



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 16 FEBRUARY 2015
COMMENCING AT 5.04pm
AT THE YORK RECREATION &
CONVENTION CENTRE**

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL
HELD ON MONDAY, 16 FEBRAURY 2015, COMMENCING AT
5.04PM AT THE YORK RECREATION & CONVENTION CENTRE

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

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1. OPENING

1.1 Declaration of Opening

Commissioner, James Best, declared the meeting open at 5.04pm.

1.2 Disclaimer

The Commissioner advised the following:

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

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

1.3 Suspension of Standing Orders – Clause 3.2 – Order of Business

Commissioner declared Standing Orders will apply.

1.4 Announcement of Visitors

The Commissioner welcomed the Hon Paul Brown MLC, the Shire President Cr Matthew Reid, and Councillors Smythe and Hooper.

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interests

Nil

Disclosure of Interest that May Affect Impartiality

Nil

2. ATTENDANCE

2.1 Commissioner

James Best

2.2 Staff

Graeme Simpson, Acting Chief Executive Officer; Tyhscha Cochrane, Deputy Chief Executive Officer; Allan Rourke, Manager Works & Services, Kira Strange, Planning Officer; Gail Maziuk, Compliance/Human Resources; Helen D'Arcy-Walker, Executive Support Officer

2.3 Apologies

Nil

2.4 Leave of Absence Previously Approved

Nil

2.5 Number of People in Gallery at Commencement of Meeting

There were 30 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

Mr Mike Gill

Ordinary Council Meeting – 15 December, 2014

Question 2:

Can Council confirm that the road reconstruction works currently being undertaken by the Shire of York and selected subcontractor's, is being conducted in accordance with industry best practice? Are the works conforming to Austroads standards as is required by Main Roads as a pre requisite to receiving funding for the project?

Response:

I confirm that all road reconstruction works and in grant submissions will be constructed using industry best standard and conform to Austroads Guidelines and for MRD roads to Main Roads standards.

Ms Liz Christmas

Special Council Meeting – 11 February, 2015

Question 1(a):

Is the Commissioner aware that round 2003-4 The Shire failed to utilise Commonwealth Grant funding given specifically for upgrade of a particular bridge in York, and that this failure, while it may not have been the only factor, did contribute towards the situation which led to the collapse of Council and the appointment of a Commissioner for 2005?

Response:

No, Mr Best was not aware of the history.

Question 1(b):

Does the Commissioner have any idea why this same sort of thing has happened again, suggesting a propensity of this Shire to fail to spend monies granted for particular purposes such as bridge upgrades within the stipulated time-frame?

Response:

There is no relevance between these two situations. Please refer to Note 4.2 (page 29) of the Annual Financials that shows a Financial Assistance Grant provided to Council of \$60,000 of which \$14,681 was expended during that financial year and the Shire has carried forward the balance of \$45,319 for the next phase of the project.

4. PUBLIC QUESTION TIME

The Commissioner provided the following statement at the commencement of Public Question Time:

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

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

To provide equal opportunity for people to ask questions a limit of two (2) questions per person per time will be applied. If there is time available in Public Question Time people may be given the opportunity to ask a further two (2) questions at a time.

Procedures

- Questions submitted in writing prior to the meeting will be dealt with initially.
- Questions from the floor will be taken in the order recorded in a register.
- Statements, opinions and attachments will not be recorded in the minutes.
- Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting.
- Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.
- The minutes may only record a summary of the question asked and the response given.
- Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.

- At Special Council Meetings questions must relate to the items on the Agenda.
- Shire of York guidelines for Public Question Time are included on the meeting agenda.”

PRESIDING OFFICER

21 October 2013

4.1 Public Question Time – Written Questions – Current Agenda

Public Question Time – Written Questions - commenced at 5.06pm

Ms Liz Christmas

Question 1 (a)

Is Council aware that apparently from the time the air conditioning was installed in this Recreation Centre its temperature has not been adjustable, but, as I am reliably informed, it can only be either 'On' of 'Off'?

Response:

The air conditioning temperature at the YRCC is capable of being fully adjustable. There are 3 main sections in the centre and they are set at varying temperatures and tend to be adjusted only twice a year – once at the start of winter, once at the start of summer.

Question 1 (b)

Is Council aware that for people with some chronic conditions (such as chronic chest, post-polio, and post-malarial complaints) air conditioning that is too cold can bring on complications, not to mention being painful to stay in?

Response:

Yes

Question 1 (c):

Does Council concede that, this being the case, it is discriminatory not to remediate a Shire situation (any Shire situation, in fact) in which air conditioning may be on so cold that it is potentially harmful to some of the Electors and might prevent them from participation in a process which is their right?

Response:

Unfortunately some people find themselves sitting in the area that has been set to coldest, which is adjusted for cricketers seeking respite from the heat throughout their games (19 degrees). The Centre Management does this as the majority of the patrons are sports people who are often training or playing in the heat of our very hot summers, we tend to set the temperature to suit them.

Question 1 (d):

Is Council aware that apparently some attempt has been made to fix the capacity for the air conditioning to be temperature controlled, but not yet successfully?

Response:

The air conditioning can be set to the desired temperature. In summer the air conditioning units are able to cool the facility and in winter time the units are more than able to warm the large room despite the very cold temperatures outside.

Question 1 (e):

Does Council intend to remedy the situation soon, such that the air conditioning can be set to reasonably safe levels such as 25° to 27° and make the building comfortable to all citizens to spend time in for meetings or recreational purposes?

Response:

The Centre Manager tries to accommodate requests as they are received.

As a general rule we find chilling the room and then turning the eastern end off is sufficient to keep most folks happy.

The centre section which is set to 23 degrees throughout summer or even the western end which is currently set to 21.5 degrees.

Dr James Plumridge

Question 1:

What tertiary and/or professional or trade qualifications are held by the following Council staff:

- (a) Acting CEO
- (b) Deputy CEO
- (c) Environmental Health Officer
- (d) Planning Officer
- (e) Manager, Works and Services
- (f) Compliance and Human Resources Officer?

Question 2:

Are any members of Council staff currently studying for qualifications relevant to the positions they hold, or planning to enrol to study for such qualifications in 2015?

Response to Questions 1 & 2:

The Local Government Act requires Council to believe that the person is suitably qualified for the position. I am satisfied that Council, when appointing the A/CEO, was aware of that requirement and was satisfied accordingly.

I don't believe it is appropriate that I respond in relation to specific qualifications held by specific individual currently employed in the positions listed.

I am advised that where a position requires specific formal qualifications the successful applicant met that criteria or has relevant experience that has enable the criteria of the position to be met.

The A/CEO stated he is always seeking to appoint the best candidate. York does not have a large pool of people to call on as in the city.

Question 3:

Will Council staff or any of them be required to undergo in 2015 any training relevant to the positions they hold or which they may assume or be transferred to during the year?

Response:

Training and development of employees is important. It helps in bringing new ideas and ways of achieving the corporate objectives and Council is no different.

