

SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 20th JULY, 2009
COMMENCING AT 3.05PM IN THE
LESSER HALL, YORK**

MISSION STATEMENT

"To build on our history to create our future"

SHIRE OF YORK

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RAY HOOPER
CHIEF EXECUTIVE OFFICER

Table of Contents

1. OPENING.....	7
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
2. ATTENDANCE	7
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
3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	8
3.1 Previous Public Questions Taken on Notice	8
3.2 Written Questions.....	8
4. PUBLIC QUESTION TIME	8
5. APPLICATIONS FOR LEAVE OF ABSENCE	8
6. PETITIONS / PRESENTATIONS / DEPUTATIONS.....	8
7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING	9
7.1 Minutes of the Ordinary Meeting of Council held June 15, 2009.....	9
7.2 Minutes of the Special Meeting of Council held June 29, 2009.....	9
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	9
9. OFFICER'S REPORTS.....	9
9.1 Development Services	11
9.1.1 Greenhills Outline Development Plan	13
9.1.2 Settlers – Amended Planning Consent – Lot 10 (125) Avon Terrace	39
9.2 Administration Reports.....	61
9.2.1 Application to Keep Three Dogs.....	63
9.2.2 Realignment of Shire Boundary.....	69
9.3 Finance Reports.....	79
9.3.1 Non-Rates Write Off – Various.....	81
9.4 Confidential Reports.....	85
9.5 Late Reports.....	87
9.5.1 Clarification on Balladong Industrial Precinct ODP	89
9.5.2 Recreation Centre Design Tender.....	95
10. NEXT MEETING	97
11. CLOSURE.....	97



SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 20 JULY 2009,
COMMENCING AT 3.05PM IN THE LESSER HALL, YORK.

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

1. OPENING

1.1 Declaration of Opening

President Cr Hooper declared the meeting open at 3.05pm.

1.2 Chief Executive Officer to read the disclaimer

Ray Hooper read the disclaimer.

1.3 Announcement of Visitors

Nil

1.4 Announcement of any Declared Financial Interests

Item 9.1.2 - Cr Trevor Randell - Financial

Item 9.2.1 - Cr Tony Boyle – Impartial

Item 9.2.1 - Tyhscha Cochrane, MATS – Financial

2. ATTENDANCE

2.1 Members

President Cr Pat Hooper, Deputy President Cr Brian Lawrance, Cr Trevor Randell, Cr Tony Boyle, Cr Ashley Fisher, Cr Tricia Walters

2.2 Staff

CEO Ray Hooper, DCEO Graham Stanley, Planner Patrick Ruettjes, EHO/BS Peter Stevens, MATS Tyhscha Cochrane, ESO Julieanne Treloar

2.3 Apologies

Nil

2.4 Leave of Absence Previously Approved

Nil

2.5 Number of People in Gallery at Commencement of Meeting

10

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice
Nil

3.2 Written Questions

David Paton

30 Bouverie Road.

York.

Question on notice to the Shire of York to be presented at the Shire of York meeting on the 20th. of November 2009.

I am aware that following discussions with the former Secretary of the York Racing Club Mr. Kevin O'Brien that an inspection of the buildings inside the racing clubs property was completed this year by a Mr. Anthony Cox. This work was ordered by the Shire of York.

I would ask that this report be forwarded to the York Racing Club for action on their behalf as soon as possible.

I look forward to a positive reply.

Thursday, 16 July 2009

Response: *Taken on Notice*

4. PUBLIC QUESTION TIME

Andy Fraser

Q1: *Does the Shire have a future plan for the holding of meetings?*

Response: *Yes a plan is being put in place.*

Q2: *With reference to the current agenda Page 44 is it a Council policy to contain businesses to the town centre?*

Response: *No this item will not affect businesses being located outside the town centre.*

Q3: *Is Council aware of the perception in the community that they are not being involved in the decision making processes of the Shire?*

Response: *Yes Council is aware of this perception.*

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Prior to today's Council meeting Council were provided with a presentation by Kim Hack, Simon Saint, and Don Tomkinson as representatives of the York Residents and Ratepayers Association on the issue of GM Cropping. It was informative and well received by Council.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

**RESOLUTION
010709**

Moved: Cr Walters Seconded: Cr Boyle

7.1 Minutes of the Ordinary Meeting of Council held June 15, 2009

Corrections

Item 1.4 – Add – Cr T Walters – Item 9.5.1

Item 9.5.1 – Change Financial Interest to Impartiality Interest.

Footer – Change Special to Ordinary.

Confirmation

“That the minutes of the Ordinary Council Meeting held June 15, 2009 as amended be confirmed as a correct record of proceedings.”

CARRIED (6/0)

**RESOLUTION
020709**

Moved: Cr Randell Seconded: Cr Lawrance

7.2 Minutes of the Special Meeting of Council held June 29, 2009

Corrections NIL

Confirmation

“That the minutes of the Special Council Meeting held June 29, 2009 be confirmed as a correct record of proceedings.”

CARRIED (6/0)

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- *Visit by Governor of Western Australia, His Excellency Ken Michaels and his wife Julie today. Brief tour of town and then lunch with Councillors.*
- *Days of Change – Launch of project to be held in the Settler’s courtyard on Saturday August 1, 2009. Encourages all York residents to participate in this event aimed at raising awareness and action in the important area of climate change.*

9. OFFICER’S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.1 Greenhills Outline Development Plan

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: PS.PPD.5.2
COUNCIL DATE: 20 July 2009
REPORT DATE: 14 July 2009
LOCATION/ADDRESS: Greenhills Road, Greenhills
APPLICANT: N/A
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Patrick Ruettjes, Shire Planner
DISCLOSURE OF INTEREST: Nil
APPENDICES: A - Greenhills Outline Development Plan (Diagrams)
B - Council Report 21 July 2008
C – Council Report 21 April 1997
DOCUMENTS TABLED: A3 printouts of plans, ODP documentation

Summary:

Council is asked to consider a revised Outline Development Plan ('ODP') for Greenhills to be endorsed for public consultation.

Background:

The Greenhills townsite has been subject to a range of structure planning exercises over recent years and decades. Some of the previous council reports are attached.

Greenhills, some 22 kms east of York, comprises two sections, the eastern section containing a hotel/tavern (Greenhills Inn), a community hall, fire station, the CBH wheatbin – which is proposed to be closed in the near future – and some single dwellings. Created as a subdivision of a freehold estate in 1907, the western section comprises a quarter acre lot layout over an area of approximately 8 hectares most of which actually falls into the Balley Balley Creek floodplain. Numerous road reserves and laneways can be found, while the actual Greenhills Road alignment has created a pattern of fragmented undersized lots. There are two single dwellings and a number of outbuildings in the western section.

The western portion is zoned 'Rural Townsite R2.5' under the Shire of York Town Planning Scheme No. 2 (the 'Scheme'), the eastern section 'Rural Townsite R10'.

The attached draft ODP is intended to guide future development and serve as a flexible framework document.

The ODP proposes 10, potentially 11 lots, in the first stage, 2 already contain single dwellings. Further subdivision is possible, subject to compliance with the Draft Country Sewerage Policy and environmental considerations regarding the creek system.

No additional lots or dwellings are proposed for the eastern section of Greenhills.

Consultation:

The draft Outline Development Plan will be subject to community consultation in accordance with the Scheme. While the advertising period is prescribed as a minimum period of 21 days in accordance with clause 4.8.3, it is intended to advertise the Greenhills ODP for a period of 42 days to enable all landowners and a broad range of stakeholders to have their input.

State Land Services have provided a historic map and discussions with officers have taken place.

Statutory Environment:

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

4.8.3 Development Requirements:

In the Residential zone the local government may require preparation of an Outline Development Plan before granting and/or recommending approval to any development which involves subdivision or follows subdivision and the Outline Development Plan shall form the basis for subdivision.

- (a) The Outline Development Plan shall include:
 - (i) the topography of the area;*
 - (ii) the location and width of proposed roads;*
 - (iii) the location of recreation, open space, and pedestrian accessways proposed;*
 - (iv) an assessment of site suitability for subdivision of unsewered land;*
 - (v) the layout of comprehensive drainage; and*
 - (vi) such other information as may be required by the local government.**
- (b) If the local government resolves to adopt the Outline Development Plan it shall circulate the Outline Development Plan to all owners of land within the area covered by the Outline Development Plan with an invitation for submissions to be lodged with the local government within 21 days.*
- (c) The local government shall consider any submissions to the Outline Development Plan and may, if the applicant agrees, amend the Outline Development Plan after such consideration of submissions.*
- (d) The local government may decide not to proceed or may submit the Outline Development Plan to the Commission together with the submissions and request the Commission to adopt the plan submitted as the basis for approval of subdivision within the area covered by the plan.*
- (e) A proponent who is dissatisfied with a decision of the local government or a requirement of a decision in respect of an Outline Development Plan may appeal against the decision in accordance with Part V of the Act and the Rules and Regulations made pursuant to the Act.*
- (f) Any departures from or alterations to the Outline Development Plan may, subject to the approval of the Commission, be permitted if the local government considers that the proposed departure or alteration will not prejudice the progressive development of the area the subject of the Outline Development Plan.*

Shire of York Local Planning Strategy

2.4.9 Greenhills Locality (refer Map 6)

Objectives:

- 1. Retain and enhance the current rural character and lifestyle.*
- 2. Encourage tourism that is complimentary to the townsite.*

Strategies:

- a. No expansion, further subdivision or development of the townsite will be supported unless it can be demonstrated that it enhances the existing character and lifestyle of the townsite, can be adequately serviced and does not impact on existing waterways or the wider environment.*

- b. *Support actions that improve the condition of waterways that pass within or near the townsite.*
- c. *Should the Quairading - York Railway Line be closed, the railway reserve within the greater townsite should be vested for public purposes with any heritage elements protected and where appropriate promoted as a tourism asset.*

Actions:

- 138. *Review town planning scheme zonings and codes to limit future expansion of the townsite.*
- 139. *Amend scheme to give Council the authority to refuse any development in a rural area that does not have access to a constructed road or any other essential service.*
- 140. *Promote education of landowners on issues relating to land management and promote best practice methods.*

Policy Implications:

Nil

Financial Implications:

The processing of an Outline Development Plan will incur advertising costs and further staff time.

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: Several site inspections have been carried out.

Triple bottom Line Assessment:

Economic and Social Implications:

While the draft ODP provides guidance for future development, the opportunities are very limited by the lack of infrastructure and the fact that most of the western section of Greenhills is actually located inside a creek bed. For the eastern section, the proposed caravan park, which was approved at the last ordinary council meeting in June 2009, appears to be the best solution that caters best for the expected demand for tourists. Additional houses are difficult to service and while it might be desirable to attract additional population for Greenhills, it does not appear economically viable to construct additional dwellings at this moment.

Festivals and fairs, such as the horse meeting last weekend, represent the best land use option for Greenhills to add to vibrancy without stretching the existing services over a prolonged period of time.

Environmental Implications:

Environmental factors have been addressed in the relevant sections of the draft ODP. The updated ODP for the western section proposes to establish a conservation reserve or Nature Reserve, preferably under the management of the Department of Environment and Conservation ('DEC') to protect the floodplain of Balley Balley Creek and the existing vegetation.

Comment:

The draft Outline Development Plan for Greenhills demonstrates that limited additional development can be accommodated under the current planning context.

The lack of infrastructure, however, will be a significant impediment to any further development in Greenhills. Water, electricity and waste water disposal are major constraints – the existing services are near their capacity, any upgrade is expected to be cost intensive for any land developer.

The western section has been surveyed right into a creek bed and therefore has never been developed. The draft ODP takes the specific conditions around the creek into consideration and offers buffers between both sides of the creek of between 40 and 75 metres. All proposed lots can be serviced using the existing road pattern, the upgrade of Railway Parade is required to service the lots along its alignment.

The proposed lot sizes are all above 4,000 m² and therefore consistent with the current zoning of R2.5. Theoretically, lot sizes of more than 2,000 m² can be created without connecting to reticulated sewer. Due to the impact of the creek system on the lots and the high flood risk, onsite effluent disposal systems have to maintain a significant distance from the watercourse which makes it very difficult to accommodate those systems on smaller lots.

Any lot realignment, however, can be different from the draft ODP if it can be demonstrated that onsite effluent disposal is possible without compromising the creek system.

To enable an effective lot alignment, land owners have to come to the party and agree on boundary changes and land swaps to accommodate a sensible pattern that takes the natural landform and the creek into consideration.

It is not recommended to initiate any rezoning or scheme amendment with respect to the Greenhills townsite. Any scheme amendment is likely to take an additional 24-36 months to be completed. Therefore, the current proposal can be achieved within the existing planning control mechanisms, under the current zoning and in compliance with environmental guidelines and the Draft Country Sewerage Policy.

The central proposal of the ODP is actually the creation of the conservation reserve along the creek and the links to the closed road reserves to preserve the dense native vegetation in this area. It should be emphasized that the best management option for the reserve is probably a 'Nature Reserve' under the Department of Environment and Conservation. Alternatively, the River Society, the Department of Water or the Avon Catchment Council could be the custodians of the reserve. The Shire of York is not in a position to assist with the management of the proposed reserve. It is not anticipated that any requirement for public open space in this area will occur in the foreseeable future, as development will be very limited.

The following recommendations are made with respect to any future development:

- a) Alternative Treatment Units (ATUs) will be required for onsite effluent disposal. A geotechnical report will be required to be produced for each development proposal to locate the ATU in the best area of the property and minimise the impact on the creek system.
- b) Building envelopes have to shown of any plan of subdivision/amalgamation to ensure impact on the creek system and flood risk is minimised. Building envelopes are also required to minimise the need for clearance of native vegetation.
- c) The upgrading of Railway Terrace will be required for some lots to enable access.

- d) Landowners have to come to agreements to swap land and realign boundaries. Road reserves are proposed to serve as balance for land that is proposed to be incorporated into the future conservation/nature reserve.
- e) The process of road closures is recommended to be continued to enable effective land swaps and boundary realignments as well as to facilitate the creation of the proposed conservation/nature reserve.

