrees to observe, perform and comply with the above terms and conditions.

This Instrument of Authorisation replaces any prior Instrument of Authorisation under Regulation 297(2) of the Road Traffic Code 2000 between the Commissioner and the Authorised Body. The Commissioner's delegation dated 17 July 1975 to a number of Local Governments outside the Perth metropolitan area, is not affected by this Instrument of Authorisation except that this Instrument of Authorisation prevails wherever roadworks are concerned. That 1975 delegation was made under Regulation 301 of the Road Traffic Code 1975 and related to non-regulatory signage.

Dated:

**THE COMMON SEAL OF THE  
COMMISSIONER OF MAIN ROADS**

WAS AFFIXED BY

COMMISSIONER OF MAIN ROADS

FOR THE TIME BEING IN THE  
PRESENCE OF:

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name of Witness (please print)*

#### **ACKNOWLEDGMENT BY AUTHORISED BODY**

..... agrees to unconditionally observe,  
(Insert name of Local Government)  
perform and be bound by the above conditions.

**THE COMMON SEAL of**

\_\_\_\_\_  
*[Insert name of Local Government]*

Was hereunto affixed pursuant to a  
resolution of the Council in the  
presence of:

\_\_\_\_\_  
*Signature of Chief Executive Officer*

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name of Witness (please print)*

## **9.4 Finance Reports**





## **9. OFFICER'S REPORTS**

### **9.4 FINANCE REPORTS**

#### **9.4.1 Monthly Financial Reports – July 2010**

<b>FILE NO:</b>	<b>FI.FRP</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>9 August 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Not Applicable</b>
<b>APPLICANT:</b>	<b>Not Applicable</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Tabitha Bateman, Administration Officer</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Yes – Appendix A as detailed in Summary</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

The Financial Report for the period ending 31 July 2010 is hereby presented for the consideration of the Council.

Appendix A includes the following:

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

#### **Consultation:**

Nil.

#### **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 2010;

Sundry Creditors as per General Ledger	<b>\$ 50,523.81</b>
Sundry Debtors as per General Ledger	<b>\$ 568,102.29</b>
Unpaid rates and services current year (paid in advance inc. ESL)	<b>\$ 286,352.18</b>
Unpaid rates and services previous years (inc. ESL)	<b>\$ 11,034.16</b>

#### **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.

**RESOLUTION****140810****Moved: Cr Boyle****Seconded: Cr Randell*****“That Council:***

***Receive the Monthly Financial Report for June and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 July 2010:***

	<u><b>VOUCHER</b></u>	<u><b>AMOUNT</b></u>
<b>MUNICIPAL FUND</b>		
Cheque Payments	28843-28968	\$ 50,810.73
Electronic Funds Payments	7012-7048	\$ 106,616.40
Direct Debits Payroll		\$ 145,277.08
Bank Fees		\$ 793.45
Corporate Cards		\$ 3,229.29
Shell Cards		\$ 693.92
<b>TOTAL</b>		<u><b>\$ 300,420.87</b></u>
 <b>TRUST FUND</b>		
Cheque Payments	3711-3714	\$ 532.20
Direct Debits Licensing		\$ 116,220.05
<b>TOTAL</b>		<u><b>\$ 116,752.25</b></u>
 <b>TOTAL DISBURSEMENTS</b>		<u><b>\$ 417,173.12”</b></u>

**CARRIED: 5/0****Note to this item**

The Chief Executive Officer has delegated authority under Delegation DE1 (Council Meeting 21 September 2009) to make payments from the Municipal and Trust accounts.

BANK RECONCILIATION				
JULY 2010				
		MUNICIPAL	TRUST	RESERVE
<b>OPENING BALANCE PER SYNERGY</b>		<b>(136,002.19)</b>	<b>450,340.61</b>	<b>2,835,287.93</b>
Receipts as per daily cash book		833,307.24	120,098.70	
Muni Interest		751.60		
Muni Interest 11AM At Call a/c		2,243.84		
Trust interest received		260.10		
Reserve Interest				0.20
Reserve Interest 11AM At Call a/c				1,426.20
Reserve Interest NCD 329667				2,436.44
<b>TOTAL RECEIPTS</b>		<b>836,562.78</b>	<b>120,098.70</b>	<b>3,862.84</b>
PER SYNERGY GL		836,562.75	120,098.70	3,862.84
<b>DIFFERENCE</b>		<b>0.03</b>	<b>-</b>	<b>-</b>
Payments as per schedule cheques	28943 - 28968	(50,810.73)		
EFT Direct payments	7012 - 7048	(106,616.40)		
Payment as per schedule chqs - Trust	3711 - 3714		(532.20)	
Direct Debit Licensing			(116,220.05)	
Direct Debit Payroll		(145,277.08)		
Bank fees BendigoTrust		(101.50)		
Bank fees Bendigo Muni		(144.48)		
Bank fees Bendigo Reserve		(0.40)		
Business Cards Bank Fees		(8.00)		
Dishonour Cheque Fee		0.00		
Eftpos Bank Fee Trust		(206.12)		
Eftpos Bank Fee Muni		(332.95)		
<b>TOTAL BANK FEES</b>	<b>(793.45)</b>			
Business Card Bendigo - CEO		(2,993.09)		
Business Card Bendigo - DCEO		(236.20)		
PAYMENTS IN ADVANCE - Previous month				
PAYMENTS IN ADVANCE - Current month				
<b>NET PAYMENTS IN ADVANCE</b>	<b>0.00</b>			
<b>TOTAL BUSINESS CARDS Direct Debits</b>	<b>(3,229.29)</b>			
Shell Card		(693.92)		
Receipt reversal journal - Bank Interest June 10		(7,279.78)		
Rounding		(0.03)		
<b>TOTAL EXPENDITURE</b>		<b>(314,700.68)</b>	<b>(116,752.25)</b>	<b>0.00</b>
PER SYNERGY GL		-314,700.65	-116,752.25	
<b>DIFFERENCE</b>		<b>0.03</b>	<b>-</b>	<b>-</b>
<b>CLOSING BALANCE - CALCULATED</b>		<b>385,859.91</b>	<b>453,687.06</b>	<b>2,839,150.77</b>
<b>CLOSING BALANCE - SYNERGY</b>		<b>385,859.91</b>	<b>453,687.06</b>	<b>2,839,150.77</b>
<b>DIFFERENCE</b>		<b>-</b>	<b>-</b>	<b>-</b>