Question 4:

It appears that at some time in the near future Council will be advertising to recruit a CEO. What qualifications will be required for that position, bearing in mind (a) that Council in making that appointment must believe that the person is suitably qualified for it (LGA 1995 s. 5.36) and (b) that the role of the CEO encompasses the giving of what may amount to legal advice (LGA s. 5.41(a))?

Response:

Prior to advertising the position of CEO the Council needs to determine what they want their CEO to do and ensure the selection and performance criteria in the position description will facilitate the appointment of a person with the appropriate set of skills. Council may decide that it is more appropriate to attract applicants with a wider range of skills than just local government.

Council should also develop a desired and essential skills, abilities, knowledge and qualification and this should also be reflected in the position description.

Ms Jane Ferro**Question 1:**

On April 25, 2015 the whole of Australia will celebrate the 100th Anniversary of the Gallipoli Landing, a momentous occasion in our nation's history. Many towns across Australia have obtained an 'ANZAC Centenary Local Grant' to help commemorate an epic day of remembrance, showing deep respect in honouring their ancestors who fought and died in the war-to-end-all-wars. To my knowledge, York has not been successful in obtaining a grant.

It is my understanding that, in April 2014, the Shire made an application through the office of Christian Porter MP, Parliamentary Secretary to the Prime Minister, for an ANZAC grant of \$38,154. The intent was to refurbish York's name plate memorial- an enlistment register with regimental colours, and provide a concrete plinth for the Krupp gun. It was an extremely worthy cause which should have received the required funding.

Records show that the grant application for \$38,154 only provided quotes totalling \$7,450, a \$30,740 shortfall in necessary cost information. There was another quote for \$4,085 which bore no relevance to any memorial funding.

When Acting CEO, Michael Keeble, was advised in November last year of this unacceptable application, there was 'no response'. I and other members of the community believe you and Acting CEO Graeme Simpson should be aware of this matter.

Would you take appropriate action to obtain the grant and allow the people of York to honour their fallen, in front of a newly renovated shrine, on a Centenary remembrance day that will never be repeated?

Response:

We are currently in negotiations with the office of Christian Porter and the Minister for Veteran Affairs Grants Board, representatives from the RSL and other community groups in getting the application finalised. The RSL delegates are obtaining quotes for tiles and brick paving. A third party is to provide quotes for freight and installation of sculptured plaque to honour LT LD McCarthy VC. Unfortunately this is not proceeding as quickly as we would like.

Question 2:

Can you explain why the Visitors' Centre closed its doors to York's visitors / tourists on Mondays and Tuesdays, commencing 9 February? Travelers from all over the world come to York as part of their itinerary of significant places to experience. The history of the town's establishment as the first inland town in WA has earned York this distinction, as well as our status as a true historic town, with its large number of historic buildings.

What actually is the 'change of business direction' which is being trialed by Council that could justify the neglect of our visitors who are the lifeblood of York as a long-recognized tourist destination globally?

Please note the context with the Avon Sub-Region Economic Strategy.

Response:

The Information Services is temporarily relocating to the Library on Monday and Tuesdays due to an officer retiring

The Commissioners vision is for the visitor services centre to be controlled by the industry. It is to be confirmed in the next 6 months between the A/CEO and the Commissioner if the preferred position of the transition of the service to the York Sub-Committee of Avon Valley Tourism is possible.

Question 3:

Why are Shire Meetings being held in the YRCC instead of our Town Hall, the building most suited and traditionally used for public meetings, especially when large numbers of people plan to attend – as can be expected because of the issues at hand?

As evidenced by the Special Meeting held in the YRCC last Wednesday, 11th February, there are other issues which point to this not being a suitable venue for public meetings. For one, there was a nearly constant – often loud – background noise coming from staff and from whomever else was utilizing the public bar for food and/or drinks. This was brought to your attention when attendees said they were unable to hear you and Acting CEO Simpson clearly.

Are people able to buy alcohol when late afternoon / evening meetings are held? If this is the case, it doesn't sit well with many of us.

Response:

The Commissioner stated he was not comfortable holding meetings in Chambers, as that place is the venue for Council to meet. The Commissioner also stated he did not wish to use the Town Hall as that is where traditionally residents go to argue and fight. The YRCC is an appropriate building with a PA system. To eliminate background noise we will ensure that no other groups are in the building, and we will use other venues if that is not possible

Question 4:

What message were you wanting to impart to us when you quoted an excerpt from William Yeats's "The Second Coming" in your Australia Day speech?

"The best lack all conviction, while
The worst are full of passionate intensity"

Response:

The context of the speech is about social capital. Our most important assets are to be found in the resourcefulness of our people, not just in our resources in/on the ground. Social capital cannot be built on an individual level so we need to do this together.

Currently what we do together when we talk about politics is more often to complain than to contribute and therefore the machinery of democracy goes on without us being authentically engaged.

The William Yeats quote is a metaphor for the splintering of media that has increasingly given a voice to those people at the extremes, not only are the voices of passionate extremists louder and more pervasive, through social media they are now focused more on their self-interest at the expense of the community interest, more focused on personal attack than on matters that build our social capital.

The best protection we can have is an informed understanding about our civic obligations and responsibilities and participating in safe and productive dialogue about our uncertain future.

To do this a York Visioning Forum and six advisory groups are being formed and the Commissioner invited Ms Ferro to attend all.

Ms Tricia Walters**Question 1**

Corporate Credit Card – Clause 5 – there is currently a Council Resolution that says "all expenditure and attendance at Conferences (except the Annual Local Government Conference in Perth) must be passed by Council (for Shires President and CEO) prior to attendance and an amount for expenditure agreed and recorded.

Response:

In today's Agenda we will be tightening the credit card usage. The proposed Policy is consistent with what you are suggesting.

Question 2:

In August 2013 I submitted a Freedom of Information application to the Shire of York requesting documentation on the Forest Oval Recreation & Convention Centre. In December 2014 I received correspondence from the FOI Commissioner advising that he believed that there was documentation relating to the FOI which was not in the public arena and that the Shire of York were refusing to provide the said documentation.

Response:

At the moment we are liaising with the FOI Commissioner regarding what documentation can be made available and what needs to remain in-house. The Commissioner would like to make as much documentation as possible available to the public for transparency. Currently Fact Sheets are being prepared on various issues, such as the YRCC

Ms Davina Prisgrove

Question:

If a neighbour wants to build a building on their land and use the original boundary line between two properties rather than the long existing fence line, is it incumbent upon that neighbour to employ a surveyor and establish where that boundary line is? Original survey pegs have been removed by someone and the neighbour now claims that the original boundary is a metre or so inside my property. Under State Laws of Adverse Possession I believe I now own that land but the town planner says they can use the original survey line.

Response:

The issue of the boundary line has been addressed in the report in the Agenda. There is a condition on the 5 metre set back being the responsibility of the applicant to determine. There is no necessity for a surveyor to survey the boundary line.

4.2 Public Question Time – Questions Without Notice

Public Question Time - Commenced at 5.28pm

Mr Mike Gill

At the December Ordinary Council Meeting I raised a number of questions regarding the proposed road reconstruction works on the Spencers Brook York Road.