The eastern section only offers room for minor land consolidation, i.e. some further amalgamations. It is not recommended to encourage the development of any additional dwellings here. The major issue in this area is encroachment of structures and effluent disposal systems on neighbouring land. Landowners should work towards boundary adjustments and removal of encroaching structures. This should also be addressed in any subdivision/amalgamation discussion. Amalgamation, however, will only be required, if development is proposed.

The imminent closure of the wheatbin and the railway line should lead to the transformation of the railway reserve into a heritage and conservation reserve in accordance with the Local Planning Strategy.

As outlined, the draft ODP is recommended to be endorsed for public consultation to receive the feedback of the landowners and the community. Following the advertising period, adjustments of the draft ODP may be made before the ODP is presented to Council again.

OFFICER RECOMMENDATION

RESOLUTION 030709

Moved: Cr Boyle

Seconded: Cr Fisher

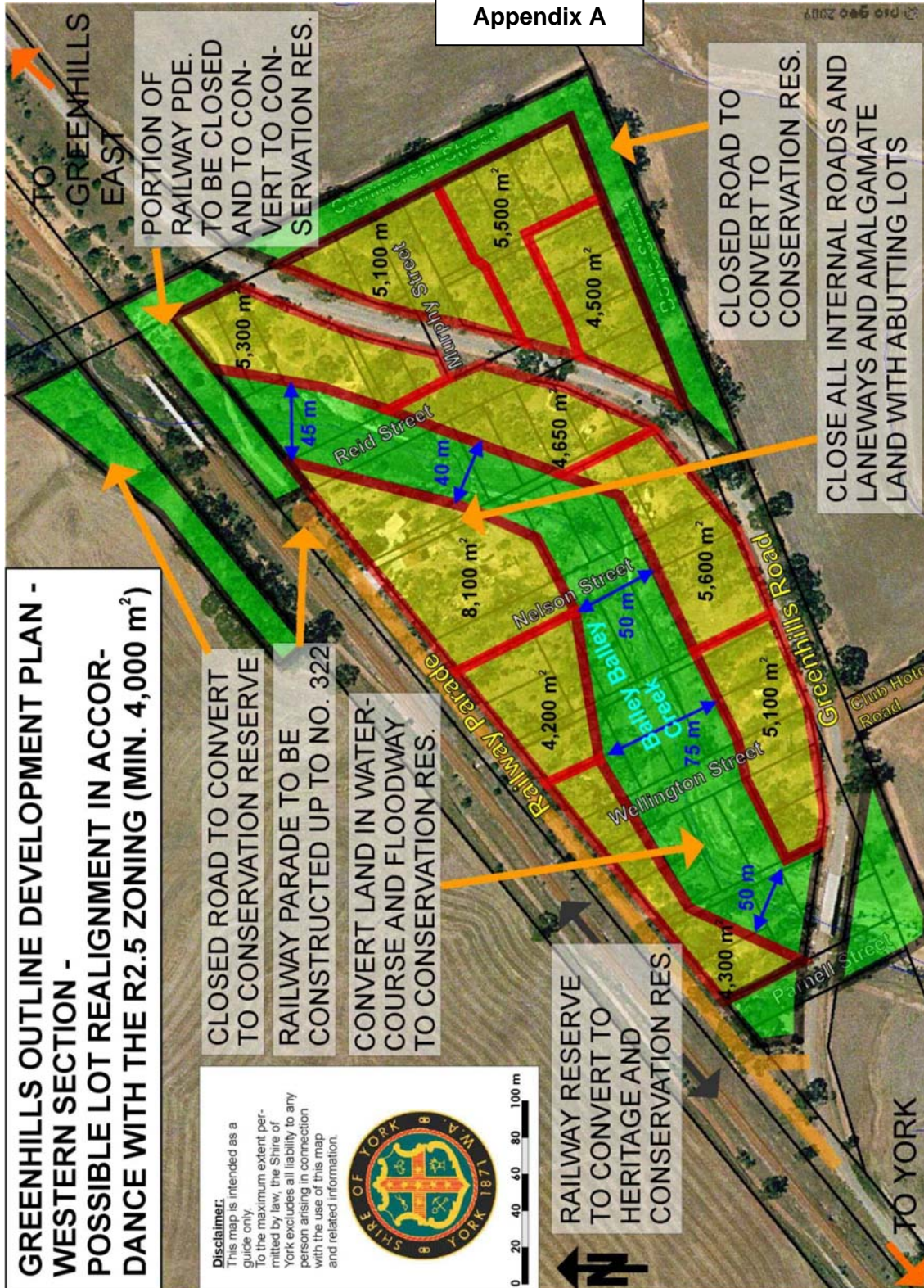
“That Council:

endorse as draft for consultation purposes the attached Greenhills Outline Development Plan, with consultation to occur in a manner consistent with Clause 4.8.3 of the Shire of York Town Planning Scheme No. 2.”

CARRIED (6/0)

Note: A 42 day advertising period will apply for the public consultation process and all existing landowners and service providers will be notified of the Draft Outline Development Plan and the submission period.


Item 9.1.1
Appendix A



GREENHILLS OUTLINE DEVELOPMENT PLAN - WESTERN SECTION - CURRENT LOT LAYOUT AND OWNERSHIP

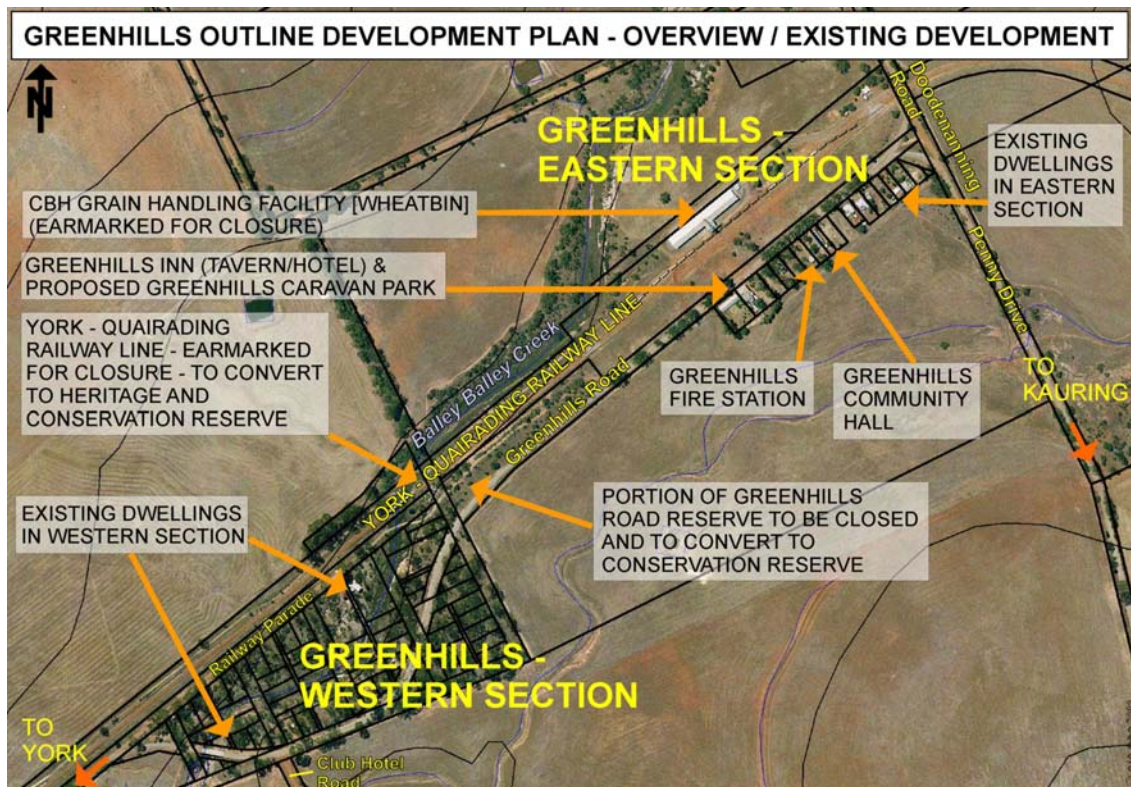
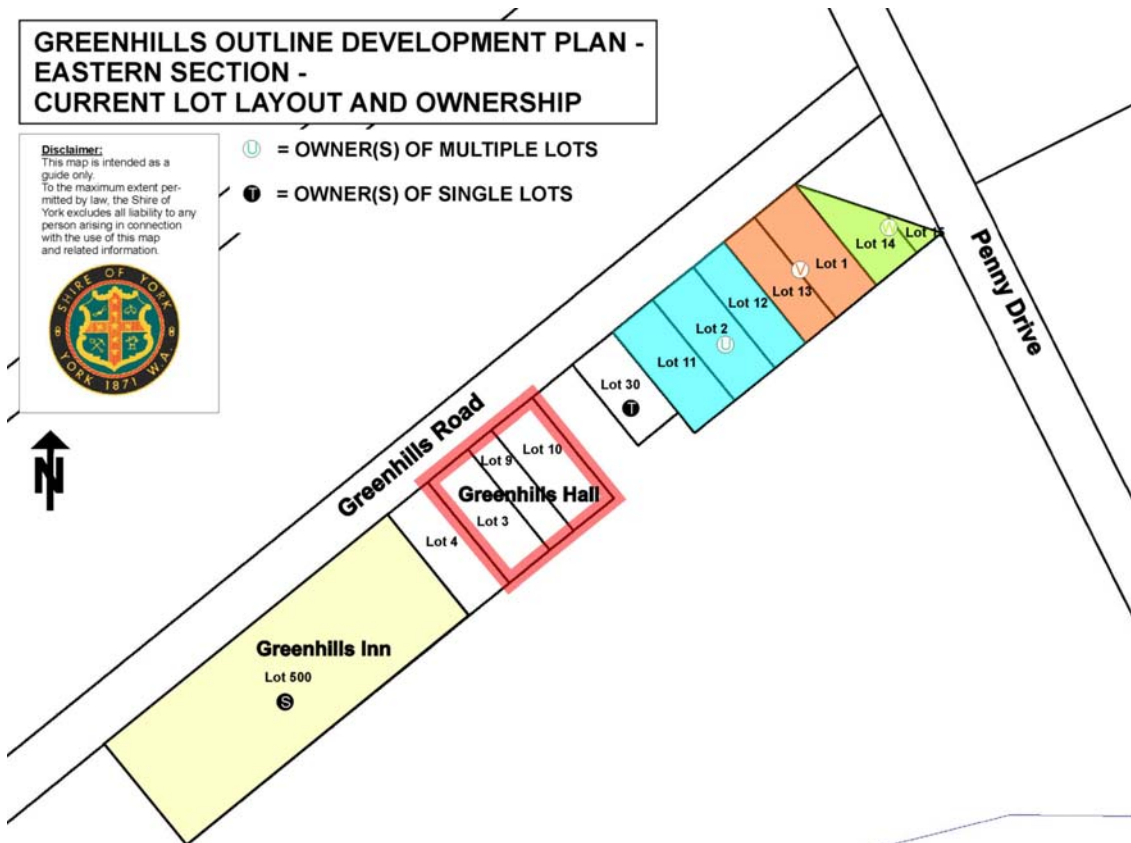
- (A)** = OWNER(S) OF MULTIPLE LOTS
- (C)** = OWNER(S) OF SINGLE LOTS

Disclaimer:
This map is intended as a guide only.
To the maximum extent permitted by law, the Shire of York excludes all liability to any person arising in connection with the use of this map and related information.



0 20 40 60 80 100 m





**Item 9.1.1
Appendix B**

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.5 Greenhills Outline Development Plan (ODP)

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:	PS.PPD.5.5
COUNCIL DATE:	21 July 2008
REPORT DATE:	10 July 2008
LOCATION/ADDRESS:	Greenhills
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, MATS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A – Greenhills ODP
DOCUMENTS TABLED:	Nil

Summary:

That Council receive the Greenhills Outline Development Plan (ODP) for the purposes of advertising and to resolve the issues associated with the Greenhills Townsite.

Background:

This matter has been ongoing for a number of years. The intention in 1997 was to close the roads and amalgamate the lots to get a minimum size of 4,000m² allowing development on most of the lots. Some would still remain unusable due to where the lots laid in relation to the Balley Balley Brook.

The following information is provided as a background to the situation in Greenhills, which was reported at Council's Ordinary Council meeting held on 19 April 1999.

"There has been a number of complaints, including complaints to the Ombudsman, relating to the fact that the current planning and building controls within the Greenhills townsite prevent the construction of houses on lots in the area that form the original subdivision.

In addition, complaints have arisen that the minimum rate charged, which represents \$315, is not commensurate with the level of services that are provided in the area.

The situation is that the townsite was subdivided somewhere near the turn of the century and at that time the land was in one holding and formed part of a farm. A Mr Shilken purchased the townsite and proceeded to sell off individual lots. The residual private roads within the townsite still remain on Mr Shilken's title.

The Council has been concerned over the development of the area for a number of reasons, including the availability of water and the on-site disposal of waste. Part of the area, which has been subdivided, includes a creek which runs through a number of lots within the subdivision.

Approximately 5 years ago the Council produced a concept plan for subdivision which would consolidate the blocks into a larger size and would be more suitable to overcome the problem of the small lots and the related on-site waste disposal.

The Health Department of WA requires a minimum lot size of 1000m² for on-site disposal in the area.

The area is currently covered by an R2.5 restriction on building, which effectively requires the minimum size lot to be 4000m².

The Council has been collecting rates for the properties in the area for many years and there are a number of local ratepayers that are concerned at the perceived restrictions imposed by the Council.

An approach was made to the Department of Land Administration regarding the closure of the roads and this is referred to in the details of this report.

Negotiations with Mr Shilken broke down some years ago and at this time the Council is unable to contact him."

Further at the Ordinary Council meeting held on the 25 January 2005 the following was resolved:

"That Council:

1. *authorise the Chief Executive Officer to take necessary action to resolve this issue, which may include:*
 - (a) *exchanging of land for non-payment or rates;*
 - (b) *amalgamation to achieve the plan attached and labelled "Appendix B".*
2. *Consider options for applying reduced setbacks and building envelopes to existing sized lots provided alternative treatment units are utilised for septic disposal..."*

Consultation:

The plan will be advertised for a period of 28 days to enable submissions to be received from the community and the ODP will be referred to all relevant departments.