BANK RECONCILIATION				
JULY 2010				
		MUNICIPAL	TRUST	RESERVE
<b>BALANCES AS PER BANK STATEMENTS</b>				
BENDIGO MUNICIPAL 118630623		782,239.31		
BENDIGO MUNICIPAL AT-CALL ACCT 61158		300,000.00		
BENDIGO TRUST 13074174			157,246.78	
BENDIGO TRUST NCD Open space DUE 1/11/2010	T26		133,375.18	
BENDIGO TRUST TERM DEPOSIT	T2		23,764.88	
BENDIGO TRUST TERM DEPOSIT	T16		9,241.32	
BENDIGO TRUST TERM DEPOSIT	T19		13,126.82	
BENDIGO TRUST TERM DEPOSIT	T40		22,295.33	
BENDIGO TRUST TERM DEPOSIT	T77		57,404.08	
BENDIGO TRUST TERM DEPOSIT	T78		49,396.21	
BENDIGO TRUST TERM DEPOSIT	T87			
BENDIGO RESERVE 119521748				43,717.95
BENDIGO RESERVE AT-CALL ACCT				714,031.21
BENDIGO RESERVE NCD DUE 27/7/10	R1			601,290.92
WESTPAC RESERVE				0.00
WESTPAC RESERVE TERM DEPOSIT DUE 23/8/10	R5			309,543.08
WESTPAC RESERVE TERM DEPOSIT DUE 5/6/10	R7			507,548.82
<b>TOTAL PER BANK STATEMENTS</b>		<b>1,082,239.31</b>	<b>465,850.60</b>	<b>2,176,131.98</b>
<b>RECONCILING ITEMS</b>				
Plus Outstanding Deposits		556.84	5,441.15	
Less Outstanding cheques		(4,422.75)	(5,904.31)	
Less Outstanding Licence Debits			(10,973.60)	
Less July credits - receipted August		(29,913.23)		
Less credit received 9/3/10 - receipted August		(50.00)		
Less credit received 26/11/09 - receipted August		(132.00)		
Less credit received 7/1/10 - receipted August		(132.00)		
Muni - Reserve Transfers		(0.20)		0.20
Muni - Reserve Transfers		(54,861.59)		54,861.59
Muni - Reserve Transfers		(608,157.00)		608,157.00
Police Licensing receipt adjustment 9/6/10			0.24	
Adjustments		732.53	(727.02)	
<b>TOTAL CLOSING BALANCE - CALCULATED</b>		<b>385,859.91</b>	<b>453,687.06</b>	<b>2,839,150.77</b>
<b>- PER SYNERGY</b>		<b>385,859.91</b>	<b>453,687.06</b>	<b>2,839,150.77</b>

Date: 09/08/2010  
Time: 9:29:31AM

**SHIRE OF YORK**  
**MUNICIPAL CHEQUE PAYMENTS**  
**JULY 2010**

USER: Tabitha Bateman  
PAGE: 1

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
<b>SHIRE OF YORK</b>				
		VEHICLE LICENSING 2010/2011		5,279.40
28929		INV LICENCE 10/11		5,279.40
<b>WESTSCHEME SUPERANNUATION</b>				
		SUPERANNUATION CONTRIBUTIONS		197.99
28943		INV SUPER		197.99
<b>PRIME SUPER</b>				
		SUPERANNUATION CONTRIBUTIONS		166.20
28944		INV SUPER		166.20
<b>YORK SHIRE COUNCIL (payroll only)</b>				
		PAYROLL DEDUCTIONS		1,525.00
28945		INV DEDUCTION		1,100.00
		INV DEDUCTION		425.00
<b>DOMINIC CARBONE</b>				
		SEAVROC - MANAGEMENT & ADMIN - APR/JUN 10		15,309.51
28946		INV 17		12,185.51
		CONSULTANCY - BUSINESS PLAN OLD YORK PRIMARY SCHOOL		3,124.00
		INV 14		388.95
<b>AUSSIE ALTERNATIVE ENERGIES</b>				
		GUN SAFE/GUN CASE		388.95
28947		INV 1817		388.95
<b>SUNCORP WEALTHSMART BUSINESS SUPER</b>				
		Superannuation contributions		192.93
28948		INV SUPER		192.93
<b>RETAIL EMPLOYEES SUPERANNUATION TRUST</b>				
		Superannuation contributions		212.86
28949		INV SUPER		212.86
<b>HESTA</b>				
		Superannuation contributions		141.18
28950		INV SUPER		141.18
<b>ASGARD</b>				
		Superannuation contributions		221.72
28951		INV SUPER		221.72