Question 2 – December 2014 – can Council confirm that the road reconstruction works currently being undertaken by the Shire of York and selected subcontractors, is being conducted in accordance with industry best practice? Are the works conforming to Austroads standards as is required by Main Roads as a prerequisite to receiving funding for the project.

Question 3 – December 2014 – can Council explain how road shape and geometry conforming to Austroads standards will be achieved on this project, given that there is no survey control in use.

Question 4 – December 2014 – can Council confirm that the works have been supervised by a competent person and that appropriate testing regimes are in place to ensure that the base-course gravel is compacted adequately at the optimum moisture content for that material.

Response:

Allan Rourke, Manager Works & Services stated that he had met with Mike Gill when Allan had commenced working with the Shire in late 2014 and these issues had been discussed. The first question asked today has already been answered and the reply appears in today's Agenda. The balance of the questions are operational.

Mike Gill stated his reason for asking these questions was to prompt the Shire Administration, and in particular the Works Manager, to consider the current construction practices and recognise the Duty of Care owed to the community at large to construct a road that is safe and conforming to industry best practice.

I now ask these further questions.

Question 1:

My question to the Commissioner is why has this section of new road been constructed to a sub standard quality that now represents an ongoing risk to the road user.

Question 2:

Has the Shire received any complaints regarding the poor quality of this section of road.

Question 3:

Who is responsible in the event of a serious accident given that the current CEO was informed of the sub standard nature of the works prior to the sealing of the road. I draw your attention to the Civil Liabilities Act of 2002 and note that once aware of a hazard the Council is bound by law to take corrective action or accept the liability for claims made in the event of an accident.

Question 4:

Will the Council inform the Contract Works Manager responsible for these works of the potential for a claim to be made and will his insurers be notified of such liability under the premise of negligence.

Response to Questions 1 to 4

Taken on Notice

Ms Darlene Barratt

Several Resolutions were passed by the Council previous that have not been carried out as per the Resolutions.

Question 1:

Does the CEO have the right to revoke these Resolutions?

Response:

Yes he does.

Question 2:

If Resolutions have not been carried out have they been represented to Council to be rescinded before being revoked by the CEO?

Response:

Information is currently being collated, and will be tabled at a future Council Meeting.

Ms Jane Ferro

Question:

How will those who approach the Visitor's Centre for assistance or to purchase items to know that on Mondays and Tuesdays they must go to the library?

Response:

There are signs on both entrance doors giving information and directions to the library. We are hoping this is for the short term only and the desire is for the Information Services to re-open seven (7) days per week.

Mr Simon Saint

Question 1:

Last year, it was identified that the YRCC was not trading according to the conditions of its approval, again, this was identified to Council, Council then raised an agenda item for the September 2014 FRAC meeting where they resolved to, "instruct the Executive to investigate compliance with the terms and conditions of the Tavern Licence issued to the York Recreation and Convention Centre and report the findings back to the meeting of the committee." Can Council provide me with a copy of the findings?

Response:

Yes, this information will be part of the Fact Sheets to be distributed to the community.

CEO - Taken on Notice

Question 2:

Last year, Council resolved "That Committee recommends that Council endorse the action of the Chief Executive Officer in appointing Guy Lehmann to write a business plan for the York Recreation Centre, in terms of the attached proposal." Can Council provide me with a copy of the report?

Response:

No we cannot as Guy Lehmann has resigned his post, due to external pressure. He has explained that his clients are his priority. Dominic Carbone will look at the process and given that he has detailed understanding of the YRCC and business planning it is expected that his firm can efficiently deliver the report.

Question 3:

It is the Minister intention to have training in York for elected members. Is it possible that any potential elected members can also join in the training?

Response:

In a perfect world potential elected members could participate in the training. The Minister has determined that it is not appropriate for outside people to participate.

However, the training will be made available to the community and anyone looking at becoming an elected member can participate. The Shire is currently making arrangements with the CRC Manager to host the training.

Cr Denese Smythe

Question:

Why has the Shire paid GHD to undertake work on the Daliak Estate as it is a private property?

Response:

As we currently do not have inhouse staff to carry out this work we need to pay consultants. The Daliak Estate development has been ongoing over a number of years and a good proportion of the money will be recouped back to Council from the applicant.

Mr Mike Gill

Question:

I received a letter from the Shire of York thanking him for his services to date in relation to the YRCC car park design and that he was advised that he was no longer required to provide engineer/design work in any capacity. Who has been commissioned to undertake this work.

Response:

Taken on Notice

There were no further questions from the Gallery Public Question time was declared closed at 5.48pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Minutes of the Special Council Meeting held December 8, 2014

Corrections

Confirmation

**RESOLUTION
030215**

"The Commissioner Endorsed

That the minutes of the Special Council Meeting held December 8, 2014 be confirmed as a correct record of proceedings."

The Commissioner Declared the Motion Carried

7.2 Minutes of the Special Council Meeting held December 11, 2014

Corrections

Confirmation

**RESOLUTION
040215**

"The Commissioner Endorsed

That the minutes of the Special Council Meeting held December 11, 2014 be confirmed as a correct record of proceedings:

The Commissioner Declared the Motion Carried

7.3 Minutes of the Special Electors Meeting held December 11, 2014

Corrections

Confirmation

**RESOLUTION
050215**

"The Commissioner Endorsed

That the minutes of the Special Electors Meeting held December 11, 2014 be confirmed as a correct record of proceedings:

The Commissioner Declared the Motion Carried

7.4 Minutes of the Ordinary Council Meeting held December 15, 2014

Corrections

Confirmation

**RESOLUTION
060215**

"The Commissioner Endorsed

"That the minutes of the Ordinary Council Meeting held December 15, 2014 be confirmed as a correct record of proceedings."

The Commissioner Declared the Motion Carried

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 Construction of a Shed – Lot 203 (43) Macartney Street, York

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

FILE NO: MA1.11820
COUNCIL DATE: 16 February 2015
REPORT DATE: 19 January 2015
LOCATION/ADDRESS: Lot 203 (43) Macartney St, York
APPLICANT: J & B Hewett
SENIOR OFFICER: GK Simpson, A/CEO
AUTHOR: K Strange, PO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix 1 – Site Plan
Appendix 2 – Technical Drawings
Appendix 3 – Scheme Assessment
Appendix 4 – Schedule of Submissions

DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

Mr and Mrs Hewett have applied to construct a shed at Lot 203 (43) Macartney Street, York. The shed exceeds the requirements of the Local Planning Policy, *Outbuildings in Residential Zones 2011*.

The proposed shed measures 12m by 8m, with a wall height of 3.6m and a ridge height of 4.305m. As there is another shed on the property, this proposal exceeds the floor area requirement. The wall and ridge height are larger than the provisions however are within the 5% variation.

A variation to the original proposal has been negotiated and the variation is considered consistent with the objectives of the policy and is therefore acceptable.