Consultation with the Department for Planning and Infrastructure - State Land Services in regards to road layouts have been held due to the private roads and dunny cart lanes being converted back to the Crown should the road closures come into effect.

Mr David Lawn has prepared an ODP.

Statutory Environment:

Town Planning and Development Act.

Financial Implications:

Council will incur advertising costs as a result of the recommendation being accepted.

If the lots are able to be developed they will generate rate income into the future.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Various

Triple bottom Line Assessment:

Economic Implications:

The document, if adopted, will set guidelines for development.

Social Implications:

When the ODP is adopted it will provide direction for the owners and will be to the betterment of those living in the area.

If Council and property owners work together it will assist in providing the necessary outcomes.

82
AGENDA – ORDINARY COUNCIL MEETING JULY 21, 2008

Environmental Implications:

Environmental issues relating to natural and built environment have been considered within the ODP.

Comment:

Records show that the lots at Greenhills have existed in their current form from 1907 and the lots were individually too small to accommodate a dwelling under the requirements in 1997.

Even though it has been recorded previously that it may be very difficult in getting the owners to agree or commit to amalgamate their lots this situation has been ongoing for quite some time and it seems to have raised its head again, which means that we should approach the situation again.

Even though it is 'buyer beware' it does not seem fair that the restrictions placed on these property owners are so rigid that some are forced to sell as they have no need for a property with no relevant use. It is not big enough to build on or an appropriate size to crop or use for grazing.

Privately owned roads are also a concern but this will be reported on under separate cover once the land issue is resolved. Some of the roads are privately owned.

Council needs to take the lead in helping resolve this situation.

Council will review the document in light of any submissions made and prepare an agenda item to Council for final adoption and referral to WA Planning Commission for endorsement.

Issues relating to road closures, size of lots, multiple ownerships can be thrashed out through the advertising period.

Private ownership at this stage is considered the most appropriate with an alternative being excision and vesting in a department other than the local government, as Council cannot look after all the reserves it has under its control (the Plan shows excision at this stage and convert into a reserve).

OFFICER RECOMMENDATION**RESOLUTION****0070808****MOVED: Cr Walters****SECONDED: Cr Boyle*****"That Council:***

- 1. receive the Greenhills Outline Development Plan; and***
- 2. proceed to advertising for a period of 28 days to allow for a public comment period.***

Advice Note:

Council will not take on the management of the land to be converted to a reserve, the alternative is that the land be incorporated into private management with appropriate conditions eg building prohibition, landscaping, fencing etc."

CARRIED (6/0)

83

AGENDA – ORDINARY COUNCIL MEETING JULY 21, 2008

GREENHILLS STRATEGY PLAN

**Prepared by Mr David Lawn
Version 21 July 2008**

AGENDA – ORDINARY COUNCIL MEETING JULY 21, 2008 85

GREENHILLS STRATEGY PLAN

Introduction

Objectives

1.0 Location and Description

1.1 Location (Figure 1)

Greenhills Townsite is located approximately 22 kilometers from the town of York on the York - Quairading Road (known as Greenhills Road) within the townsite.

The York - Quairading railway passes on the northern side of the developed lots and includes the CBH grain handling facility at the eastern end of the town.

The eastern boundary is formed by Penny Road which leads southwards to the small town of Kauring.

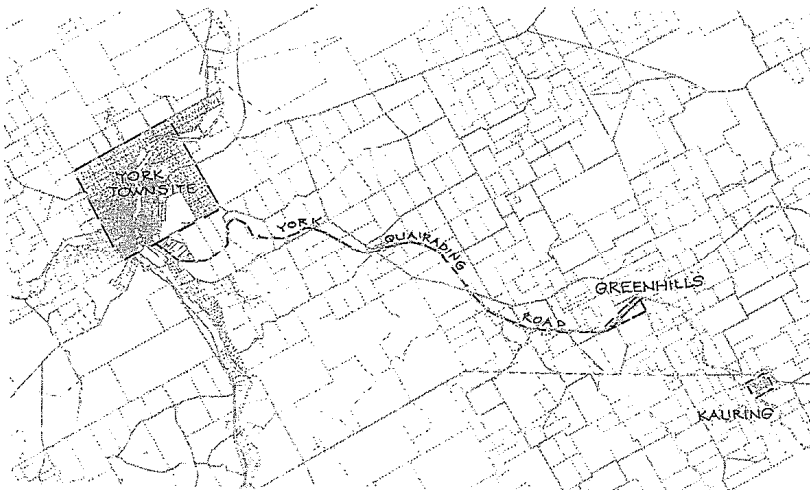


Figure 1: Locality Plan

1.2 Description

1.2.1 Existing Development (Figures 2)

The town is separated into two sections – the hotel, CBH grain siding and minor community functions are in the eastern section. The western section comprises of small residential sized lots with a number of dwellings and outbuildings.

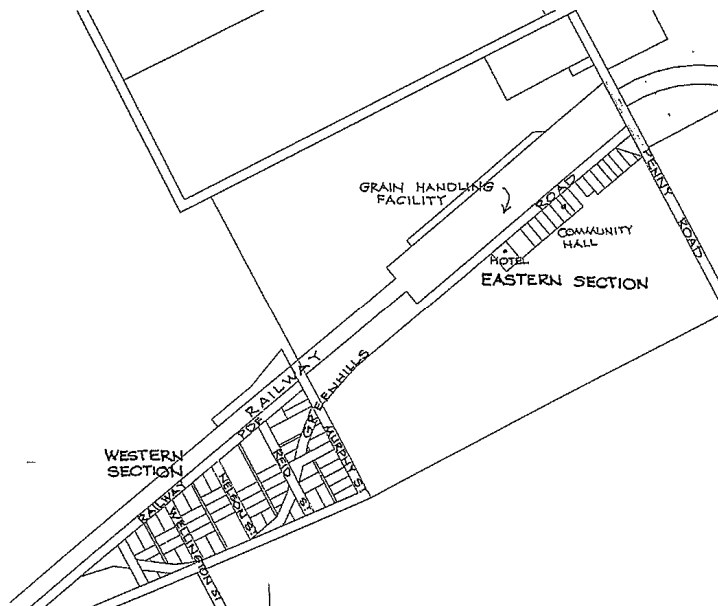


Figure 2: Existing Development

Greenhills Road provides the only serviceable road within the townsite boundary.

Sub divisional roads in the western section are unmade and bear little reason for existence or allowance for the landform.

There is no perceptible demand for lot take-up and no potential for further subdivisions with the exception of the hotel and caravan park.

There is no development on the southern side of Greenhills Road in the western section.

In both sections of the town the residential subdivision pattern is based on the old quarter acre lot, in a grid pattern.

In the western section the standard lot sizes range from just below 1000m², although there are several smaller and fragmented lots under this because of the realignment of Greenhills Road. There are six residential streets none of which are constructed.

The hotel, caravan park and some dwellings all have road frontage and are located in the eastern section.

The Greenhills Hall is a site of cultural heritage significance to the community of Greenhills. A Conservation Plan was prepared by Laura Gray, Heritage and Conservation, Consultant for the Greenhills Progress Association in October 1998. The Hall is located in the eastern section on Greenhills Road.

There is a multiple ownership of the land including the Shire of York and land for the railway (including the grain storage facility).

Road reserves are 20 metres wide. The realigned through road (Greenhills Road) in the western section, severs many of the former road reserves as well as individual lots leaving fragmentation of land holdings of unusable location and area.

Despite the paucity of significant development, the hotel and caravan park are an attraction for tourists particularly in the non-summer months.

1.2.2 Landform

The whole of the townsite is essentially flat with only perceptible variations in topography.

A seasonal watercourse traverses the western section from the north east to the south west corner and is reasonably well vegetated with indigenous species. This presents the only contrast with the surrounding cleared agricultural land uses.

Soils are variable with mixed earths to heavy clays.

2.0 Current Planning Controls

2.1 Local Planning Strategy

The adopted and operational Local Planning Strategy has the following recommendations:

2.4.9 Greenhills Locality (refer Map 6)

Objectives:

1. Retain and enhance the current rural character and lifestyle.
2. Encourage tourism that is complimentary to the townsite.

Strategies:

- a. No expansion, further subdivision or development of the townsite will be supported unless it can be demonstrated that it enhances the existing character and lifestyle of the townsite, can be adequately serviced and does not impact on existing waterways or the wider environment.
- b. Support actions that improve the condition of waterways that pass within or near the townsite.
- c. Should the Quairading - York Railway Line be closed, the railway reserve within the greater townsite should be vested for public purposes with any heritage elements protected and where appropriate promoted as a tourism asset.

Actions:

138. Review town planning scheme zonings and codes to limit future expansion of the townsite.
139. Amend scheme to give Council the authority to refuse any development in a rural area that does not have access to a constructed road or any other essential service.
140. Promote education of landowners on issues relating to land management and promote best practice methods.

2.2 Town Planning Scheme Provisions

Town Planning Scheme No. 2 has minimal on development controls. The Scheme states:

88

AGENDA – ORDINARY COUNCIL MEETING JULY 21, 2008

“Rural Townsite Zone

Objectives: *To allow for a wide range of land uses such as may be found in a small country town but subject to preservation of local amenities.*

Site requirements: *In accordance with the R Codes (Residential Design Codes) “*

The Zoning Table allows a reasonable selection of permitted uses but the provision of services (or lack thereof) constrains any significant development from taking place.

3.0 Constraints and Opportunities

3.1 Multiple Ownership

Multiple ownership creates difficulty in rationalising lots and part lots, as well as formally closing the unwanted road reserves.

The smaller lots are incapable of supporting a residence due to location, restrictions on septic disposal systems and road access.

3.2 Watercourse

The watercourse (Balley Balley Brook) which traverses the western section prevents any chance of building permits to be allowed and reasonable setbacks from the edge of it are required to allow for septic disposal systems.

3.3 Unmade Roads and Laneways

The unmade roads will never be constructed and it is the intent that they be formally closed and the land amalgamated with the abutting lots.

4.0 Proposals

The proposals in this Planning Policy include the following:

- a) facilitate amalgamations of privately owned lots and to close the road reserves to allow for the increase in size of a reduced number of lots;
- b) acquire and consolidate the land recognised as being unsuitable for development in the watercourse;
- c) amend the scheme by adding conditions to the development in the townsite limiting the potential for occupation and development;
- d) to apply the recommendations of the Local Planning Strategy and deter any further subdivision unless comprehensive services can be provided.

4.1 Western Section

The amalgamation of lots, part lots, closed road and lane reserves to meet the required minimum lot area of 2000m² could result in the creation of 20 larger lots.

Access to the recreated lots minimizes the direct access to Greenhills Road.

The closure of Reid, Nelson, Wellington Streets, part of Parnell Street (southern portion), with the un-named street on the eastern border together with the laneways, will increase the useable land available for rural residential purposes.

The perimeter roads, Railway Road Greenhills Road and the un-named road along the southern and eastern border, form a strategic firebreak and landscaped buffer from the surrounding agricultural land use.

89

AGENDA – ORDINARY COUNCIL MEETING JULY 21, 2008

Private ownership at this stage is considered the most appropriate with an alternative being excision and vesting in a department other than the local government, as Council cannot look after all the reserves it has under its control (the Plan shows excision at this stage and convert into a reserve).

Council will not take on the management of the land to be converted to a reserve, the alternative is that the land be incorporated into private management with appropriate conditions eg building prohibition, landscaping, fencing etc.

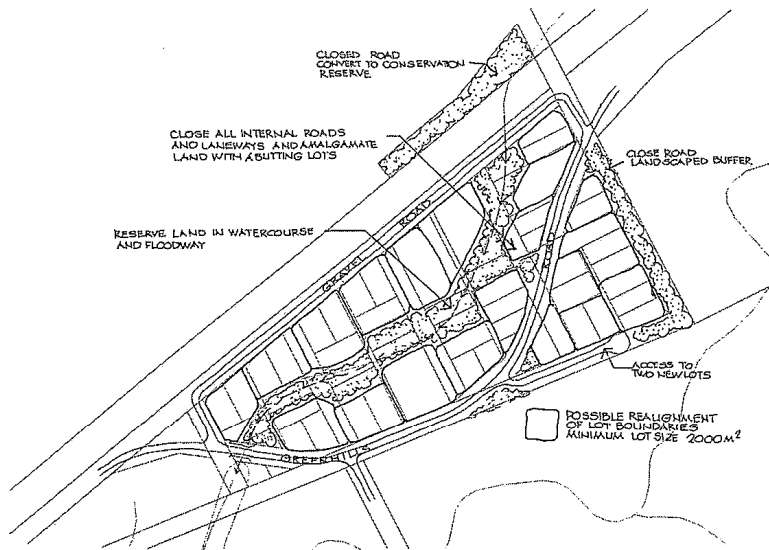


Figure 3: Western Section – Possible Amalgamations

4.2 Eastern Section

The same principles apply to the eastern section where most of the lots are in the vicinity of 1000m² with the exception of the hotel.

The Council should facilitate the amalgamation of lots up to 2000m² in area.

Limited expansion of the hotel to allow for overnight caravan /campers shall be supported. Land may be excised from the farm to the east for this purpose.

Should the grain terminal and railway cease operations the terminal buildings may be used for other purposes along with some additional land along Greenhills Road. For example part of the railway reserve could be used for travelers (caravans).

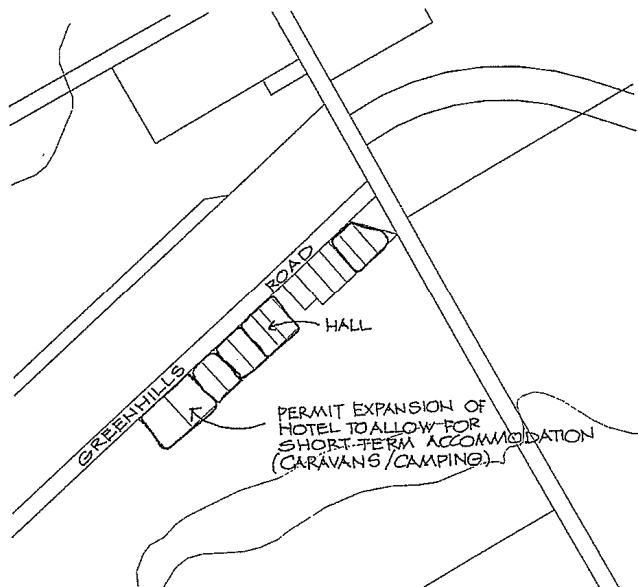


Figure 4: Eastern Section – Possible Amalgamations

5 Scheme Provisions

The current zoning under Town Planning Scheme No. 2 is Rural Townsite Zone.