Date: 09/08/2010  
Time: 9:29:31AM

**SHIRE OF YORK  
MUNICIPAL CHEQUE PAYMENTS  
JULY 2010**

USER: Tabitha Bateman  
PAGE: 2

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
<b>DEPARTMENT OF PREMIER AND CABINET</b>				
		GOVERNMENT GAZETTE ADVERTISING TPS 2 AMEND 42		76.20
28952		INV 86205		76.20
<b>MEAT INDUSTRY EMPLOYEES SUPERANNUATION FUND</b>				
		Superannuation contributions		162.80
28953		INV SUPER		162.80
<b>CARE SUPER</b>				
		Superannuation contributions		155.40
28954		INV SUPER		155.40
<b>AMP SUPER LEADER</b>				
		Superannuation contributions		165.40
28955		INV SUPER		165.40
<b>DOROTHY WHITE</b>				
		CATERING - CWA DAY - BLESSING OF THE BONNETS 3/7/10		1,360.00
28956		INV 6		1,360.00
<b>DONNA JOHNSON</b>				
		REFUND STALLHOLDER APPLICATION FEE		20.00
28957		INV REIMBURSEMENT		20.00
<b>TRACEY LEE CREASER</b>				
		REFUND HALL HIRE FEES 21/8/10 - BOOKING CANCELLED		640.00
28958		INV REFUND		640.00
<b>AUSTRALIAN INSTITUTE BUILDING SURVEYORS</b>				
		AUSTRALIAN BUILD SURVEYOR MEMBER SUBSCRIPTION 10/11		430.00
28959		INV W62520		375.00
		AUSTRALIAN BUILD SURVEYOR MAGAZINE SUBSCRIPTION 10/11		55.00
		INV 675		55.00
<b>AUSTRALIAN SERVICES UNION</b>				
		UNION FEES		207.90
28960		INV DEDUCTION		207.90
<b>TELSTRA</b>				
		INTERNET ACCESS 26-25/6/10 – CEO / MOBILE PHONE 11/6-10/7/10 - WORKS		72.14
28961		INV BP02714855		59.95
		INV 4062574472		12.19

Date: 09/08/2010  
Time: 9:29:31AM

**SHIRE OF YORK  
MUNICIPAL CHEQUE PAYMENTS  
JULY 2010**

USER: Tabitha Bateman  
PAGE: 3

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
<b>WATER CORPORATION OF WA</b>				
		WATER RATES 10/11 - ADMIN T/HALL		5,099.30
28962				
		WATER RATES 10/11 - SPRINGBETT AIRFIELD		
		INV 9007946625		184.25
		WATER RATES 10/11 - RADIO STN - 26 BARKER ST		
		INV 9007881673		191.55
		WATER RATES 10/11 - TELECENTRE - 5 JOAQUINA ST		
		INV 9007881964		174.55
		WATER RATES 10/11 - FORREST OVAL		
		INV 9007882537		183.55
		WATER RATES 10/11 - 38 FRASER ST		
		INV 9007884268		183.55
		WATER RATES 10/11 - FIRE STN COMMUNITY CENTRE		
		INV 9007889077		251.10
		WATER RATES 10/11 - 17 FORBES ST		
		INV 9007890035		183.55
		WATER RATES 10/11 - LINCOLN ST STANDPIPE		
		INV 9007890502		183.55
		WATER RATES 10/11 - MANNAVALE RD STANDPIPE		
		INV 9007951694		185.40
		WATER RATES 10/11 - GWAMBYGINE STANDPIPE		
		INV 9007946748		198.50
		WATER RATES 10/11 - HAMERSLEY S/PIPE		
		INV 9007946721		183.55
		WATER RATES 10/11 - RAILWAY STANDPIPE		
		INV 9007946887		185.75
		WATER RATES 10/11 - REDMILE STANDPIPE		
		INV 9007880259		183.55
		WATER RATES 10/11 - DOVEY CT STANDPIPE		
		INV 9007967135		183.55
		WATER RATES 10/11 - 75 OSNABURG RD		
		INV 9016178461		183.55
		WATER RATES 10/11 - 51 ROE ST		
		INV 9016178488		183.55
		WATER RATES 10/11 - AVON PARK		
		INV 9007876065		559.75
		WATER RATES 10/11 - ADMIN T/HALL		
		INV 9007881921		1,516.50
<b>SHIRE OF YORK</b>				
		VEHICLE LICENCE 10/11 - 1CNW823		126.20
28963				
		INV LICENCE 10/11		126.20