Background:

An application for planning consent was received 7 November 2014 for the construction of a shed that was 16m by 8m and setback 2m from the neighbouring property.

The proposal was advertised in accordance with 8.3.3 (a) of the Shire of York Town Planning Scheme No. 2 (TPS2), and one adjoining neighbour objected.

The objection was based on the location of the proposal in relation to their property and the impact of this.

After considerable negotiation with the applicant and the objector, an amendment to the proposal was submitted for assessment. The amendment resulted in a reduction in the floor area and an increase in the setback from the property boundary.

The objector was notified of these changes however did not agree and therefore requires a Council determination.

Statutory Environment:

The following statutory documents have been used to assess the proposed development. A copy of the full assessment can be found in Appendix 3.

Shire of York Local Planning Scheme No. 2.

The property is zoned Residential R10/R30 under the York TPS2. The property is not connected to the reticulated sewer so provisions of the R10 coding apply. The proposal has been assessed against the matters for consideration in accordance with clause 8.5 of the TPS2. A copy of the full assessment can be found in Appendix 3.

State Planning Policy 3.1 Residential Design Codes

The proposal has been assessed against the provisions of the R-Codes for R10 coded properties. The key elements for consideration are as follows;

Element	Requirement	Actual	Variation	Comment
Setback	Primary – 7.5m Secondary – 3m Other/Rear – Table 2a 2b (1.5m)/6m	Primary – n/a Secondary – >3m Other – 5m	n/a nil nil	The development has been set back a minimum of 5m from the side setback which exceeds the requirement. This is to ensure that the impacts associated with an oversized floor area do not impact the neighbouring property.
Open Space	0.6 x 3642 = 2185.2m ² Therefore 1456.8m ² of developable area	Dwelling ~16 x 18 = 288m ² Existing skillion open shed ~6 x 12 = 72m ² Total = 360m ² Plus Proposed shed 12 x 8 = 96m ² =456m ² < 1456.8m ² Check (3642 – 456 = 3186m ² > 2185.2) Therefore complies.		

Local Planning Policy Outbuildings in Residential Zones

The property is located within the Residential zone and is therefore assessed against the relevant provisions of this policy. The key elements for consideration are as follows;

<i>Element</i>	<i>Requirement</i>	<i>Actual</i>	<i>Variation</i>	<i>Comment</i>
7.1.2 Floor Area	100m ²	Existing 6x12 = 72m ² Proposed 12x8 = 96m ² Total = 168m ²	+68m ²	The proposed development alone complies with the floor area requirements however as there is already an existing shed to the north, the collective floor area exceeds the requirement. The proposal has been reduced from its original floor area by 32m ² . The open space provision in the R-Codes is not compromised by this proposal. See e).
• 5% Variation	105m ²	168m ²	+163m ²	
7.1.3 Height				The proposed heights do not comply with the requirements however they are under the acceptable 5% variation requirements. The neighbouring property owner has been notified and her comments were taken into
Wall	3.5m	3.6m	+0.1m	
Ridge	4.2m	4.305m	+0.105m	
• 5% Variation				

<i>Wall</i>	3.675m	3.6m	-0.075m	consideration during the request for an amended site plan.
<i>Ridge</i>	4.41m	4.3m	-0.11m	

Policy Implications:

The assessment requires variation to the local planning policy Outbuildings in Residential Zones however the proposal is consistent with the objectives of the policy and therefore will not have any adverse policy implications.

Financial Implications:

There are no financial implications associated with this proposal.

Strategic Implications:

There are no strategic implications associated with this proposal.

Voting Requirements:

Commissioner’s Voting Support

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

There are no economic implications associated with this proposal.

Social Implications:

As the adjoining neighbour has not agreed to the proposal, there may be social implications for the property owners. However, the assessment has taken into consideration all the impacts to the area and it is considered an acceptable proposal.

Environmental Implications:

There are no environmental implications associated with this proposal.

Officer Comment:

When an application is made to vary the required provisions of a policy or scheme requirement, each application is individually assessed on its merits taking into consideration all statutory requirements and any objections, within reason.

In this case, the applicant has agreed to an increased setback which is more than is statutorily required. This will minimise impact to the surrounding area, particularly the adjoining neighbour.

Variation to the local planning policy Outbuildings in Residential Zone can be considered acceptable where the extent is minimal and the proposal is still consistent with the objectives of the relative zone and the intent of the policy.

It is considered that this proposal is consistent with the objectives of the zone and the intent of the local policy and can therefore be approved.

**RESOLUTION
070215**

“That the Commissioner:

Approve the development application for the construction of a shed at Lot 203 (43) Macartney Street, York, subject to the following conditions;

- 1. Development must substantially commence within two (2) years from the date of this decision.*
- 2. Development must take place in accordance with the stamped approved plans.*
- 3. The outbuilding is not to be used for habitable, commercial and/or industrial purposes.*
- 4. All stormwater is to be managed on-site and to the satisfaction of the local government.*
- 5. Prior to the commencement of works, a landscaping plan is to be submitted to and approved by the local government for the western side of the shed.*
- 6. Materials and colours are to be of low-reflectivity and complementary to the surrounding development.*

ADVICE NOTES:

- Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.*
- Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.*
- Note 3: If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.*
- Note 4: This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.*
- Note 5: Use of the shed in relation to noise emission is subject to the Environmental (Noise) Regulations 1997.*
- Note 6: It has been brought to the Shire’s attention that the existing fence line may not be on its correct alignment. It should be noted that this is the responsibility of the landowners. This has been acknowledged in this assessment however does not impact the overall determination.”*

The Commissioner Declared the Motion Carried

9.2 Administration Reports

9. OFFICER'S REPORTS 9.2 ADMINISTRATION REPORTS 9.2.1 Corporate Credit Card

FILE NO: OR.CMA.4
COUNCIL DATE: 16 February 2015
REPORT DATE: 27 January 2015
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: GK Simpson, A/CEO
REPORTING OFFICER: GK Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Corporate Credit Card Policy
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

Perceptions held by some members of the community have brought to attention the need for the Shire to tighten up the procedures to ensure that the use of the Shires Corporate Credit Card is within acceptable guidelines.

Background:

Complaints made to elected members resulted in a detailed study being undertaken by the sub-committee of the Councils Finance, Risk & Audit Committee (FRAC) and a review by the Acting Chief Executive Officer.

Consultation:

Shire Staff
Sub-Committee Report dated 15 December, 2014

Statutory Environment:

- Section 2.7(2)(a) and (b) of the Act requires the council to oversee the allocation of the local government's finances and resources and to determine the policies of the local government.
- Section 6.5(a) of the Act requires the Chief Executive Officer (CEO) to ensure that proper accounts and records of the transactions and affairs of the local government are kept in accordance with regulations.
- *Local Government (Financial Management) Regulation 11(1)(a)* requires local governments to develop procedures for the authorisation and payment of accounts to ensure that there is effective security and appropriate authorisations in place for the use of credit cards.

Policy Implications:

Amendments are proposed for the Policy Statement dated 15th February, 2010.