There is no intention to change this zone however there is a requirement to add to the Scheme Text to provide for development conditions relevant to small rural townsites.

No changes to the Zoning Table are required.

The Scheme Text to be modified by adding to Clause 4.11 by adding sub-clause 4.11.3.

Clause 4.11.3 Greenhills Townsite

Development shall only be permitted in accordance with the adopted Planning Policy Plan.

Residential development shall not be permitted on lots below 2000m².

Building setbacks shall be in accordance with the R 5 Residential Design Codes.

Septic disposal system shall not be permitted within 30 metres of the edge of Bailey Brook flood fringe.

The removal of indigenous vegetation is only permitted in accordance with the Clearing Regulations.

REPORT

ITEM NO : 11-20
TO : COUNCIL MEETING - 21 APRIL 1997
FILE NO. : 28/2
DATE : 4 APRIL 1997
OFFICER : CHIEF EXECUTIVE OFFICER
SUBJECT : LOT RATIONALISATION AND ROAD CLOSURES -
GREENHILLS TOWNSITE

RECOMMENDATION (APPROVAL)

THAT THE COUNCIL DEFER FURTHER WORK ON THE RATIONALISATION OF THE GREENHILLS TOWNSITE UNTIL SUCH TIME AS THERE IS SUBSTANTIAL COMMITMENT FROM THE LANDOWNERS IN THE AREA AND FUNDS BECOME AVAILABLE TO CARRY OUT THE WORK.

BACKGROUND

The Greenhills townsite shown on Land titles Plan 2922 is not a land Act Townsite. It was created from the freehold estate in 1907.

Under Town Plan No.1 the area was zoned Rural Townsite, this was retained under Town Plan No.2.

The individual lot size is less than that on which a building can be built. A minimum of 2000m² is required for on site waste disposal.

Many of the owners hold multiple titles.

The following lots are actually in the Balley Brook Lots 60, 54, 48, 49, 41, 31, 32, 22, 21, 20 and 2.

Railway Parade and Greenhills Road are dedicated public roads. (Ref. DOLA letter 26 April 1995).

Wellington Street, Nelson Street, Reid Street and Murphy Street are private roads, owned by Mr S Shilkin.

The rights of way (5) are owned by Mr S Shilkin who originally purchased the whole area.

Council's Town Planner Mr D Grey has prepared a concept plan to amalgamate the lots and close the private roads and right of ways, giving the land component to the adjoining owners. (Copy attached).

It was the intention to create usable lots of approximately 4000m² (R.2.5).

On 21 June 1993 the Council resolved to initiate the closure of the private streets in the Greenhills Townsite.

In accordance with S.297A of the Local Government Act 1960, notice was given (19.5.95) to the following public utilities and DEPUD.

WAWA
AUSTRALIA POST
WESTERN POWER
DEPUD
TELSTRA

No objections were received.

In accordance with S.297A of the Local Government Act 1960, notice was given (19/5/96) to all adjoining owners as under:

J Alberghini	Castletowers P/L	SL Honey
KA Jarvie	Labelhouse Holdings P/L	MT Leahy
GD McLeod	JD Nolan	F Palm
RC Church	V Senzushenko	S Shilkin
CE Taylor	DR South	Tully Corp
D Ulbrich		

Objections were received from:

S Allen (16/6/96) Lot 31 Nelson Street
LJ Martini (Castletowers) (14/11/95) - Lot 2 Railway Parade
S Shilkin (10/11/93) Various lots
J Alberghini (Lot 32 Nelson) wishes to exchange outstanding rates.

S.297A(10) provides that where the private roads are closed in accordance with this section, no compensation is payable to the owner.

The section states, in summary, the following steps:

- a) Council resolution;
- b) Notice to adjoining owners calling for objections within 30 days;
- c) Notice to public utilities and DEPUD calling for objections;
- d) Copy of resolution to Minister including the plan and objections.
- e) If Minister concurs - street closed and land divided;
- f) Notice in Gazette to be sent to owners by Council;
- g) On application, titles amended without fee.

PROPOSAL/DETAILS

At this time there are three objections to the proposal.

The original owner, Mr Shilkin, wants the Council to compensate him for the loss of the land contained in the private roads.

As a result of the proposed changes Mr Shilkin will gain land on Lot 16 making this lot 3388m² and subject to a further closure of the old Greenhills Road adjoining Lot 59 could gain another useable site here of similar area.

Shilkin is in the process of selling a lot 31 (in the creek) off Nelson Street. This lot is completely unusable and forms part of a proposed reserve containing lots 41 (Black Swan Holdings) Lot 32 (South) and Lot 31 (Shilkin) all in Nelson Street.

Castletowers own lot 2 Railway Parade, also located in the creek. This is proposed for recreation. The lot is unusable and comprises less than 1600 square metres.

Ms S Allen is presently, purchasing lot 31 from Mr Shilkin, also objects to the closure of Nelson Street.

Mr J Alberghini seeks to transfer lot 32 Nelson Street to the Council in exchange for outstanding rates.

FURTHER ACTION

The Council will need to resolve to close roads as follows:

The section of road at the eastern end of the townsite (unnamed) 2804 needs to be identified for closing.

The section of the road from the intersection of the Club Hotel Road west to the intersection of Greenhills Road needs to be identified for closure.

Also Nelson, Parnell, Wellington and Reid Street will need closing.

STAGE 1

This would be achieved subject to amalgamation of the following lots:

BLACK SWAN HOLDINGS	BLACK SWAN HOLDINGS	ROMAN CATHOLIC
54	51	47
55	50	46
56	49	45
57		

RV BARTLETT	PT LEAHY	PT LEAHY	S SHILKIN
38	36	19	22
37	35	18	23
39	34	20	24
40	33	21	25
			PT 26

Action

Close right of way marked A, B, C, D and sections of roads as follows:

Parnell Street

Wellington Street

Nelson Street (from Lot 41 North to Railway Parade)

Reid Street (from Greenhills Road to Railway Parade)

STAGE 2

Subject to amalgamation of the following lots:

DR SOUTH	JW RICKY	S SHILKIN
14	9	PT 26
8	10	27
	11	

Council would need to resolve to close right of way E and to close:

Murphy Street
 Unnamed Road (2804)
 Reid Street South
 Greenhills Extension from Greenhills Road
 East to unnamed road (2804)

Conclusion

Advice from the town planning consultants indicate that the costs of resurveying the Greenhills area would be \$15,200. Government statutory fees of \$1,358 would also be incurred and the Shire would then have to deal with the title situation.

From the work already done on this exercise, it would seem that there are quite a number of owners of land in Greenhills who are not prepared to contribute in any way to the rationalisation of the area and the Council would be left with most of the costs.

The present situation is that building permits cannot be issued in the area and by and large, whilst the proposal to rationalise the landholding in the area was an excellent concept, it would seem that the execution of such a proposal would be impossible without substantial assistance from landholders.

It is, therefore, the view of the administration that this matter be left in abeyance until some time in the future when the economic situation is such that it would drive a move by landowners in the area for the rationalisation to be completed.

It would seem that in the short term the Council would be expected to bear all of the costs. To effectively carry out the work it will be necessary to apply substantial administrative resources, which are currently unavailable, and there is no guarantee at the end of the day that the Council's intention with regard to the resolution of the situation will be achieved.

FINANCIAL IMPLICATIONS

Detailed in report.

POLICY IMPLICATIONS

Nil.


 ELIOT FISHER
 11/20CAP

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.2 Settlers – Amended Planning Consent – Lot 10 (125) Avon Terrace

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

FILE NO:	Av1.6660/Ho3.31230
COUNCIL DATE:	20 July 2009
REPORT DATE:	10 July 2009
LOCATION/ADDRESS:	Lot 10 (125) Avon Terrace
APPLICANT:	Settlers House Pty Ltd on behalf of Owners of Strata Plan 26534
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Patrick Ruettjes, Shire Planner
DISCLOSURE OF INTEREST:	Cr Trevor Randell - Financial
APPENDICES:	Site plan, floor plans and elevation plans
DOCUMENTS TABLED:	Larger scale printouts of plans

Summary:

Council is asked to consider an amendment to a previously approved application for planning consent for short term accommodation units at Lot 10 (125) Avon Terrace, York (known as Settlers). As the applicant has already commenced the development of building 58 units which differs from the previously approved 50 units, the proposal is recommended for amended retrospective conditional approval.

Background:

The proposed development, located on Lot 10 (125) Avon Terrace, York, and subject to Strata Plan 26534 (Settlers), has received planning consent at the Shire of York Ordinary Council Meeting of 16 April 2007 (see attached extract from the minutes). The approval was due to expire after 2 years, but was extended to allow for an amended application being processed. The amended plans have now been submitted (see attached plans).

The applicant has requested to consider what is actually being built – i.e. 58 short term accommodation units instead of the previously approved 50 units. Major changes include a nil setback to Howick Street and Reynolds Lane and a different location of the units on the block.

The property itself is now known as Lot 10 (125) Avon Terrace following the integration of a portion of a former reserve, Lot 595, in accordance with section 87 of the Land Administration Act 1997. The property is subject to an application for subdivision into green title Lots 888 and 889 followed by a re-strata application for each portion. The current Lot 10 comprises an area of 6,011 m² and is zoned 'Town Centre' under the Shire of York Town Planning Scheme No. 2 (the 'Scheme').

The 'Town Centre' zoning allows for a large variety of uses, with 'tourist-orientated uses' being specifically mentioned. The Scheme also allows for site requirements at the local government's discretion.

The proposed development has been re-assessed in accordance with the provisions of the Scheme and Shire of York Local Planning Policy - Heritage Precincts and Places.

Consultation:

The proposal has been subject to community consultation prior to its original planning consent in 2007. The proposal is subject to numerous and ongoing discussions between the proponent(s), Councillors and staff.

Statutory Environment:

Planning and Development Act 2005;
Shire of York Town Planning Scheme No. 2; and
Shire of York Local Planning Policy Heritage Precincts and Places.

Extract from the Scheme:

4.9 Town Centre Zone**4.9.1 Objectives**

- (a) *To retain the town centre of York as the principal place for retail, commercial, civic, and tourist-oriented uses in the District.*
- (b) *To preserve the unique qualities of the town centre as a heritage place including the conservation of existing heritage buildings, and to avoid development which will detract from those qualities.*
- (c) *To ensure development complies with Design Guidelines adopted by the local government for the town centre.*
- (d) *To encourage a high standard of development of commercial facilities to service the residents, the farming sector, tourists, and travellers.*
- (e) *To encourage a high standard of landscaping in and around the town centre the local government will undertake planting of shade trees in road reserves and public car parks where appropriate.*
- (f) *To encourage a high standard of residential and residential mixed use development in appropriate locations that contribute to the amenity, security and economic sustainability of the town centre.*

4.9.2 Site Requirements:

The following minimum building setbacks shall apply:

Front:) At the
Rear:) local government's
Side:) discretion

4.9.3 Development Requirements

- (a) *Development shall not exceed 2 storeys in height except where the local government considers that particular circumstances may warrant an exception being made and provided the local government's objectives are not compromised.*
- (b) *In considering an application for planning consent for a proposed development (including additions and alterations to existing development) in the Town Centre the local government shall have regard to Design Guidelines adopted by the local government, and:*
 - (i) *the colour and texture of external building materials; (the local government may require the building facade and side walls to a building depth of 3 m to be constructed in masonry);*
 - (ii) *building size, height, bulk, roof pitch;*
 - (iii) *setback and location of the building on its lot;*
 - (iv) *architectural style and design details of the building;*

- (v) *function of the building;*
 - (vi) *the relationship to surrounding development having particular regard to any impact upon the heritage significance of the York townscape, its streetscapes, and any Heritage Place or Heritage Precinct; and*
 - (vii) *other characteristics considered by the local government to be relevant.*
- (c) *Landscaping shall complement the appearance of the proposed development and the town centre.*
 - (d) *Layout of car parking shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.*
 - (e) *Development of land for residential purposes only within the Town Centre zone shall comply with the requirements of the Residential Design Codes R40 density.*
 - (f) *The density of the residential component of any mixed use development shall be determined by Council taking into account any relevant policy, and include consideration of heritage protection and design.*

Policy Implications:

Nil

Financial Implications:

The proposal is requiring ongoing high staff time and resources input due to ongoing non-compliance with building and planning conditions. With planning, building, subdivision and various strata applications running in parallel, the proposal is among the most complex applications ever processed in regional Western Australia.

Strategic Implications:

Key Result Area 2 – Economic Development and Tourism – Objectives 1, 4 & 5 state:

“To encourage a sustainable community by increasing employment opportunities in York, attracting investment and businesses to the town, and achieving diversification of industries.”

“To utilise the unique features of York’s heritage and rural lifestyle, where appropriate, as the basis for economic development.”

“To ensure that economic development does not conflict with York’s heritage, lifestyle and environment.”

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.”

KRA5 – History and Heritage

“To encourage development which is appropriate to York’s history and heritage.”

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Several site inspections have been carried out during the assessment of the proposal.

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

The proposal constitutes a significant development investment in the Shire of York with an investment amount of more than \$2,000,000. It is located in the heart of the town centre and will have a significant impact on the streetscape.

Social Implications:

The addition of short term accommodation units in the town centre adds to the vibrancy of the town centre itself. This fact in itself will draw more tourists into York. Added benefits include a wider choice of accommodation and the ability to accommodate more tourists during festivals and fairs.

Environmental Implications:

Environmental factors have been addressed in the relevant conditions and throughout the building and planning processes. The main factors include stormwater disposal and landscaping. As the site was previously used as car parking for the existing Settlers units, the change of use is not expected to have a significant impact from an environmental point of view.