Date: 09/08/2010  
Time: 9:29:31AM

SHIRE OF YORK  
MUNICIPAL CHEQUE PAYMENTS  
JULY 2010

USER: Tabitha Bateman  
PAGE: 4

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
<b>YORK BOWLING CLUB</b>				
HIRE OF BOWLING CLUB - CWA DAY - BLESSING OF THE BONNETS - 3/7/10				165.00
28964				
INV 37				165.00
<b>WA LOCAL GOVT SUPER PLAN PTY LTD, (ACN 0</b>				
<b>SUPERANNUATION CONTRIBUTIONS</b>				<b>12,262.40</b>
28965				
INV SUPER				8,423.03
INV DEDUCTION				1,375.00
INV DEDUCTION				709.67
INV DEDUCTION				824.93
INV DEDUCTION				127.75
INV DEDUCTION				31.94
INV DEDUCTION				264.09
INV DEDUCTION				95.11
INV DEDUCTION				77.25
INV DEDUCTION				158.07
INV DEDUCTION				119.26
INV DEDUCTION				37.53
INV DEDUCTION				18.77
<b>AUSTRALIAN TAXATION OFFICE</b>				
YORK VISITOR CENTRE BAS 1/4-30/6/10				<b>4,112.00</b>
28966				
INV VISITOR CENTRE BAS 1/4-30/6/10				4,112.00
<b>PETTY CASH</b>				
PETTY CASH RECOUP				<b>100.25</b>
28967				
INV PETTY CASH MUSEUM				100.25
<b>C Y O'CONNOR, COLLEGE OF TAFE</b>				
RANGER TRAINING COURSES - M SHARPE				<b>2,020.00</b>
28968				
INV 101001080				2,020.00



Date: 09/08/2010  
Time: 9:29:31AM

**SHIRE OF YORK**  
**MUNICIPAL CHEQUE PAYMENTS**  
**JULY 2010**

USER: Tabitha Bateman  
PAGE: 5

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
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**REPORT TOTALS**

Bank Code	Bank Name	TOTAL
1	MUNICIPAL FUND BANK	50,810.73
<b>TOTAL</b>		<b>50,810.73</b>

Date: 09/08/2010  
Time: 11:08:14AM

**SHIRE OF YORK  
MUNICIPAL EFT PAYMENTS  
JULY 2010**

USER: Tabitha Batemar  
PAGE: 1

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
<b>COOL CLEAR WATER BEVERAGES LTD</b>				
EFT7012		WATER FILTRATION UNIT - JUL 10		66.00
INV 143429			66.00	
<b>LOCAL GOVERNMENT SUPERVISORS ASSOC.</b>				
EFT7013		ANNUAL MEMBERSHIP 2010/11 - WORKS SUPERVISOR		38.50
INV 1418			38.50	
<b>COMMERCIAL AIR SOLUTIONS</b>				
EFT7014		AIRCON REPAIRS - ADMIN		1,419.00
INV 764			1,419.00	
<b>YORK LANDSCAPE SUPPLIES</b>				
EFT7015		BOBCAT HIRE - REPAIR BROKEN WATER PIPE - POOL STREE		213.50
INV 1877			213.50	
<b>GEMINI MEDICAL SERVICES PL</b>				
EFT7016		PAYMENT IN LEIU - DR _ CAR - _ _		1,047.60
INV S17572			497.60	
INV S17573			550.00	
<b>JOHN'S LOCAL CLEANING SERVICE</b>				
EFT7017		CLEANING - MUSEUM - JUN 10		125.00
INV 252			125.00	
<b>AUSTRAL MERCANTILE</b>				
EFT7018		RATE DEBT COLLECTION FEES		866.47
INV 8347			866.47	
<b>YORK &amp; DISTRICTS COMMUNITY MATTERS</b>				
EFT7019		ADVERTISING		646.80
INV 3246			646.80	
<b>AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY</b>				
EFT7020		LAND MOBILE/MT BAKEWELL RADIO LICENCE - 10/11		897.00
INV 2008301			897.00	
<b>LOCAL GOVERNMENT MANAGERS AUSTRALIA</b>				
EFT7021		LGMA MEMBERSHIP SUBSCRIPTION - 10/11		388.00
INV 16439			388.00	
<b>WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION</b>				
EFT7022		WALGA MEMBER SUBSCRIPTIONS 10/11		20,092.24
INV I268744			7,507.36	
INV I268729		TAX SERVICES MEMBER SUBSCRIPTIONS 10/11	1,166.00	
INV I268752		WALGA PROCUREMENTS MEMBER SUBSCRIPTIONS 10/11	1,650.00	
INV I268763		WORKPLACE SOLUTIONS MEMBER SUBSCRIPTIONS 10/11	2,937.88	
INV I268786		LOCAL LAWS MEMBER SUBSCRIPTIONS 10/11	517.00	
INV I268776		LINKING COUNCILS MEMBER SUBSCRIPTIONS 10/11	6,314.00	
<b>SUNNY BRUSHWARE SUPPLIES</b>				
EFT7023		WIRE BRUSHES - TRACTOR SWEEPER		777.70
INV 29779			777.70	
<b>ING CORPORATE SUPER</b>				
EFT7024		Superannuation contributions		182.01
INV SUPER			182.01	
<b>HEARTLANDS VETERINARY HOSPITAL</b>				
EFT7025		DOG BED COVERS - POUND		38.60
INV 67089			38.60	
<b>DARREN LONG CONSULTING</b>				
EFT7026		SEAVROC LOCAL LAWS REVIEW - JUN 10		1,584.00
INV 118			1,584.00	
<b>VETERAN CAR CLUB OF W.A. INC</b>				
EFT7027		SPONSORSHIP - YORK MOTOR SHOW 2010		1,718.00