Financial Implications:

There may be minor financial implications in that changes to the policy may reduce the ability of the corporation to purchase reduced price items for the Shire.

Strategic Implications:

Nil

Voting Requirements:
Commissioner's Voting Support

Site Inspection:
Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:
Economic Implications:
Nil

Social Implications:
Tightening of the policy guidelines will help reduce the adverse perceptions held by the public.

Environmental Implications:
Nil

Officer Comment:

**RESOLUTION
080215**

"That the Commissioner:

Amend the existing policy statements on Corporate Credit Card usage by:

1. **Clause 6.1 amend to read:**
Credit Cards shall only be used for purchasing goods and services on behalf of the Shire and in circumstances when the issue of a Purchase Order Number from the Shire is not accepted, appropriate or convenient.
2. **Clause 6.6 be inserted:**
The nominated fuel card should be used in preference to a credit card when purchasing fuel unless it is not accepted by the retailer and then the vehicle odometer reading and fuel receipt are to be recorded at the time of purchase.
3. **Clause 6.7 be inserted:**
Credit card purchases are to comply with local purchasing policy for acquiring of goods and services. (Currently the 10% preference for goods and services sourced in the Shire of York and the 5% preference for goods and services sourced with the Avon Valley).
4. **Clause 6.8 be inserted:**
The use of the Corporate Credit Card for purchase of library books can only be exercised after consultation with the Manager of the Library Service and the records be supported by a formal acquisition list.
5. **Clause 6.9 be inserted:**
The purchase of meals in York with the Corporate Credit Card is limited to hosting visiting dignitaries and others authorised in advance by the Shire President.

Meals purchased while away from York are to comply with the limit value approved from year to year by Council during the budget process."

The Commissioner Declared the Motion Carried

Appendix Attached

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Recognition Young Achievers

FILE NO: FI.DON/CS.CEV
COUNCIL DATE: 16 February 2015
REPORT DATE: 5 February 2015
LOCATION/ADDRESS: N/A
APPLICANT: N/A
SENIOR OFFICER: Graeme Simpson, A/CEO
REPORTING OFFICER: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Correspondence from Applicant
(Provided only to the Commissioner)
DOCUMENTS TABLED Nil
REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

The former CEO had discussed the arrangements with Ms Raven, however as the delegation to spend money in relation to hall hire is set at only \$500.00 and the hall hire is more a formal resolution to provide free usage is required.

Background:

It should be noted the Finance, Risk and Audit Committee was given the opportunity to discuss the sponsorship process and the following resolution was made at the Ordinary Council meeting held September 2014:

OFFICER RECOMMENDATION

Moved: Cr Hooper

Seconded: Cr Wallace

"That the Council Endorse and Receive the Recommendation of the FRAC Committee:

That the Committee considers the process that should be used to determine how sponsorship is disseminated between groups/organisations and that the process is advertised for public comment for a period of 14 days."

AMENDMENT

Moved: Cr Smythe

Seconded: Cr Duperouzel

"That Council Amend the Recommendation of the FRAC Committee to read:

That the Committee considers the process that should be used to determine how sponsorship is disseminated between groups/organisations."

CARRIED: 6/0

**RESOLUTION
190914**

Moved: Cr Smythe

Seconded: Cr Duperouzel

The amendment became the motion.

No discussion regarding the process was carried out.

Consultation:

Shire staff.

Statutory Environment:

Nil

Policy Implications:

Nil

Financial Implications:

It should be noted that the funding pool for recognition of young achievers is \$2,000.

The hire fee for the town hall is \$800.00. The purpose of this report is to formally approve the entire amount instead of leaving a balance between the hall hire and the delegation of \$500.00. Meaning that Ms Raven would be \$300.00 out of pocket.

Strategic Implications:

Nil

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple Bottom Line Assessment:

Economic Implications

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Officer Comment:

A commitment was made to Ms Raven and her event is to be held on the 28th February 2015.

RESOLUTION

090215

"That the Commissioner:

- 1. approves the use of the town hall free of charge for a Charity Event Fundraiser for Ms L Raven – York's Got Talent to be held on the 28 February 2015 to enable money to be raised to allow her daughter to represent WA in the National Championships; and***
- 2. authorises the Shire of York to fund the hall hire from the Public Relations - Recognition of Young Achievers – General Ledger 41112."***

The Commissioner Declared the Motion Carried

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 Changes to Council and Committee Meetings

FILE NO: OR.MTG
COUNCIL DATE: 16 February 2015
REPORT DATE: 6 February 2015
LOCATION/ADDRESS: N/A
APPLICANT: N/A
SENIOR OFFICER: GK Simpson, A/CEO
REPORTING OFFICER: GK Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Future Council Meeting Dates
Visioning Groups
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

This proposal is to amend the format of holding the Council meetings by including an open to the public "Briefing Information Session" in the week prior to the formal Council Meeting.

Background:

The previous system included formal Committees of Council but because of the Ministers Suspension of Councillors the Commissioner has proposed to change to using six (6) Advisory Groups. The tight legal schedule for financial reports remains and this requires the timing to be extended for holding of the Council meeting.

Consultation:

Commissioner of York
Senior Shire Staff

Statutory Environment:

Local Government Act
LG (Administration) Regulations
Local Laws – Standing Orders

Policy Implications:

Nil

Financial Implications:

Councillors sitting fees have been set on an annual basis however, salary costs for senior staff involvement are absorbed by their contract arrangements and no extra cost is incurred. Salaries for minute taking staff may involve penalty rates for after hours meetings.

Strategic Implications:

Nil

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

During the Commissioner's term the use of six (6) visioning groups consisting of community members will maintain the framework to enable community input into York's future.

Environmental Implications:

The Community Visioning project will accommodate environmental issues and build a better future for York.

Officer Comment:

The Visioning Programme has been designed to make the best of this opportunity to make a fresh start and bring the community together.

RESOLUTION

100215

"That the Commissioner Endorse:

- 1. Briefing Information Sessions that will be held in Open to the Public Sessions be held on the third Monday of each month*
- 2. The formal Council Meeting be held on the fourth Monday of each month, except when it falls on a public holiday*
- 3. The 6 (six) Visioning Advisory Groups, being – Sense of Place, Environment, Strength of Community, Infrastructure, Town Life and Economic Development be formally appointed."*

The Commissioner Declared the Motion Carried

9.3 Works Reports

Nil

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Amendment To 2014/15 Fees And Charges

FILE NO: CS.CEV.1
COUNCIL DATE: 16 February 2015
REPORT DATE: 29 January 2015
LOCATION/ADDRESS: York
APPLICANT: Shire of York
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: J Coles, EHO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Attachment 1 Proposed Local Public Notice
Attachment 2 Matter for Resolution (9.4.2 18/08/14)
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

To consider amending the Health Fees and Charges to reintroduce a charge for the renewal of alfresco, outdoor eating facilities on public places within the Shire of York.

Background:

Council's adopted 2013/14 Fees and Charges included a charge of \$210.00 for the renewal of alfresco, outdoor eating facilities on public places within the Shire of York. In addition, an Application Fee and charge for each Extra Table and Four (4) Chairs were adopted.