Comment:

The proposal and the associated subdivision and strata applications combined with the previous scheme amendment and land assembly, change of reserve etc. make it one of the most complex applications possible under Western Australian legislation.

The purpose of this report is to recommend amended planning consent to reflect what is actually being built at the moment as no accurate planning and building documents have been submitted until very recently. These documents have now arrived and are attached. Following discussions with the proponent(s), significant progress has been made on a number of issues, including car parking and stormwater.

Therefore it is recommended to grant amended retrospective planning consent for the 58 short term accommodation units in accordance with the attached plans.

It is proposed to impose the same conditions as in the previously granted planning consent of 2007.

Cr Randell declared a financial interest in this item and left the meeting at 3.30pm.

OFFICER RECOMMENDATION

RESOLUTION 040709

Moved: Cr Boyle

Seconded: Cr Lawrance

“That Council advise the Applicant(s) that it grants amended retrospective planning consent for 58 short term accommodation units at Lot 10 (125) Avon Terrace, York, subject to the following conditions:

- 1. This amended planning consent is valid for a period of twelve (12) months from the date of this decision;***
- 2. Development taking place in accordance with the approved plans;***
- 3. Prior to commencement of the development, satisfactory arrangement being made for the development of car parking in accordance with the Shire of York Town Planning Scheme No. 2. If the required number of bays cannot be provided onsite, the local government will accept a cash-in-lieu payment per bay;***
- 4. Prior to commencement of the development, a detailed landscaping plan is to be submitted to the satisfaction of the local government;***
- 5. Prior to commencement of the development, detailed drainage plans shall be submitted to the satisfaction of the local government. Stormwater generally being disposed of within the confines of the property or alternatively arrangements being made with the local government to utilise the local government’s stormwater system. Fees may be payable to the local government to utilise the local government’s stormwater system;***
- 6. Prior to occupation, the development hereby permitted shall be connected to an approved effluent disposal system to the specifications of the local government and the Water Corporation;***
- 7. Prior to occupation of the development, vehicle crossover(s) shall be constructed to the satisfaction of the local government;***
- 8. Prior to occupation of the development, the car parking, pedestrian access, vehicle access, turning and circulation areas shown on the approved site plan, including the provision of disabled car parking, are to be constructed, sealed, drained, and line marked to the satisfaction of the local government;***
- 9. Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
- 10. Prior to occupation of the development, landscaping is to be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the local government;***
- 11. All car parking, pedestrian access, vehicle access and circulation areas are to be maintained and available for car parking, pedestrian access, vehicle access and circulation on an ongoing basis to the satisfaction of the local government;***
- 12. The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government;***
- 13. All landscaped areas are to be maintained on an ongoing basis to the satisfaction of the local government;***

- 14. The development to be in accordance with the Shire of York's Local Planning Policy on Heritage Precincts and Places;**
- 15. All boundary fencing to be in accordance with the Shire of York Local Planning Policy on Heritage Precincts and Places and to the satisfaction of the local government;**
- 16. The proponent to contribute 100% of the cost of imprinted concrete or brickpaved footpath for the full frontage of development on Howick Street and appropriate connection to the existing Settlers House walkway; and**
- 17. Satisfactory arrangements being made to provide a waste receptacle area in accordance with the relevant building and health regulations.**

Advice Notes:

- a) In accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1960, an application for a building licence must be submitted to, and approval granted by the local government prior to the commencement of the development hereby permitted.**
- b) An application for a vehicle crossover must be submitted to, and approval granted by, the local government prior to the commencement of the development hereby permitted.**
- c) The development hereby permitted must comply with the access and facilities for disabled requirements of the Building Code of Australia and all other relevant Australian Standards in respect of access and facilities for the disabled.**
- d) The incorporation of noise attenuation measures as detailed in AS2021 is recommended.**
- e) Any proposed signage is not subject of this application and will require a separate application for planning consent and an application for a building licence.**
- f) Any outstanding Water Corporation/Western Power/Heritage approvals have to be issued prior to occupation of the development."**

CARRIED (5/0)

Cr Randell returned to the meeting at 3.36pm.

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.6 PROPOSED DEVELOPMENT

FILE NO: Av 1.6660/Ho 3.31230
COUNCIL DATE: 16 April 2007
REPORT DATE: 3 April 2007
LOCATION/ADDRESS: Reserve 39603
APPLICANT: Mr D Mullins
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Woolcock, SAO
DISCLOSURE OF INTEREST: Cr T Randell
APPENDICES: Appendix A – Plans
Appendix B – Sewerage Plan
DOCUMENTS TABLED: No

When acting as a planning authority in accordance with the powers conferred by the Town Planning and Development Act 1928 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.

Summary:

The applicant is seeking approval for a two storey mixed use development on Reserve 39603 (portion of Howick Street carpark) in accordance with the plans attached and labelled Appendix A.

Background:

Currently the land is being used for a carparking area and is zoned public purposes.

Council considered a proposal for the applicant to purchase a portion of the carpark at its Ordinary Council meeting held on the 18 September 2006 where it resolved as follows:

"That Council:

- 1. Proceed with the subdivision of two (2) sections of the Howick Street carpark to provide lots of sufficient size to meet the needs of the proponents.***
- 2. Proceed with the sale of the two lots under the provisions of Section 3.58 (3) and (4) of the Local Government Act 1995 (as amended) for land sale by private treaty.***
- 3. Initiate a Scheme Amendment to rezone the lots to Mixed Business or Town Centre to cater for the designated development.***
- 4. Utilise the proceeds of the land transaction for the acquisition or development of infrastructure and assets to support the sustainability of the Central Business District Precinct in the long term. (All funds received to be held in a cash backed Reserve Fund until required).***

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

5. *Advise the proponents to provide a sworn valuation for the area of land they intend to purchase.*
6. *The proponents to meet the cost of subdivision, Survey and issue of titles.*
7. *The land sales to be subject to the following conditions:*
 - (a) *Development plans to be lodged and approval by Council within four (4) months of the date of settlement.*
 - (b) *The development to be substantially commenced within (12) months of the date of settlement.*
 - (c) *Failure to comply with items (a) and (b) will result in the land reverting to Council ownership at nil cost to Council."*

Whilst it was always understood that the carpark belonged to the Council this evidently was not the case, when a search of Council's records indicated that the land was in fact a vested reserve with Council having the power to only lease all or any part for a period of 21 years subject to the Minister for Lands approval.

Correspondence provided to the Minister for Planning and Infrastructure was sent requesting assistance in making part of the reserve available as freehold titles in November 2006.

Correspondence dated 1 December 2006 from the Office of the Minister for Planning and Infrastructure revealed the following:

"The Minister for Planning and Infrastructure, Hon Alannah MacTiernan MLA, has asked me to thank you for your letter of 9 November 2006 regarding redevelopment of Reserve 39603 and to respond on her behalf.

I confirm that the current reservation and vesting over this reserve limit its use to "Park, Vehicle Parking and Tourist Purposes". To accommodate the provision of a medical centre and extension of the Settlers Complex would require subdivision and sale of the land in freehold. An amendment to the Shire's Town Planning Scheme No 2 would also be necessary, as the land is also zoned Public Purposes and Recreation.

The Department for Planning and Infrastructure (DPI) could excise two lots from the reserve for sale in freehold, but public competition policy would require the lots be made available on the open market. Alternatively, DPI may be able to sell the land direct to the Shire of York.

DPI will investigate these options and liaise directly with you on this matter."

Further correspondence from the Department for Planning and Infrastructure dated 8 January 2007 revealed the following:

"I refer to your letter to the Minister for Planning and Infrastructure dated 9 November 2006 seeking to subdivide York Lot 595 (Reserve 39603) to provide a medical centre

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

and allow expansion of the Settlers Complex. This Office has been asked to investigate and liaise directly with you on the matter.

Comments are currently being sought from the Services Authorities and Department of Industry and Resources in respect to the proposal. A valuation is also being sought from the Valuer General in respect to the current unimproved market value for the land.

Subject to comments from the above agencies it is possible for this Office to sell the land either in total or individual lots direct to the Shire of York. Similarly, it is possible to amalgamate the portion adjacent to Settlers Complex with their existing lot. As advised by the Minister's Office the land is current zoned for 'Public Purposes' and rezoning to commercial or other appropriate zoning would likely be a condition of any contract of sale.

May I suggest that, upon receipt of the above comments and valuations, I arrange to meet with you to discuss the various options that may be available to redevelop this reserve."

Following the above correspondence further correspondence was received from the Office of the Minister for Planning and Infrastructure dated the 16th February 2007, which is detailed below:

"The Minister for Planning and Infrastructure, Hon Alannah MacTiernan MLA, has asked me to thank you for your letter of 20 December 2006 regarding the sale of the above Reserve and to respond on her behalf.

As advised in my letter dated 1 December 2006, two designated areas could be surveyed and excised from Reserve 39603 for direct sale to the Shire of York. Alternatively, all of the land in Reserve 39603 could be sold in freehold to the Shire. In either case, the sale price would be the current unimproved market value as determined by the Valuer General.

As previously advised, the land would require rezoning under the Shire's Town Planning Scheme and this may be a condition in the contract of sale. I have asked Steve Burgess, Manager Midwest, State Land Services in the Department for Planning and Infrastructure to seek an indicative valuation and to meet with you to discuss this matter further."

Council resolved at its Ordinary Council meeting of the 19th March 2007 the following:

"That Council:

- a) Initiate a Scheme Amendment (Amendment No 20) to rezone Reserve No 39603 from Public Purpose Reserve to Town Centre Zone and add Medical Centre to the Use Class Table the Scheme as a "Permitted Use" in the Town Centre and Mixed Business Zones.*

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

- b) *To request of the Hon. Minister for Planning and Infrastructure to accept the surrender of the Vesting Order for Lot 595 (Reserve No 39603) and convert the land to freehold title/s for the purpose of a Medical Centre".*

Council held a meeting with the Hon Alannah MacTiernan and progressed the issue where it was announced that the Department could sign off a subdivision application and that a scheme amendment could be initiated.

The above is underway in accordance with advice received from both the Department for Planning and Infrastructure and the Office of the Minister for Planning and Infrastructure.

Consultation:

Council advertised the development application in accordance with a direction from the Minister for Planning and Infrastructure. A sign was placed on the property and adjoining landowners were notified.

The following submissions were received:

Water Corporation – Received 4 April 2007

"Further to your letter dated 14 March 2007 regarding the proposed development above.

The Water Corporation has no objections to the proposed development.

It is recommended that this development be connected to scheme water supply and sewerage.

The proposed development would appear to be located on part Reserve 39603. The Corporation is not aware of any formal application to Western Australian Planning Commission to subdivide the subject land. Further assessment may be required depending on application for freehold or strata title.

The developers will be responsible for the provision of water supply and sewerage and any upgrading required to the existing scheme to meet the proposed demands of the development. In addition the proponent will be required to fund the full cost of protecting, relocating or modifying any existing Water Corporation facilities or infrastructure which may be affected by a development.

The attached plan indicates the position of the Corporation's sewer main. Building over sewers is not permitted unless special provisions are made for the sewer main. Furthermore no building development is permitted within 2.5 metres of the sewer main unless special building footings are constructed.

A full assessment of service requirements and related charges for the proposed development will be made on the submission of a formal development proposal by the applicant."

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

Statutory Environment:

Shire of York Town Planning Scheme.

Policy Implications:

Nil.

Financial Implications:

The financial implications are unknown at this time and will depend on the result of Council on selling the property.

Planning fees have been paid to a value of \$3,016.00. Building fees will be forthcoming.

Strategic Implications:

The preliminary advertising period results in an informed community.

Strategic Plan Key Result Area 2 – Economic Development & Tourism:

Objective 1 To encourage a sustainable community by increasing employment opportunities in York, attracting investment and businesses to the town, and achieving diversification of industries.

Objective 5 To ensure economic development does not conflict with York's heritage, lifestyle and environment.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

Commercial and residential development in the town centre will enhance CBD viability.

If approved additional commercial floor space will be provided in the CBD giving greater choice to potential small business investors. New businesses may improve local employment opportunities.

A large-scale investment of this nature would improve investor confidence in York as it grows and develops.

Social Implications:

An enhanced streetscape rather than vacant land may be of long-term social benefit through local business choice, employment opportunities and new residents for the town.

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

The loss of a de facto parking area will impact on the community until other facilities are provided.

Environmental Implications:

Any design approved will need to take into account finished floor levels.

Comment:

Hames Sharley provided a plan for the Central Business District and whilst this may not be going ahead at this time the use of the existing land for the purposes contained within this report are considered beneficial for the growth and development of York and therefore it is recommended for approval.

OFFICER RECOMMENDATION

Cr Randell left the meeting at 3.55pm.

Resolution
080407

MOVED Cr Lawrance seconded Cr Fisher

"That Council advise the applicant that it approves the proposed development in accordance with the attached plan labelled "Appendix A" for Reserve 39603, York subject to the following:

1. *A building licence being issued in accordance with the Building Codes of Australia;*
2. *The submission and approval of colour schemes by Council's Regional Heritage Advisor;*
3. *Carparking bays for use by patrons and residents will need to be provided as per the Shire of York Town Planning Scheme No. 2. If the required number of bays cannot be provided onsite, the Council will accept a cash in lieu payment per bay;*
4. *Stormwater being disposed of within the confines of the property or alternatively arrangements being made with the Council to utilise the Council's stormwater system. Fees may be payable to the Council to utilise the Council's system;*
5. *Approval from Fire and Emergency Services prior to a building licence being issued;*
6. *Crossover entries and traffic management to be to the satisfaction of the Chief Executive Officer;*
7. *Landscaping to complement the appearance of the proposed development to the satisfaction of the Chief Executive Officer;*

MINUTES – ORDINARY COUNCIL MEETING 16 APRIL 2007

8. *All development shall be connected to the Water Corporation's deep sewer system;*
9. *The proponent to contribute 100% of the cost of imprinted concrete or brickpaved footpath for the full frontage of development on Howick Street and appropriate connection to the existing Settlers House walkway;*
10. *This planning approval is issued subject to substantial development occurring within two (2) years;*
11. *Construction work to be in accordance with the Environmental Protection (Noise) Regulations 1997;*
12. *Design and construction is to incorporate noise attenuation measures as detailed in AS2107; and*
13. *This development approval only comes into force when the subdivision is completed and freehold title is obtained and the title is transferred to the proponent.*

Advice Note:

- a. *Finished floor level to cater for disabled access.*
- b. *The approval of the Development does not constitute a building licence.*
- c. *The following information is provided from the Water Corporation and relates to Appendix B:*

The developers will be responsible for the provision of water supply and sewerage and any upgrading required to the existing scheme to meet the proposed demands of the development. In addition the proponent will be required to fund the full cost of protecting, relocating or modifying any existing Water Corporation facilities or infrastructure which may be affected by a development.