Date: 09/08/2010  
Time: 11:08:14AM

**SHIRE OF YORK  
MUNICIPAL EFT PAYMENTS  
JULY 2010**

USER:Tabitha Batemar  
PAGE:2

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
INV 0607201		<b>VETERAN CAR CLUB OF W.A. INC</b> SPONSORSHIP - YORK MOTOR SHOW 2010	1,718.00	
EFT7028 INV SUPER/		<b>WESTPAC LIFETIME SUPERANNUATION SERVICE</b> SUPER GUARANTEE CONTRIBUTIONS - VISITORS CENTRE - 1	1,023.72	1,023.72
EFT7029 INV 0806201		<b>NORTHAM CHAMBER OF COMMERCE</b> SPONSORSHIP - AVON VALLEY BUSINESS AWARDS 2010	1,100.00	1,100.00
EFT7030 INV 3		<b>TERRACE FRUIT, VEG AND CAFE</b> REFRESHMENTS COUNCIL BRIEFING - 19/7/10	192.00	192.00
EFT7031 INV 12		<b>LOCAL GOVERNMENT MANAGERS AUSTRALIA - AVON BRANCH</b> CONTRIBUTION - LGMA SCHOLARSHIP 2010	100.00	100.00
EFT7032 INV 806789		<b>ENVIRONMENTAL HEALTH AUSTRALIA</b> I'M ALERT SUBSCRIPTION 10/11	880.00	880.00
EFT7033 INV TRANS/		<b>COURIER AUSTRALIA</b> FREIGHT	15.64	25.24
			9.60	
EFT7034 INV 1280		<b>CASTLE HOTEL</b> REFRESHMENTS	594.83	594.83
EFT7035 INV 33640		<b>CENTRAL DISTRICTS AIRCONDITIONING</b> AIR CON REPAIRS - 17 FORBES ST	515.45	515.45
EFT7036 INV 55428		<b>MCLEODS BARRISTERS AND SOLICITORS</b> LEGAL ADVICE - HEALTH PROSECUTION - ROSMIL P/L	5,216.64	5,441.87
INV 55577		LEGAL ADVICE - BOUNDARY DISPUTE - S SCHMIDT	225.23	
EFT7037 INV SII3217		<b>PEERLESS JAL PTY LTD</b> CLEANING SUPPLIES - REC CENTRE	491.33	491.33
EFT7038 INV 48261		<b>SHERIDANS</b> NAME BADGE X 2	97.39	146.39
INV 48260		NAME BADGE X 1	49.00	
EFT7039 INV 5634		<b>AVON WASTE</b> RUBBISH COLLECTION - 16/7/10	6,197.76	18,224.63
INV 5635		RUBBISH COLLECTION	2,814.00	
INV 5682		RECYCLING SERVICES	6,334.71	
INV 5683		RUBBISH COLLECTION - 16/7/10	2,878.16	
		RECYCLING SERVICES		
EFT7040 INV 107127		<b>ZIPFORM</b> RATES NOTICE X 1000	1,040.05	2,624.05
INV 107128		INSTALMENT NOTICES X 2500	928.95	
INV 107129		FINAL NOTICES X 2500	655.05	
EFT7041 INV 6377591		<b>BOC GASES</b> ANNUAL CONTAINER SERVICE OXYGEN/AGROSHIELD - DEF	525.62	525.62
EFT7042 INV 10332		<b>MAL AUTOMOTIVES</b> VEHICLE SERVICE - Y387	417.20	417.20

Date: 09/08/2010  
Time: 11:08:14AM

**SHIRE OF YORK  
MUNICIPAL EFT PAYMENTS  
JULY 2010**

USER:Tabitha Batemar  
PAGE:3

Cheque /EFT No	Date	Name Invoice Description	INV Amount	Amount
		<b>IT VISION</b>		
EFT7043		SYNERGYSOFT ANNUAL LICENCES 10/11		26,972.00
INV 19276			26,972.00	
		<b>YORK TELECENTRE</b>		
EFT7044		SPONSORSHIP - YORK BUSINESS DIRECTORY 10/11		1,496.00
INV 817			1,320.00	
INV 787		ADVERT - YORK BUSINESS DIRECTORY 10/11	176.00	
		<b>FUEL DISTRIBUTORS</b>		
EFT7045		DISTILLATE X 4000 LTRS/ UNLEADED X 1091 LTRS		10,791.79
INV 89955		DISTILLATE X 3500 LTRS	4,437.30	
INV FD9027:		DISTILLATE X 4000 LTRS/ UNLEADED X 1091 LTRS	6,354.49	
		<b>LANDMARK</b>		
EFT7046		PIPING - FORREST OVAL REDEVELOPMENT		1,416.09
INV 722104		DRAINCOIL - FORREST OVAL REDEVELOPMENT	484.00	
INV 722097		PIPING - FORREST OVAL REDEVELOPMENT	535.21	
INV 732420		RED FOX BAITING PROGRAM - G BOWEN	106.90	
INV 769968		WATER PUMP EQUIPMENT - GREENHILLS BRIGADE	289.98	
		<b>BURGESS RAWSON (WA) PTY LTD</b>		
EFT7047		STANDPIPE WATER RATES 10/11 - BURGESS SIDING		202.57
INV 304352			202.57	
		<b>OH &amp; JM EDWARDS</b>		
EFT7048		BUSHFIRE RADIO REPAIRS - VARIOUS VEHICLES		3,335.20
INV 3172			3,335.20	