The proposed charge in the preparation of the 2014/15 Fees and Charges for the renewal of alfresco, outdoor eating facilities on public places, to include two (2) tables and eight (8) chairs was \$220.50

Council's adopted 2014/15 Fees and Charges does not include provision for the Shire to impose a charge for the renewal of alfresco, outdoor eating facilities on public places, for permits issued under the *Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

The adopted Fees and Charges in 2014/15, like in 2013/14, included an Application Fee, and a charge for each Extra Table and Four (4) Chairs.

Consultation:

Local Public Notice is required for a minimum of 7 days detailing Council's intention to impose Fees and Charges amendment in accordance with s1.7 *Local Government Act 1995*.

In addition, all food businesses operating in the Shire which have associated outdoor eating facilities will receive correspondence advising them of the amendment to the Shire's Fees and Charges, and to inform them that under the *Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, each premise is required to apply for a permit before the permit expiration date, so as not to operate without a permit.

Statutory Environment:

Sections 6.16 to 6.19 of the *Local Government Act 1995*.

Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2013.

Section 7.1(2)(d) of the *Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* states, *be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act*. This provision enables Council to impose 'any fee' in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.

Policy Implications:

No policy implications apply in the preparation of this report.

Financial Implications:

Currently, 5 registered food businesses operate within the Shire which would be subject to the proposed Fees and Charges amendment. An annual loss of revenue, totalling \$1102.50 would occur if the amendment was not adopted.

Strategic Implications:

Adoption of the amendment to enable the Shire to impose such a charge.

Reference is made to Attachment 2 – Matters for Resolution (Trader's Permits – Businesses Conducting Trade on a Portion of a Public Place Adjoining their Normal Place of Business – 9.4.2 at the 18 August 2014 Council Meeting)

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: Not applicable

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

'Develop the Town Centre Plan, building on the historical significance to celebrate the culture, history and arts'. The amendment to the fees and charges will re-introduce a cost for local business, not create a new cost.

Social Implications:

'Build and strengthen community, culture, vibrancy and energy'. The permitted control of alfresco areas along Avon Terrace will provide a positive image to both local residents and visitors.

Environmental Implications:

'Our town centre will be vibrant where all community interact and build relationships' and 'our assets, facilities, roads and parks are well maintained and meet our requirements'. Alfresco areas enable residents and visitors to interact and Shire assets can be utilised to encourage business development.

Comment:

Existing permit holders are reminded that under s7.7(1) of the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 'A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit', thus, it is not the responsibility of the Shire to remind existing permit holders of the need to renew their permits.

Council has two options available:

1. Council resolves to make the relevant amendment to the 2014/15 adopted fees and charges, on a pro-rata basis for the remainder of the 2014/15 financial year, and in subsequent 'renewal' periods, does not charge the application fee.

Or

2. Council resolves to not make the relevant amendment to the 2014/15 adopted fees and charges (with reference to Attachment 2), and charges an application fee only for assessing an application in line with s7.7(1) and issuing a permit, with no financial consideration of the numbers of chairs and tables for each application. Remove the 'Extra table and four (4) chairs' fee which is directly related to the renewal fee, which has not been adopted.

RESOLUTION

110215

"That the Commissioner:

Approves not to reintroduce/include the renewal of alfresco, 'eating in public places licence renewal for any period of time – includes two (2) tables and eight (8) chairs' within the Shire of York.

Approves the removal of the associated 'extra table and four (4) chairs', from the adopted 2014/15 Alfresco Fees and Charges.

Approves imposing the already adopted alfresco 'application fee' to outdoor eating facilities on public places, alfresco, permit renewal applications."

The Commissioner Declared the Motion Carried

9. MATTERS FOR RESOLUTION
9.4 FINANCE REPORTS
9.4.2 Monthly Financial Reports – December 2014

FILE NO: FI.FRP
COUNCIL DATE: February 2015
REPORT DATE: February 2015
AUTHOR: Tabitha Bateman, Financial Controller
APPENDICES: Yes – Appendix A as detailed in Summary

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

The Financial Report for the period ending 31 December 2014 is presented for consideration.

Appendix A includes the following:

- Monthly Statements for the period ended 31 December 2014
- Bank Account Reconciliations
- List of Creditors Payments
- Corporate Credit Card Transaction Listing

Statutory Environment:

Local Government Act 1995 (As Amended).
 Local Government (Financial Management) Regulations 1996 (As Amended).
 Australian Accounting Standards.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York’s financial position as at 31 December 2014;

Outstanding Rates and Services

Total outstanding rates as at 31 December 2014 are \$2,181,249 compared to \$2,277,474 as at 30 November 2014 which is an increase to cash at bank of \$96,224.

3 Years & over	\$ 348,077	15.96% of rates outstanding
2 Years & over	\$ 204,637	9.38% of rates outstanding
1 Years & over	\$ <u>246,841</u>	11.32% of rates outstanding
<i>Total Prior Years</i>	<i>\$ 799,555</i>	<i>36.66% of rates outstanding</i>
Current rates	\$1,381,694	63.34% of rates outstanding

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 December 2014 are \$365,335 compared to \$364,137 as at 30 November 2014.

90 days & over	\$315,823	86.45% of sundry debtors outstanding
60 days & over	\$ 3,827	1.05% of sundry debtors outstanding
30 days & over	\$ 8,151	2.23% of sundry debtors outstanding
Current	\$ 37,533	10.27% of sundry debtors outstanding

Voting Requirements:

Commissioner’s Voting Support

**RESOLUTION
120215**

“That the Commissioner:

- 1. Receive the Monthly Financial Report for December and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 December 2014:***

	<u>AMOUNT</u>
<u>MUNICIPAL FUND</u>	
<i>Cheque Payments</i>	<i>\$ 38,477.37</i>
<i>Electronic Funds Payments</i>	<i>\$ 1,282,987.89</i>
<i>Direct Debits Payroll</i>	<i>\$ 213,653.61</i>
<i>Bank Fees</i>	<i>\$ 1,181.07</i>
<i>Corporate Cards</i>	<i>\$ 1,674.23</i>
<i>Fire Messaging Service</i>	<i>\$ 163.46</i>
<i>TOTAL</i>	<i><u>\$1,538,137.63</u></i>
<u>TRUST FUND</u>	
<i>Cheque Payments</i>	<i>\$ 0</i>
<i>Electronic Funds Payments</i>	<i>\$ 5,298.56</i>
<i>Direct Debits Licensing</i>	<i>\$ 108,729.95</i>
<i>TOTAL</i>	<i><u>\$ 114,028.51</u></i>
<i>TOTAL DISBURSEMENTS</i>	<i><u>\$1,652,166.14”</u></i>

The Commissioner Declared the Motion Carried

Appendices Attached

9. MATTERS FOR RESOLUTION
9.4 FINANCE REPORTS
9.4.3 Monthly Financial Reports – January 2015

FILE NO: FI.FRP
COUNCIL DATE: February 2015
REPORT DATE: February 2015
AUTHOR: Tabitha Bateman, Financial Controller
APPENDICES: Yes – Appendix A as detailed in Summary

REPORT APPROVED BY THE A/CEO: Graeme Simpson

Summary:

The Financial Report for the period ending 31 January 2015 is presented for consideration.