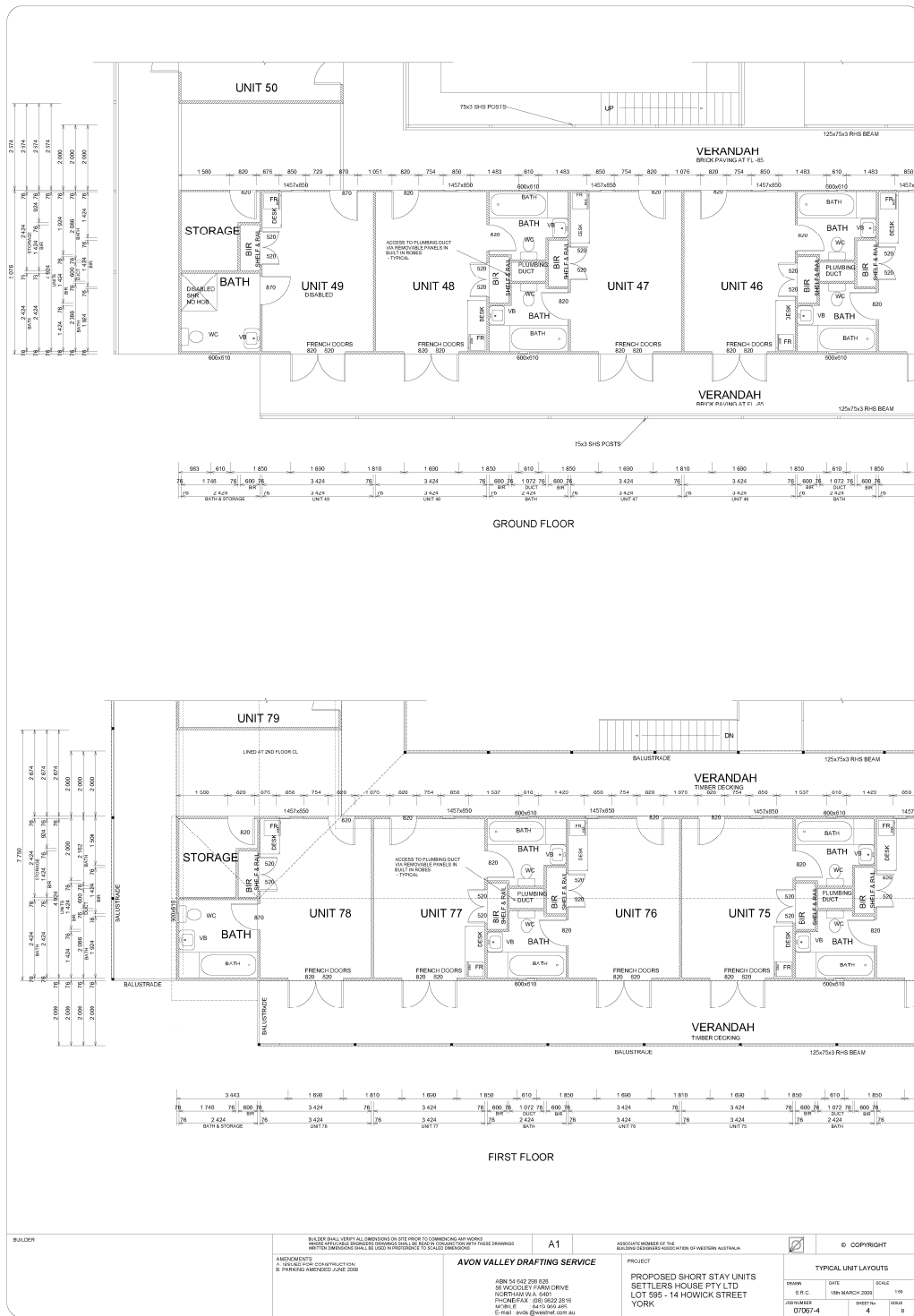
The attached plan indicates the position of the Corporation's sewer main. Building over sewers is not permitted unless special provisions are made for the sewer main. Furthermore no building development is permitted within 2.5 metres of the sewer main unless special building footings are constructed."

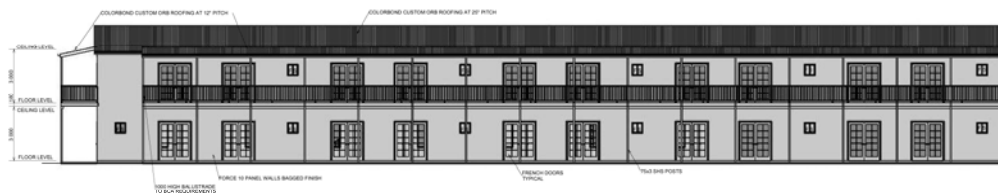
CARRIED (5-0)

Cr Randell returned to the meeting at 4.00pm.









ELEVATION FROM SOUTH



ELEVATION FROM WEST

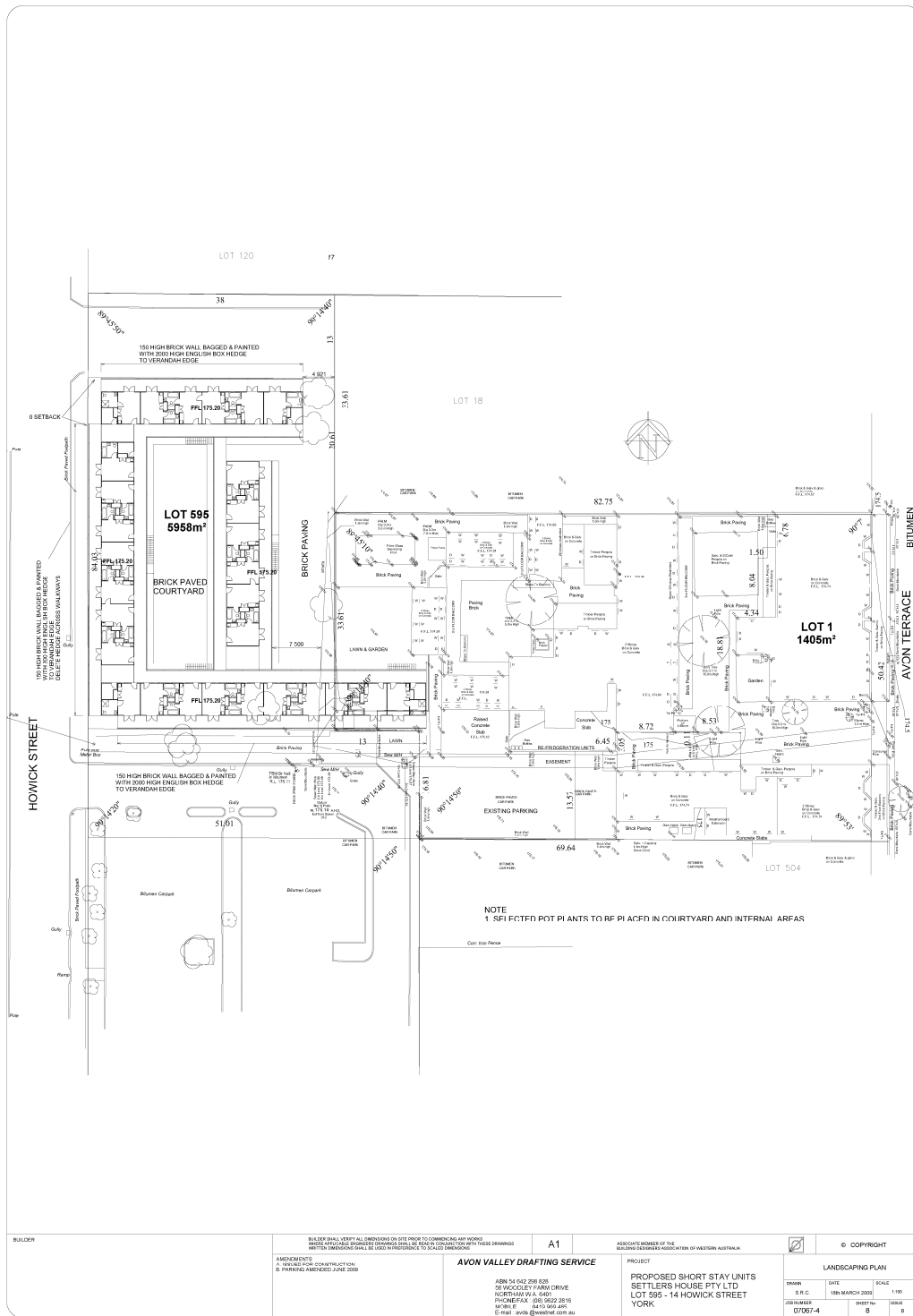


ELEVATION FROM NORTH



ELEVATION FROM EAST

BUILDER	BUILDER SHALL VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY WORK. DIMENSIONS SHALL BE IN METERS UNLESS OTHERWISE SPECIFIED. DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED.	A1	ASSOCIATE MEMBER OF THE AUSTRALIAN SOCIETY OF ARCHITECTS
AMENDMENTS A. FOR RED BOOK CONSTRUCTION B. PARKING AMENDED JUNE 2008	AVON VALLEY DRAFTING SERVICE ABN 54 642 208 833 26 WOODLEY FARM DRIVE NORTHAM 5407 PHONE/FAX: (08) 9622 2516 MOBILE: 0412 460 495 E-MAIL: avon@avonvalley.com.au	PROJECT	PROPOSED SHORT STAY UNITS SETTLERS HOUSE PTY LTD LOT 595 - 14 HOWICK STREET YORK
		COLOURED ELEVATIONS	DRAWN: DATE: SCALE: 1:100 S.A.C. 18th MARCH 2008
			JOB NUMBER: 07067-4 SHEET 7 OF 8
			PRINTED 7:42 AM Friday, 26 June 2008





9.2 Administration Reports

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.1 Application to Keep Three Dogs

FILE NO:	RS.ANC.1
COUNCIL DATE:	20 July 2009
REPORT DATE:	14 July 2009
LOCATION/ADDRESS:	15 Bayly Road
APPLICANT:	Mr Steve Cochrane
SENIOR OFFICER:	Ray Hooper
REPORTING OFFICER:	Angela Plichota
DISCLOSURE OF INTEREST:	Cr Tony Boyle – Impartial, Tyhscha Cochrane, MATS - Financial
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

An application has been received from Mr S Cochrane requesting permission to keep three dogs on his property at 15 Bayly Rd, York.

Background:

It is a requirements of the York Shire Council's Dogs Local Law (2000) that the maximum number of dogs that can be kept on a premise within a townsite is two unless an exemption is granted by Council under the provisions of section 26(3) of the Dog Act 1976 (as Amended).

Council has approved similar applications in the past where all adjoining neighbours have agreed to the request and the Shire Ranger or other authorised Council Officer has considered that there are no valid reasons for withholding such approval.

Consultation:

The applicant has advised all adjoining neighbours of the request to Council who have provided correspondence that is attached as Appendix B.

Statutory Environment:

Dog Act 1976 (As Amended)

York Shire Council Dogs Local Law (2000)

Policy Implications:

Not Applicable

Financial Implications:

Not Applicable

Strategic Implications:

Not Applicable

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

The Shire Ranger has inspected the property at 15 Bayly Rd of 4.0469 ha.

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Keeping of dogs in a townsite may impact on the social cohesion of a community if the dogs create a nuisance.

Environmental Implications:

Nil

Comment:

It is recommended that Council agree to the granting of an exemption for the keeping of three dogs at 15 Bayly Road subject to the following conditions:

That the exemption be reviewed in twelve months to ensure that no adverse problems have been experienced as a result of the exemption, and

That Council reserve the right to withdraw the exemption at anytime if any major or substantial problems are experienced prior to the review period.

Cr Boyle declared an impartiality interest and MATS Tyhscha Cochrane declared a financial interest and both left the room at 3.36pm.

OFFICER RECOMMENDATION

RESOLUTION

050709

Moved: Cr Randell

Seconded: Cr Lawrance

“That Council approve an exemption for the keeping of three dogs at 15 Bayly Rd subject to the following conditions:

1. That the exemption be reviewed in twelve months time to ensure that no adverse problems have been experienced as a result of the exemption; and

2. That Council reserve the right to withdraw the exemption at any time if any major or substantial problems are experienced prior to the review period.”

CARRIED (4/1)

Cr Boyle and Mrs Cochrane re-entered the meeting at 3.43PM.

**ITEM 9.2.1
APPENDIX A**

Mr S G Cochrane
PO Box 236
YORK WA 6302

SHIRE OF YORK	
FILE	PS ANC 2
NAME	Angela
23 MAY 2009	
1108429	
REFERRED TO COUNCIL	
DATE	11 JUL 09

16 May 2009

Mr R Hooper
Chief Executive Officer
Shire of York
PO Box 22
YORK WA 6302

Dear Ray

I request permission to have three dogs registered to my property at 15 Bayly Road, York.

I work for AS & SC Boyle, which involves sheep work and I would like to train a pup to work.

All three dogs are Huntaway Kelpie X: Boss - six years old, Bec - 3 years old and Max 9 weeks old, which is from Bec's litter.

On most occasions all three dogs would be with me while I am working at the Boyle's property on Top Beverley Road, York.


I have not had any complaints that I am aware of with the dogs that I currently have registered to my property.

The approval would assist me with my type of work.

I am aware of my responsibilities and look forward to your response.