**REPORT TOTALS**

Bank Code	Bank Name	TOTAL
1	MUNICIPAL FUND BANK	106,616.40
<b>TOTAL</b>		<b>106,616.40</b>

Date: 09/08/2010  
Time: 11:06:40AM

**SHIRE OF YORK**  
**TRUST CHEQUE PAYMENTS**  
**JULY 2010**

USER:Tabitha Batemar  
PAGE:1

Cheque/EFT No	Date	Name Invoice Description	INV Amount	Amount
3711		<b>SIDS AND KIDS</b>		
INV T24		REFUND SIDS & KIDS MERCHANDISE - RED NOSE DAY - REC	42.20	42.20
3712		<b>TRACEY LEE CREASER</b>		
INV T8		REFUND T CREASER - TOWN HALL BOND - WEDDING FUNC1	20.00	220.00
INV T83		REFUND T CREASER - TOWN HALL KEY BOND - WEDDING F1	200.00	
3713		<b>WENDY POTTAGE</b>		
INV T1		REFUND W POTTAGE - CAT TRAP BOND - 21 BLAND RD - REC	50.00	50.00
3714		<b>KALGOORLLIE AMATEUR SWIM CLUB</b>		
INV T8		REFUND KAL AMATEUR SWIM CLUB - REC CENTRE BOND -	20.00	220.00
INV T83		REFUND KAL AMATEUR SWIM CLUB - REC KEY BOND - REC	200.00	

**REPORT TOTALS**

Bank Code	Bank Name	TOTAL
2	TRUST FUND BANK	532.20
<b>TOTAL</b>		<b>532.20</b>

<b>TOTAL RESERVES</b>	
<b>31-Jul-10</b>	
<b>Reserve Name</b>	<b>Current Balance</b>
4. Plant Reserve	361,616.94
6. Staff Leave Reserve	118,009.05
7. Town Planning Reserve	12,499.28
8. Recreation Complex Reserve	115,209.39
9. Avon River Maintenance Reserve	20,429.52
14. Industrial Land Reserve	93,468.87
15. Refuse Site Development Reserve	198,328.20
22. Centennial Gardens Reserve	106,867.95
23. Public Open Space Cont Reserve	317.36
24. Community Bus Reserve	40,223.10
25. Pioneer Memorial Lodge Reserve	131,732.74
26. Residency Museum Reserve	20,149.71
27. Carparking Reserve	59,674.58
30. Building Reserve	60,917.96
35. Disaster Reserve	24,178.60
37. Archives Reserve	22,372.25
38. Water Supply Reserve	6,778.29
40. Tied Grant Funds Reserve	919,885.70
42. Main Street (Town Precinct) Update Reserve	119,045.06
43. Strategic Planning Reserve	11,779.13
44. Cemetery Reserve	27,387.40
45. York Town Hall Reserve	41,089.86
46. RSL Memorial Reserve	19,946.07
47. Greenhills Townsite Development Reserve	21,973.15
48. Youth Capital Works	23,386.27
49. Roads	60,428.92
50. Land & Infrastructure	201,455.42
<b>TOTAL RESERVE FUNDS</b>	<b>2,839,150.77</b>
Funded by	
BENDIGO RESERVE 119521748	43,717.95
PLUS O/S TRANSFERS AUGUST 2010	663,018.79
BENDIGO RESERVE AT-CALL ACCT	714,031.21
BENDIGO RESERVE NCD DUE 27/7/10	601,290.92
WESTPAC RESERVE	0.00
WESTPAC RESERVE TERM DEPOSIT DUE 23/8/10	309,543.08
WESTPAC RESERVE TERM DEPOSIT DUE 5/6/10	507,548.82
<b>TOTAL</b>	<b>2,839,150.77</b>
<b>Comment</b>	
The Local Government Act 1995 Part 6 Division 4 Section 6.11 requires the reserves to be fully funded. The reserves are fully funded.	

**STATEMENT OF PAYROLL DIRECT DEBITS  
FOR THE MONTH ENDING JULY 2010**

14 July 2010	70,840.15
28 July 2010	74,436.93
<b>PAYROLL TOTALS</b>	<b>\$ 145,277.08</b>
(LESS PAYMENTS BY CHEQUE)	0.00
<b>TOTAL PAYROLL DIRECT DEBITS AS PER BANK REC</b>	<b>\$ 145,277.08</b>

**SUMMARY OF CREDIT CARD PAYMENTS  
FOR THE MONTH ENDING JULY 2010**

REFRESHMENTS	344.80
TRAINING & CONFERENCES	2,778.02
LIBRARY BOOKS	62.23
FUEL	36.55
OFFICE EXPENSES / STATIONERY	0.00
OTHER	7.69
TOTAL PURCHASES	<u>\$ 3,229.29</u>
PAYMENTS TO C/C IN ADVANCE	0.00
(LESS PREVIOUSLY PAID IN ADVANCE)	
TOTAL PAYMENTS TO C/C AS PER BANK REC	<u>\$ 3,229.29</u>