Appendix A includes the following:

- Monthly Statements for the period ended 31 January 2015
- Bank Account Reconciliations
- List of Creditors Payments
- Corporate Credit Card Transaction Listing

Statutory Environment:

Local Government Act 1995 (As Amended).
 Local Government (Financial Management) Regulations 1996 (As Amended).
 Australian Accounting Standards.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 January 2015;

Outstanding Rates and Services

Total outstanding rates as at 31 January 2015 are \$1,709,064 compared to \$2,181,249 as at 31 December 2014 which is an increase to cash at bank of \$472,185.

3 Years & over	\$ 285,584	16.71% of rates outstanding
2 Years & over	\$ 186,543	10.91% of rates outstanding
1 Years & over	\$ <u>223,717</u>	13.09% of rates outstanding
<i>Total Prior Years</i>	<i>\$ 695,843</i>	<i>40.71% of rates outstanding</i>

Current rates \$1,013,221 59.29% of rates outstanding

Outstanding Sundry Debtors

Total outstanding sundry debtors as at 31 January 2015 are \$582,444 compared to \$365,335 as at 31 December 2014.

90 days & over	\$317,411	54.50% of sundry debtors outstanding
60 days & over	\$ 3,792	0.65% of sundry debtors outstanding
30 days & over	\$ 28,058	4.82% of sundry debtors outstanding
Current	\$ 233,182	40.03% of sundry debtors outstanding

Voting Requirements:

Commissioner's Voting Support

**RESOLUTION
130215**

“That the Commissioner:

- 1. Receive the Monthly Financial Report for January and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 January 2015:***

	<u>AMOUNT</u>
<u>MUNICIPAL FUND</u>	
<i>Cheque Payments</i>	<i>\$ 23,017.54</i>
<i>Electronic Funds Payments</i>	<i>\$ 1,030,774.99</i>
<i>Direct Debits Payroll</i>	<i>\$ 147,935.27</i>
<i>Bank Fees</i>	<i>\$ 493.23</i>
<i>Corporate Cards</i>	<i>\$ 158.10</i>
<i>Fire Messaging Service</i>	<i>\$ 224.18</i>
<i>TOTAL</i>	<i><u>\$1,202,603.31</u></i>
<u>TRUST FUND</u>	
<i>Cheque Payments</i>	<i>\$ 1,650.00</i>
<i>Electronic Funds Payments</i>	<i>\$ 5,390.56</i>
<i>Direct Debits Licensing</i>	<i>\$ 154,053.85</i>
<i>TOTAL</i>	<i><u>\$ 161,094.41</u></i>
<i>TOTAL DISBURSEMENTS</i>	<i><u>\$1,363,697.72”</u></i>

The Commissioner Declared the Motion Carried

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Lot 103 Spencers Brook - York Road – Private Recreation (Go-Kart) Facility.

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

FILE NO: SP1.60479
COUNCIL DATE: 16 February 2015
REPORT DATE: 13 February 2015
LOCATION/ADDRESS: Lot 103 Spencers Brook – York Road, York
APPLICANT: M. Couzens
SENIOR OFFICER: G. Simpson, ACEO
REPORTING OFFICER: K. Strange, TP
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix 1 – Site Plan
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE ACEO: Graeme Simpson

Summary:

A planning application has been received for the development of a private recreation (Go-Kart) facility at Lot 103 Spencers Brook – York Road York.

As the proposal is categorised as a 'use not listed' under the provisions of the Shire of York Town Planning Scheme No. 2 (the Scheme), a preliminary assessment and decision is required to determine whether the use is consistent, not consistent, or may be consistent with the objectives of the General Agriculture Zone.

It is recommended that in accordance with clause 3.2.4 (b) of the Scheme, that the Commissioner resolve that the proposal *may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 [8.3] in considering an application for planning consent.*

Background:

Lot 103 Spencers Brook – York Road is located approximately 10 kilometres north of the centre of York in the General Agriculture zone. The property has an area of approximately 18 hectares and is adjacent to the Avon River.

The proposal is for a new "dirt Go Kart racing track" for the Avon River Kart Club Inc. with a planned "12 month calendar of events".

Private recreation is defined in the Scheme as *land used for parks, gardens, playgrounds, sport arenas, or other grounds for recreation which are not normally open to the public without charge.* It is considered that dirt Go-Karts is a facility that would suitably fall under this definition.

However, this use is not specifically listed in the Zoning Table and therefore requires assessment as a 'use not listed'.

Council has adopted a scheme amendment, Omnibus Scheme Amendment 50, which includes 'private recreation' as an 'SA' use in the General Agriculture zone. An 'SA' use is a use that is not permitted unless the local government has exercised its discretion and has granted planning consent after giving special notice. Due to delays associated with this Omnibus, this amendment is with the Minister for his final decision.. However based on this, it is reasonable to assume that the use may be consistent with the objectives of the General Agriculture zone.

Consultation:

Initial discussions have been held with the applicant regarding this use and the compatibility within the General Agriculture zone.

In accordance with clause 3.2.4 (b), it is considered that the use may be consistent with the zone and therefore can follow the advertising procedures within the Scheme. A discrepancy within 3.2.4 (b) of the Scheme refers to clause 7.2 however, the advertising of applications is covered by clause 8.3.

In accordance with clause 8.3.1 (b) of the Scheme, an application that is made for planning consent that is for a use not listed is to be advertised in accordance with clause 8.3.3.

In accordance with clause 8.3.3, it is considered that notice shall be given in the following ways;

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning consent, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served; and*
- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is served.*

The applicant will be responsible for the cost associated with the newspaper advertisement in accordance with our current fees and charges.

In accordance with clause 8.4, the local government may consult with any other statutory, public or planning authority it considered appropriate. It is considered that during the notification period, other relevant agencies be consulted.

Statutory Environment:

Shire of York Delegation Manual 2012

DE5 Approval of Statutory Planning

The delegation for determining a 'use not listed' is with Council. For the purposes of this meeting, the Commissioner is currently in place of Council and therefore holds all relevant delegations.

Shire of York Town Planning Scheme No. 2

Clause 3.1.2

- The land is depicted on the Scheme Map as being zoned General Agriculture.

Clause 3.2.4

- *If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type or class of activity of any other use the local government may:*
 - (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
 - (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 [clause 8.3] in considering an application for planning consent; or*
 - (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

Clause 4.1

- All development or commencement of use on land zoned under the Scheme requires prior approval.

Clause 4.15.1

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

Clause 4.15.2

- Due regard is to be given to the scenic value of the district and the views from the road. The local government may refuse an application where it is considered that the approval would result in a detrimental impact to the rural character and amenity.