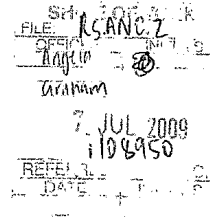
Yours faithfully

S COCHRANE



Records

From: Gary Boyd [Gary.Boyd@commerce.wa.gov.au]
Sent: Tuesday, 7 July 2009 3:02 PM
To: Records
Subject: 3rd dog, Mr Cochrane 15 Bayly Road York. Ref: TC:tc RS.ANC.2 :printed
Attn Mr Graham Stanley, Ms Angela Plichota.



I refer to and thank you for your letter of 25 June 2009 received 28 June regarding the above.

Being a dog owner for many years myself, I note that they are territorial in nature and usually bark when visitors arrive. That observation is not intended to be negative in itself, the family pet/work dog can keep a household safe and secure; and literally save lives.

Steve Cochrane is a good neighbour of mine, and while I do not like to say no and disappoint; existing dogs do bark and I don't relish another to make it a trio from a duet.

A critical element of this special rural estate located in the town ward has always been its ambience, not least its peace and tranquility. Qualities I suggest that need to be encouraged, nurtured and safeguarded if at all possible.

I regret on this occasion I can not support Mr Cochrane's application.

Thank you for seeking my view on this important matter.

Kind regards,

Gary Boyd
Conciliation Officer
Building & Tenancy Industries Branch
Consumer Protection
ph 9282 0661, fax 9282 0789

This email is from the Department of Commerce and any information or attachments to it may be confidential.
If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.

8/07/2009

Records

From: EngWah Lee [engwah.lee@virginbroadband.com.au]
Sent: Monday, 29 June 2009 8:55 PM
To: Records
Subject: REQUEST TO KEEP 3 DOGS -15 BAYLY ROAD, YORK - COCHRANE
FOR THE ATTENTION OF THE CHIEF EXECUTIVE OFFICER – SHIRE OF YORK

FILED	RS.ANC.2	INITIALS
Angela		
30 JUN 2009		
1108336		
REF. NO.	COUNCIL	
DATE	INITIALS	

Dear Sirs,

Re your letter ref:TC:tc RS.ANC.2 dated 25 June, I am not in favor and would urge the Council against granting an exemption of allowing more than two dogs on the subject premises. In my opinion, having two dogs is enough for whatever work purposes in any household. As we all know, dogs can be noisy and even dangerous when roaming in a pack. Moreover, all the adjoining properties in this area share very low wire fences which may not be adequate to keep them within the confines of the said property.

Please do not allow the Section 26(3) of the Dog Act 1976 to be breached.

Thanking you.

EW LEE
83A Clifton Street
Nedlands, WA 6009

30/06/2009

9. OFFICER'S REPORTS

9.2 ADMINISTRATION

9.2.2 Realignment of Shire Boundary

FILE NO:	OR.BOU.1
COUNCIL DATE:	20 July 2009
REPORT DATE:	14 July 2009
LOCATION/ADDRESS:	Beverley and Shire border
APPLICANT:	Shire of Beverley
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tyhscha Cochrane, MATS
DISCLOSURE OF INTEREST:	No
APPENDICES:	A - Map
DOCUMENTS TABLED:	No

Summary:

The Shire of Beverley is requesting that the portion as illustrated on the attached map that falls within the Shire of Beverley municipality being approximately 1.2 hectares be transferred to the Shire of York.

Background:

In support of the request the Shire of Beverley submitted the following letter:

"Since completing the sealing of the Talbot West road a small abnormality has arisen in relation to a property on our neighbouring boundary.

Lot 304 (1.2 ha) was an old road reserve that was previously owned by SD and JA Moulton. A land sale has occurred. The new owners of Lot 304 are RG Lister and FR Gregory and they do not own any other rateable land in the Shire of Beverley and as such this lot is attracting a minimum rate.

Council has agreed to formally entering into discussions with the Shire of York with a view to achieving consensus on a Joint Boundary Adjustment proposal.

Council respectfully requests that the Shire of York consider this proposal with a view that a Joint Council proposal be prepared in accordance with Schedule 2.1 of the Local Government Act 1995."

Consultation:

Shire of Beverley.

Statutory Environment:

Local Government Act 1995 – Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts:

[Section 2.1(2)]

1. Terms used in this Schedule

In this Schedule, unless the contrary intention appears —

affected electors, in relation to a proposal, means —

- (a) electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- (b) where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;

affected local government means a local government directly affected by a proposal;
notice means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;
proposal means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.

2. Making a proposal

- (1) A proposal may be made to the Advisory Board by —
 - (a) the Minister;
 - (b) an affected local government;
 - (c) 2 or more affected local governments, jointly; or
 - (d) affected electors who —
 - (i) are at least 250 in number; or
 - (ii) are at least 10% of the total number of affected electors.
- (2) A proposal is to —
 - (a) set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments;
 - (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
 - (c) comply with any regulations about proposals.

[Clause 2 amended by No. 49 of 2004 s. 67(2).]

3. Dealing with proposals

- (1) The Advisory Board is to consider any proposal.
- (2) The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board's opinion —
 - (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made;
 - (aa) where the proposal was made by affected electors under clause 2(1)(d), that the majority of those electors no longer support the proposal; or
 - (b) the proposal is frivolous or otherwise not in the interests of good government.

** Absolute majority required.*

- (3) If, in the Advisory Board's opinion, the proposal is —
 - (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited,

the Board may, in a written report to the Minister, recommend* that the Minister reject the proposal or that an order be made in accordance with the proposal.

** Absolute majority required.*

- (4) Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.

[Clause 3 amended by No. 64 of 1998 s. 52(2); No. 49 of 2004 s. 67(3).]

4. Notice of inquiry

- (1) Where a formal inquiry is required the Advisory Board is to give —
 - (a) notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) a report to the Minister.
- (2) The notice and report under subclause (1) are to —
 - (a) advise that there will be a formal inquiry into the proposal;
 - (b) set out details of the inquiry and its proposed scope; and
 - (c) advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —
 - (i) the proposal; or
 - (ii) the scope of the inquiry.
- (3) If, after considering submissions made under subclause (2)(c), the Advisory Board decides* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —
 - (a) another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) another report to the Minister.
- (4) The notice and report under subclause (3) are to —
 - (a) set out the revised scope of the inquiry; and
 - (b) advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.

** Absolute majority required.*

5. Conduct of inquiry

- (1) A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
- (2) In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
 - (a) community of interests;
 - (b) physical and topographic features;
 - (c) demographic trends;
 - (d) economic factors;
 - (e) the history of the area;
 - (f) transport and communication;
 - (g) matters affecting the viability of local governments; and
 - (h) the effective delivery of local government services,but this does not limit the matters that it may take into consideration.

6. Recommendation by Advisory Board

- (1) After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend* —

- (a) that the Minister reject the proposal;
- (b) that an order be made in accordance with the proposal; or
- (c) if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.

** Absolute majority required.*

- (2) The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —
 - (a) given* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;
 - (b) afforded adequate opportunity for submissions to be made about the intended order; and
 - (c) considered any submissions made.

** Absolute majority required.*

7. Minister may require a poll of electors

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

8. Electors may demand a poll on a recommended amalgamation

- (1) Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts (***the districts***) and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.
- (2) The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).
- (3) If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.
- (4) This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.

[Clause 8 amended by No. 64 of 1998 s. 52(3).]

9. Procedure for holding poll

- (1) Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —
 - (a) the Advisory Board is to —
 - (i) determine the question or questions to be answered by electors; and
 - (ii) prepare a summary of the case for each way of answering the question or questions;

and

- (b) any local government directed by the Minister to do so is to —
 - (i) in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and
 - (ii) subject to subclause (2), declare* the Electoral Commissioner, or a person approved by the Electoral Commissioner, to be responsible for the conduct of the poll under Part 4, and return the results to the Minister.

** Absolute majority required.*

- (2) Before making a declaration under subclause (1)(b)(ii), the local government is to obtain the written agreement of the Electoral Commissioner.

[Clause 9 amended by No. 49 of 2004 s. 67(4) and (5).]

10. Minister may accept or reject recommendation

- (1) Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.
- (2) If at a poll held as required by clause 8 —
 - (a) at least 50% of the electors of one of the districts vote; and
 - (b) of those electors of that district who vote, a majority vote against the recommendation,
 the Minister is to reject the recommendation.
- (3) If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.

10A. Recommendations regarding names, wards and representation

- (1) The Advisory Board may —
 - (a) when it makes its recommendations under clause 3 or 6; or
 - (b) after the Minister has accepted its recommendations under clause 10,
 in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.
- (2) In making its recommendations under subclause (1) the Advisory Board —
 - (a) may consult with the public and interested parties to such extent as it considers appropriate; and
 - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

[Clause 10A inserted by No. 64 of 1998 s. 52(4).]

11. Transitional arrangements for orders about districts

- (1) Regulations may provide for matters to give effect to orders made under section 2.1 including —
 - (a) the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;
 - (b) the extinguishment of rights of a local government;
 - (c) the winding up of the affairs of a local government;

- (d) the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;
 - (e) the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;
 - (f) if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;
 - (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.
- (2) Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.
- (3) Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).
- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —
- (a) compensation acceptable to the person is made; or
 - (b) a period of at least 2 years has elapsed since the order had effect.
- (5) The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.
- (6) If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —
- (a) any written law made after the order was made; and
 - (b) any order made by the Governor under subclause (8).
- (7) Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).
- (8) The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).

[Clause 11 amended by No. 64 of 1998 s. 52(5).]

Policy Implications:

No policy implications arise from this report.

Financial Implications:

The boundary realignment will have a minimal change to the UV.

Strategic Implications:

No strategic implications arise from this report.

Voting Requirements:
Absolute Majority Required: Yes

Site Inspection:
Site Inspection Undertaken: No

Triple bottom Line Assessment:
Economic Implications:

If Council take this opportunity for the betterment of the ratepayer there will be a minimal gain of income through its rating system.

Social Implications:
Unknown at this time.

Environmental Implications:
Nil at this stage.

Comment:
The boundary realignment makes sense, however it could create the expectation that subdivision or boundary realignment could occur later on and this is not the intention of supporting this proposal.

OFFICER RECOMMENDATION

RESOLUTION
060709

Moved: Cr Boyle **Seconded:** Cr Randell

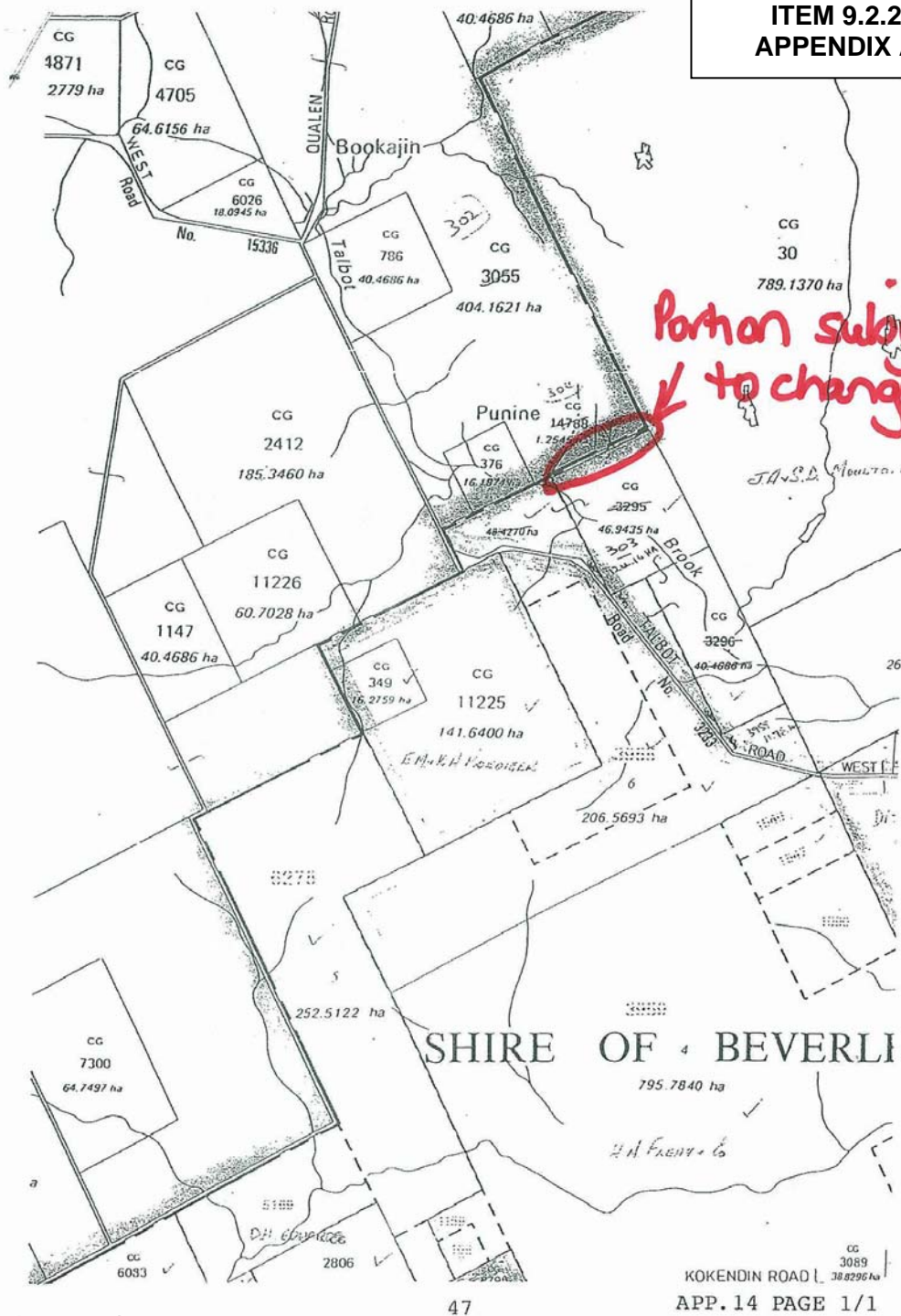
That Council:

- 1. notifies the Shire of Beverley that it supports the boundary realignment in accordance with Section 2.1 of the Local Government Act 1995;***
- 2. notifies the Local Government Advisory Board of the request for a realignment of the Shire Boundary in accordance with the attached map labelled "Appendix A";***
- 3. delegates to the Chief Executive Officer to negotiate with the Shire of Beverley in regards to any fees that may be imposed throughout the process; and***
- 4. recommends that the old road reserve be amalgamated into Lot 304 owned by RG Lister and FR Gregory."***

Advice Note: The support for the boundary adjustment must not be taken as support for any future subdivision or boundary realignment of boundaries to create new lots.