**STATEMENT OF SHELL CARD PURCHASES**  
**FOR THE MONTH ENDING JULY 2010**

0 Y - CEO		0.00
Y 000 - MHB		367.91
Y 00 - DCEO		153.01
Y 86 - BUILDING		163.00
CARD FEES		10.00
<b>TOTAL PURCHASES</b>	<b>\$</b>	<b>693.92</b>
<b>TOTAL PAYMENTS TO SHELL AS PER BANK REC</b>	<b>\$</b>	<b>693.92</b>



## **9. OFFICER'S REPORTS**

### **9.4 FINANCE REPORTS**

#### **9.4.2 Non-Rates Write Off – Various**

<b>FILE NO:</b>	<b>FI.DRS</b>
<b>COUNCIL DATE:</b>	<b>16 August 2010</b>
<b>REPORT DATE:</b>	<b>29 July 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Not Applicable</b>
<b>APPLICANT:</b>	<b>Shire of York</b>
<b>SENIOR OFFICER:</b>	<b>Tyhscha Cochrane, DCEO</b>
<b>REPORTING OFFICER:</b>	<b>Matthew Davies, Finance Officer</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Yes</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

Council approval is requested to write off the following debts.

#### **M & J School of Dance:**

Council proceeded with debt collection through Austral Mercantile for the debt owed by M & J School of Dance and were advised it would prove more costly to pursue this matter further through debt collection than to write off the charges.

As there remains \$978.25 still outstanding a resolution of Council is required in order to write off the balance owing, being \$978.25 in order to satisfy the requirements of the Local Government Act 1995 (as amended).

#### **Shire of Beverley:**

Joint funding for the Shire's of Beverley and York to seal the Talbot West and York Williams Road over a two year period was subject to funding from the Royalties for Regions - Country Local Government Fund. As this funding was not obtained Council is requested to write off the debt and the Shire of York will not be making a contribution of \$220,000.00 Inc GST to the Shire of Beverley.

#### **York Hockey Club:**

The York Hockey Club has requested the amount of \$55,000.00 cash contribution to be written off. The Hockey club have provided in excess of \$34,295.00 labour, materials and tools and have requested this to be their donation as opposed to a cash contribution.

#### **Background:**

Outlined in Appendix B & C - Background Information.

#### **Consultation:**

Debt Collector  
Council's Officers

#### **Statutory Environment:**

Local Government Act, 1995 (as amended) – Section 6.12 Power to Write Off Debts.

#### **Policy Implications:**

Not Applicable.

#### **Financial Implications:**

Nil for the 2010/2011 budget as provision for the write-off is incorporated in the 2009/2010 surplus.

**Strategic Implications:**  
**Nil.**

**Voting Requirements:**  
Absolute Majority Required: Yes

**Triple Bottom Line Assessment:**  
**Economic Implications:**

Council must be seen to be pro-active in debt recovery action as the ultimate burden rests with the ratepayers.

**Social Implications:**  
Nil.

**Environmental Implications:**  
Nil.

**Comment:**  
Write off is therefore recommended due to the above information provided as per Appendix "A".

**RESOLUTION**  
**150810**

**Moved: Cr Boyle**

**Seconded: Cr Randell**

***"That Council:***

***By an absolute majority, resolve to write off \$276,631.65 from the debts as per Appendix A"***

***CARRIED: 5/0***

**9.4.2**  
**Appendix A**

<b><u>SUNDRY DEBTOR WRITE-OFFS</u></b>					
<b>DEBTOR NUMBER</b>	<b>NAME</b>	<b>DESCRIPTION</b>	<b>INV RAISED</b>	<b>VALUE</b>	<b>NOTES</b>
516	M & J SCHOOL OF DANCE	TOWN HALL HIRE FEES 2007/2008	09/6/2009	\$978.25	FINAL DEMAND LETTER SENT. ACCOUNT SENT TO AUSTRAL MERCANTILE – UNABLE TO COLLECT – ADVISED TO WRITE OFF
3208	YORK HOCKEY CLUB	HOCKEY CLUB – CONTRIBUTION TO CHANGE ROOMS FORREST OVAL REDEVELOPMENT	30/06/2010	\$55,000.00	
8948	SHIRE OF BEVERLEY	CONTRIBUTION – ROAD CONSTRUCTION – WEST TALBOT RD/ YORK WILLIAMS RD	14/04/2010	\$220,000.00	
	<b>TOTAL</b>			<b>\$276,631.65</b>	



SHIRE OF BEVERLEY  
BEVERLEY, WESTERN AUSTRALIA 6304

Our Ref: GS 016

29<sup>th</sup> July, 2010

Ms Tyhscha Cochrane  
Deputy Chief Executive Officer  
Shire of York  
PO Box 22  
YORK WA 6302

Dear Tyhscha,

**Royalties for Regions Funds – Talbot West Road**

As you would be aware the joint funding to seal both the Talbot West and the York-Williams Road over a two year period was subject to funding from the regions portion of the Country Local Government Fund.