Clause 4.15.3

- Development is to be assessed against the setback requirements. Development is to be a minimum of 15m from any property boundary.

Clause 4.15.4

- Not more than 2000m² on any lot shall be cleared of indigenous trees or substantial vegetation.

Clause 8.3

- Outlines requirements for advertising, specifically for a use that is not listed within the Zoning Table.

Clause 8.4

- Enables local government to consult with external authorities.

Clause 8.5

- Outlines the matters for consideration when assessing and determining an application for planning consent. A full assessment in accordance with these provisions will be conducted.

Clause 8.6

- Enables local government to approve the application with or without planning conditions, or, to refuse the application.

Shire of York Town Planning Scheme No 2 Omnibus Scheme Amendment 50

Scheme Amendment No. 50, an Omnibus amendment, was finally adopted for approval by the Shire of York at its Ordinary Meeting held on 15 April 2013 and was considered by the Western Australian Planning Commission at its Statutory Planning Committee Meeting on 23 July 2013. The final decision from the Minister for Planning is still pending due to unexpected delays.

The amendment proposed the inclusion of the use, 'private recreation', to the zoning table as an 'SA' use in the General Agriculture zone.

Whilst this amendment has not been finalised, it is reasonable to assume that this use, should it be included in the zoning table, may be consistent with the objectives of the General Agriculture zone.

Policy Implications:

Policy implications will be considered during the full assessment of the proposal.

Financial Implications:

The applicant has paid the application fee however has not paid the advertising fee. This will be required prior to notification as part of the advertising process in the planning assessment.

Strategic Implications:York Local Planning Strategy (LPS)

The property is identified in the LPS as being within the Western Slopes Precinct (Production) (2a).

The objectives of the precinct are;

- *Protect sustainable agriculture production.*
- *Promote farm diversification.*
- *Preserve and enhance the environment and natural resources.*

The proposal will require further assessment against the strategy and general objectives (clause 2.1) to determine if it consistent with the overall intent of the LPS.

Shire of York Community Strategic Plan

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

Social

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

Environmental

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

Economic

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

The proposal will require further assessment against the objectives of the Community Strategic Plan.

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: No

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

The applicant has stated that it is expected the patrons of this facility will be of benefit to local businesses in York.

Economic implications are unknown at this stage however, given the location of this facility and its ability to attract users, it may be reasonable to assume that it may have some economic benefit to York. Further assessment is required.

Social Implications:

Private recreation facilities such as this dirt Go-Kart track may have great social benefit to a community provided that any potential impacts are appropriately managed.

Some social impacts may include dust, traffic, noise, light, etc. The potential social impacts will require further assessment.

Environmental Implications:

The property is partly located within a flood affected area is adjacent to the Avon River.

The environmental impact of this proposal is unknown. Referral of the proposal to the relevant authority will be required to assist in further assessments.

Officer Comment:

Private recreation, whilst not listed in the current zoning table, has been considered in the Omnibus Scheme Amendment 50 and is included as an 'SA' use in the proposed Zoning Table.

In accordance with clause 3.2.4 of the Scheme, the Commissioner has three options with regard to receiving this 'use not listed';

- (a) *determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) *determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 [clause 8.3] in considering an application for planning consent; or*
- (c) *determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

In accordance clause 4.15.1, the objectives of the General Agriculture zone are;

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

It is considered that whilst the information provided by the applicant will require further assessment, it is sufficient at this stage to determine that it may be consistent with the zone objectives, specifically (b) and (c), and should therefore be advertised accordingly.

RESOLUTION**140215**

"That the Commissioner:

Determine that the proposed private recreation (Go-Kart) facility at Lot 103 Spencers Brook – York Road, York, may be consistent with the objectives of the General Agriculture zone in accordance with clause 3.2.4 (b) of the Shire of York Town Planning Scheme No. 2 and thereafter follow the advertising procedures of clause 8.3 in considering the application for planning consent."

The Commissioner Declared the Motion Carried

Appendices Attached

9. OFFICER'S REPORTS
9.5 LATE REPORTS
9.5.2 Emmet Place, York

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

FILE NO: EM1
COUNCIL DATE: 16 February 2015
REPORT DATE: 16 February 2015
LOCATION/ADDRESS: Emmet Place, York
APPLICANT: Shire of York
SENIOR OFFICER: G Simpson, ACEO
REPORTING OFFICER: K Strange, TP
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE ACEO: Graeme Simpson

Summary:

The Department of Lands has requested additional information of the Shire to formally proceed with the request to extend Emmet Place, York.

Therefore, in accordance with the requested information, it is recommended that the Commissioner formally adopt the recommended resolution in accordance with the *Land Administration Act 1997*.

Background:

On 15 October 2012, Council resolved to initiate the extension of Emmet Place, York in accordance with section 56 of the *Land Administration Act 1997*.

The proposal was advertised from 10 November 2012 to 17 December 2012 and on 7 March 2013, the Shire requested that the Department of Lands consider the information and schedule of submissions.

Following the request of a survey, Department of Lands formally notified the Shire of receipt of the request, received by the Shire of York, 17 June 2013.

Further to other additional information requested, on 11 February 2015, the Shire of York received notice from the Department of Lands requesting the following;

- "a formal written request from the Shire [for] the road closure;
- a statement indemnifying the Minister for Lands against any claim for compensation for cost and expenses reasonably incurred; and
- [to] affirm that the excision from Reserve 23064 will not affect any interest that may have been granted to third parties."

Consultation:

The proposal has been previously advertised. No further consultation is required at this stage.

Statutory Environment:

Land Administration Act 1997
Land Administration Regulations 1998

Policy Implications:

There are no associated policy implications.

Financial Implications:

Indemnifying the Minister for Lands from compensation includes monetary compensation.

There are administration costs associated with staff time and advertising fees.

Strategic Implications:

There are no strategic implications associated with this request.

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

There are no economic implications associated with this report.

Social Implications:

The extension of Emmet Place will provide legal access for the Lot 340 (3) Emmet Place, York.

Environmental Implications:

There are no environmental implications associated with this request.

Officer Comment:

In order to finalise the extension of Emmet Place, the Department of Lands has requested additional information.

This process has been ongoing since 2013 and providing this information may expedite the request.

RESOLUTION

150215

"That the Commissioner:

- 1. In accordance with section 56 (4) of the Land Administration Act 1997, indemnify the Minister for Lands against any claim for compensation for cost and expenses reasonably incurred;***
- 2. Affirm that the excision from Reserve 23064 will not affect any interests that may have been granted to third parties; and***
- 3. Formally request the Minister for Lands to extend the existing Emmet Place road reserve."***

The Commissioner Declared the Motion Carried

9.6 Confidential Reports

Nil

10. NEXT MEETING

RESOLUTION

160215

“That the Commissioner:

holds the next Ordinary Meeting of the Council on March 23, 2015 at 5.00pm at the York Recreation & Convention Centre, York.”

The Commissioner Declared the Motion Carried

11. CLOSURE

Commissioner James Best thanked everyone for their attendance and declared the meeting closed at 6.15pm.