Unfortunately with the deferral (?), Council has resolved not to proceed with its plans to seal the York-Williams Road in 2010 / 11, and as such will not be invoicing your Council for the \$200,000 in that year. As such it has been suggested that this amount be set aside by your Council to compensate for the over expenditure on the Talbot West Road last year.



It is extremely unfortunate that both Shires initially acted in good faith, only to be let down by the State Government's decision.

Yours sincerely

Keith Byers  
CHIEF EXECUTIVE OFFICER

SHIRE OF YORK	
FILE FLAG 8.1	
OFFICER	INITIALS
ROY	
DATE	
2 AUG 2010	
11 5 10	
REFERENCE TO COUNCIL	
DATE	INITIALS

By Hand 22.7.10  
8:20am PM

<b>YORK HOCKEY CLUB</b>													
FO BOX 352, YORK 6302. WA ABN : 26814346170													
													
<p>CEO Shire of York York, 6302.</p>	<table border="1"> <tr> <td>FILE: EL DES</td> <td>INITIALS</td> </tr> <tr> <td>By</td> <td>20</td> </tr> <tr> <td colspan="2">21 JUL 2010</td> </tr> <tr> <td colspan="2">1114914</td> </tr> <tr> <td colspan="2">REFERRED TO COUNCIL</td> </tr> <tr> <td>DATE</td> <td>INITIALS</td> </tr> </table>	FILE: EL DES	INITIALS	By	20	21 JUL 2010		1114914		REFERRED TO COUNCIL		DATE	INITIALS
FILE: EL DES	INITIALS												
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21 JUL 2010													
1114914													
REFERRED TO COUNCIL													
DATE	INITIALS												

Dear Mr. Hooper

Re Invoice dated 30/6/2010, Invoice Number 3051: re York Hockey Club contributions to building the new change rooms

The York Hockey Club wishes to query this invoice for \$55,000.

The club representatives from the 2009 and the 2010 committees have no recollection to agreeing to or even discussing the provision of this amount in cash to the York Shire.

The club had agreed to provide a contribution in kind towards the building of the change rooms and this was done with the substantial volunteer hours of work provided by club members throughout 2009 and 2010. The value and approximate hours worked was submitted to the shire at the end of June 2010. The total value of this work amounted to \$34,295.00 (see attached page).

The club requests that this be accepted as the total contribution from the York Hockey Club towards this project.

Thank you  
Yours sincerely

Penny Curry  
President  
York Hockey Club  
21/07/2010



Hockey Club Members Labour and Contributions					
Task	Volunteers	Hours each	Total Hours	Rate	Total
Frame erecton	16	14	224	\$ 25.00	\$ 5,600.00
Roof battren/Ceiling	6	7	42	\$ 25.00	\$ 1,050.00
Roof insulation	6	4	24	\$ 25.00	\$ 600.00
Wall cladding	12	11	132	\$ 25.00	\$ 3,300.00
Windows and flashings	4	10	40	\$ 25.00	\$ 1,000.00
Gutters / roof flashings	4	9	36	\$ 25.00	\$ 900.00
Fabrication of additional walls	4	16	64	\$ 25.00	\$ 1,600.00
Paving	10	24	240	\$ 25.00	\$ 6,000.00
Painting	2	40	80	\$ 25.00	\$ 2,000.00
Install door frames	1	12	12	\$ 60.00	\$ 720.00
Hang doors	1	10	10	\$ 60.00	\$ 600.00
Install roller door	3	4	12	\$ 25.00	\$ 300.00
Supervision	1	65	65	\$ 25.00	\$ 1,625.00
<b>Voluntary Labour</b>	<b>70</b>	<b>226</b>	<b>981</b>		<b>\$ 25,295.00</b>
<b>Provision of tools and equip</b>					<b>\$ 850.00</b>
Paint			0		\$ 1,400.00
Sand Pad supply and cart					\$ 4,200.00
Balustrading Supply & Fit					\$ 1,800.00
Cables / turnbuckle supplied					\$ 750.00
<b>Donated Materials</b>					<b>\$ 8,150.00</b>
<b>Summarised contribution by Hockey Club</b>					
Voluntary Labour					\$ 25,295.00
Provision of tools and equip					\$ 850.00
Donated materials					\$ 8,150.00
<b>Totals</b>					<b>\$ 34,295.00</b>



## 9.5 Confidential Reports



## **9.6 Late Reports**



## 10. NEXT MEETING

### RESOLUTION 160810

Moved: Cr Randell

Seconded: Cr Scott

*“That Council:*

*hold a Special Meeting of Council on Tuesday, 24<sup>th</sup> August, 2010 at 2.00pm in the Lesser Hall, York for the following purposes:*

- (a) Adoption of 2010/11 Budget*
- (b) York Primary School Business Plan”*

**CARRIED: 5/0**

### RESOLUTION 170810

Moved: Cr Walters

Seconded: Cr Randell

*“That Council:*

*hold the next Ordinary Meeting of the Council on September 20, 2010 at 3.00pm in the Greenhills Hall, Greenhills.”*

**CARRIED: 5/0**

## 11. CLOSURE

Cr Hooper thanked all for their attendance and declared the meeting closed at 4.25pm.