CARRIED (6/0)

ITEM 9.2.2
APPENDIX A



Portion subject
to change.

9.3 Finance Reports

9. OFFICER'S REPORTS

9.3 FINANCE REPORTS

9.3.1 Non-Rates Write Off – Various

FILE NO:	FI.DRS
COUNCIL DATE:	20 JULY 2009
REPORT DATE:	8 JULY 2009
LOCATION/ADDRESS:	NOT APPLICABLE
APPLICANT:	SHIRE OF YORK
SENIOR OFFICER:	GRAHAM STANLEY, DCEO
REPORTING OFFICER:	MATTHEW DAVIES, FINANCE OFFICER
DISCLOSURE OF INTEREST:	NIL
APPENDICES:	YES
DOCUMENTS TABLED:	NIL

Summary:

Following a study of Council's sundry debtor's ledger it appears there are numerous outstanding charges relating to overdue library items, animal control and standpipe water. Debtors were sent overdue notices and letters requesting the prompt return or payment of these items. This action proved mostly unsuccessful as many people had left York leaving no forwarding address or contact details.

Council proceeded with debt collection through Austral Mercantile and consequently a number of the books and videos were returned or payment was made. For the remaining items it would prove more costly to pursue this matter further through debt collection than to write off the charges.

As there remains a number of unrecoverable items still outstanding a resolution of Council is required in order to write off the combined balances owing, being \$431.50 in order to satisfy the requirements of the Local Government Act 1995 (as amended).

Background:

Following up of these debts has consumed many hours of Council officers' time, although to no advantage. Accordingly, Council deems it necessary to write these debts off as all attempts to recover these debts have been made and failed. These attempts have included reminders, phone calls and letters from Council's debt collector.

Consultation:

Library Patrons
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:

Given the amount of \$431.50 that is requested to be written off, no material impact will arise from on Council's financial position.

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".

OFFICER RECOMMENDATION:

RESOLUTION

070709

Moved: Cr Fisher

Seconded: Cr Randell

That Council, by an absolute majority, resolve to write off \$431.50 from the debts as per Appendix "A".

CARRIED (6/0)

APPENDIX "A"
9.3.1

SUNDRY DEBTOR WRITE-OFFS					
DEBTOR NUMBER	NAME	DESCRIPTION	INV RAISED	VALUE	NOTES
227	CORAL MIDDLETON	DOG IMPOUNDING & SUSTENANCE FEES - 20/7/06	26-Jul-06	\$130.00	INVOICE SENT TO DEBT COLLECTOR - UNABLE TO RECOUP MONIES FROM MS MIDDLETON - AUSTRAL MERCANTILE ADVISED TOO COSTLY TO PURSUE
549	JAY THOMAS	DESTRUCTION OF DOG - 30/9/08	20-Feb-09	\$ 20.00	FINAL DEMAND LETTER SENT - NO RESPONSE RECEIVED - WRITE OFF RECOMMENDED
304	STEVE KEEGAN	DOG IMPOUNDING & SUSTENANCE FEES - 18/4/07	18-Apr-07	\$105.00	FINAL DEMAND LETTER SENT - NO RESPONSE RECEIVED - WRITE OFF RECOMMENDED
9871	WINSTON & DINAH OGLE	STANDPIPE WATER USAGE - OCT-DEC 2006	26-Feb-07	\$ 13.40	NUMEROUS REMINDERS SENT - W & D OGLE MOVED INTERSTATE - TOO COSTLY TO PURSUE
266	GEORGE KNIGHT	STANDPIPE WATER USAGE - OCT-DEC 2006	26-Feb-07	\$ 13.60	NUMEROUS REMINDERS SENT - TOO COSTLY TO SEND TO DEBT COLLECTOR
219	J L CARTER & CO	STANDPIPE WATER USAGE - OCT-DEC 2006	26-Feb-07	\$ 11.60	NUMEROUS REMINDERS SENT - TOO COSTLY TO SEND TO DEBT COLLECTOR
497	MEGAN UGLE	LOST/ DAMAGED LIBRARY ITEM - LOVE & PEACE	22-Apr-08	\$ 12.00	NUMEROUS MESSAGES LEFT & REMINDERS SENT - UNABLE TO RECOVER MONIES
494	RENEE SMITH	LOST/ DAMAGED LIBRARY ITEM - DINOSAURS ON HOLIDAYS	22-Apr-08	\$ 15.00	UNABLE TO LOCATE MS SMITH - FINAL DEMAND LETTERS SENT - NO RESPONSE
528	SHARON SLATER	LOST/ DAMAGED LIBRARY ITEM - RULER OF THE REALM	26-Aug-08	\$ 19.60	UNABLE TO LOCATE MS SLATER - FINAL DEMAND LETTER RETURNED
569	ALEXIS RYAN	LOST/ DAMAGED LIBRARY ITEM - DEAR ZOO	26-Feb-09	\$ 6.95	UNABLE TO LOCATE MS RYAN - FINAL DEMAND LETTERS SENT - NO RESPONSE
553	TEANNA HART	LOST/ DAMAGED LIBRARY ITEMS X 4	20-Feb-09	\$ 28.25	CERTAIN ITEMS RETURNED - LIBRARY PATRON LEFT TOWN
552	SHELDON PICKETT	LOST/ DAMAGED LIBRARY ITEMS - HOW TO DRAW STREET MACHINE, RUDE & POLITICALLY INCORRECT JOKES	20-Feb-09	\$ 23.05	CERTAIN ITEMS RETURNED - LIBRARY PATRON LEFT TOWN
554	MARLION PICKETT	LOST/ DAMAGED LIBRARY ITEM - DESERT	20-Feb-09	\$ 13.05	CERTAIN ITEMS RETURNED - LIBRARY PATRON LEFT TOWN
567	GILLIAN PITKETHLY	LOST/ DAMAGED LIBRARY ITEM - SPOT WHAT	20-Feb-09	\$ 20.00	UNABLE TO LOCATE MS PITKETHLY - FINAL DEMAND LETTERS SENT - MAIL RETURNED
	TOTAL			\$431.50	

9.4 Confidential Reports

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Clarification on Balladong Industrial Precinct ODP

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:	PS.PPD.6.1
COUNCIL DATE:	20 July 2009
REPORT DATE:	17 July 2009
LOCATION/ADDRESS:	Great Southern Highway, Balladong
APPLICANT:	Urbanplan on behalf of Yorkland Holdings
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Patrick Ruettjes, Shire Planner
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	A - Location Plan
DOCUMENTS TABLED:	Nil

Summary:

Council is requested to clarify the proposed future status of Lots 5 and 50 Great Southern Highway, Balladong, between CBH and Balladong Farm to enable the continuous processing of Scheme Amendment 30 (Balladong Farm).

Background:

The Shire of York Town Planning Scheme Amendment No. 30 proposes to rezone the area known as 'Balladong Farm' (Lot 12 Great Southern Highway) from 'General Agriculture' to a mixed residential/retirement and heritage 'Special Use Zone'. Council finally endorsed the amendment at its meeting of 22 September 2008 and changed the recommendation to 'Special Use Zone' at its meeting of 24 November 2008. Balladong Farm is also subject to an Outline Development Plan ('ODP') in conjunction with the scheme amendment.

Council also endorsed the Balladong Industrial Precinct Outline Development Plan for public consultation and indicated a future Scheme Amendment No. 40 to rezone the land subject to the ODP to various industrial uses at its ordinary meeting of 20 April 2009. This ODP proposes industrial land use for land south of CBH.

This Balladong Industrial ODP also earmarks the area between Balladong Farm and CBH – i.e. Lots 5 and 50 Great Southern Highway, Balladong, (see attached location plan) as a 'Mixed Business' area and for drainage purposes. The documentation text supporting the ODP that was adopted for consultation purposes by Council states:

"Noise intrusion from either the railway or CBH to Balladong Farm will be mitigated by intervening service industry development."

Lot 50 Great Southern Highway is currently vacant and used for farming purposes, while Lot 5 has an approved rural industry.

The Shire of York Local Planning Strategy identifies Balladong Farm as the "Heritage and Retirement Living Precinct" while the land further south and west is part of the "Town Expansion Precinct" with flexible options, including "residential, industrial and rural residential". As such, this implies proper land use planning with buffer zones to minimise land use conflict. More detailed planning for the area that is currently a proposed 'Mixed Business Zone' in the Balladong Industrial ODP will be addressed in the future, as any scheme amendment and ODP has to be endorsed by the Commission and Minister for Planning. Accordingly, any proposal that may compromise Balladong Farm or CBH would come under considerable assessment.

The Department of Environment and Conservation's Noise Branch has advised that it considers the proposed 'service industry' as a factor with a potentially severe noise impact on the proposed residential uses at Balladong Farm and has advised the Department of Planning accordingly.

It is therefore required to clarify that any intended land use for Lots 5 and 50 Great Southern Highway, Balladong, will not have an adverse impact on the proposed land uses at Balladong Farm. This will enable the processing of the current acoustics assessment for Balladong Farm by officers of the DEC Noise Branch and a determination on Scheme Amendment 30 and the Balladong Farm ODP before the Western Australian Planning Commission.

Consultation:

Outline Development Plans and Scheme Amendments have been advertised for public comment. The landowners of Lot 50 have advised previously that they are supportive of any industrial or commercial uses for their property. Lot 5 is already subject to an approved 'Industry – Rural'.

Statutory Environment:

Shire of York Town Planning Scheme No. 2 – Amendments 30 and 40
Shire of York Local Planning Strategy

Policy Implications:

Nil.

Financial Implications:

The processing of Scheme Amendment 30 and Balladong Farm ODP is crucial for the future development of the land. The proposal for Balladong Farm contains ca. 250 – 300 new lots and will therefore have a significant on the future expansion of York with all associated effects, such as additional employment, new infrastructure and the broadening of the rate base. It is therefore paramount to ensure the progress of the amendment and the ODP.

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:

Both proposals – Balladong Farm and the Industrial Precinct – are among the most important expansion projects for York. Additional infrastructure, employment and rate income are expected from both projects.

Social Implications:

Additional housing, with a strong focus on retirement and heritage living, is proposed for Balladong Farm in a centrally located area that can be connected to sewer. As mentioned, both projects – Balladong Farm and the Industrial Precinct – are important for the future development of York offering housing choice and employment opportunities.

Environmental Implications:

Environmental issues have been addressed in great detail in the relevant documentations for the proposals.

Comment:

While the Balladong Industrial Precinct ODP document does not address the future land uses of Lots 5 and 50 Great Southern Highway in detail, the direction is quite clear. The area between CBH and Balladong Farm is intended to be a buffer between the proposed residential and other uses at Balladong Farm and the industrial use of CBH. This context was obviously not clear for the officers at the DEC Noise Branch when they assessed the acoustics report for Balladong Farm and interpreted the proposed 'service industry' as a potential noise hazard for Balladong Farm.

The Balladong Industrial Precinct ODP does not intend, at any stage, to compromise the proposed land uses at Balladong Farm. The exact opposite is the case. The future intention of this area is to get away from rural land uses and potential rural industries by focussing on a showroom commercial/low impact service type use. Given the great exposure to Great Southern Highway, showroom commercial and other uses appear to suit best as a buffer between CBH and Balladong Farm.

Once the Balladong Industrial Precinct ODP progresses, the area will be defined in more detail. In a future rezoning exercise, this area will likely become a 'Special Use Zone' clearly stating that only businesses will be permitted that do not compromise any of the surrounding land uses, whether existing or intended.

Council's commitment to Balladong Farm and the Industrial Area south of CBH is quite clear given the relevant Council decisions in the past.

It is, however, not possible to come to a final determination of the future of the land in question given that the Balladong Industrial Precinct ODP can only be progressed when the future bypass realignment has been identified, the grain/freight discussion has advanced (including the possible closure of railway lines) and drainage issues have been resolved for the wider area.

It is therefore recommended to write to the Department of Environment and Conservation and the Department of Planning clarifying the proposed intended uses for Lots 5 and 50 Great Southern Highway, Balladong, as non-noise generating, compatible land uses, such as potential showroom commercial/office/services, that do not compromise any existing or proposed adjacent land uses.

OFFICER RECOMMENDATION

RESOLUTION 080709

Moved: Cr Fisher

Seconded: Cr Boyle

“That Council instruct the Chief Executive Officer to advise the Department of Environment and Conservation (Noise Branch) and the Department of Planning (on behalf of the Western Australian Planning Commission) of the following:

‘The Shire of York Local Planning Strategy identifies Balladong Farm as the “Heritage and Retirement Living Precinct” while the land further south and west is part of the “Town Expansion Precinct” with flexible options, including “residential, industrial and rural residential”. As such, this implies proper land use planning with buffer zones to minimise land use conflict. More detailed planning for the area that is currently a proposed ‘Mixed Business Zone’ in the Balladong Industrial ODP will be addressed in the future, as any scheme amendment and ODP has to be endorsed by the Commission and Minister for Planning. Accordingly, any proposal that may compromise Balladong Farm or CBH would come under considerable assessment.

While the Balladong Industrial Precinct ODP document does not address the future land uses of Lots 5 and 50 Great Southern Highway in detail, the direction is quite clear. The area between CBH and Balladong Farm is intended to be a buffer between the proposed residential and other uses at Balladong Farm and the industrial use of CBH.

The Balladong Industrial Precinct ODP does not intend, at any stage, to compromise the proposed land uses at Balladong Farm. The exact opposite is the case. The future intention of this area is to shift from rural land uses and potential rural industries towards a showroom commercial/low impact service type use. Given the great exposure to Great Southern Highway, showroom commercial and other uses appear to suit best as a buffer between CBH and Balladong Farm.

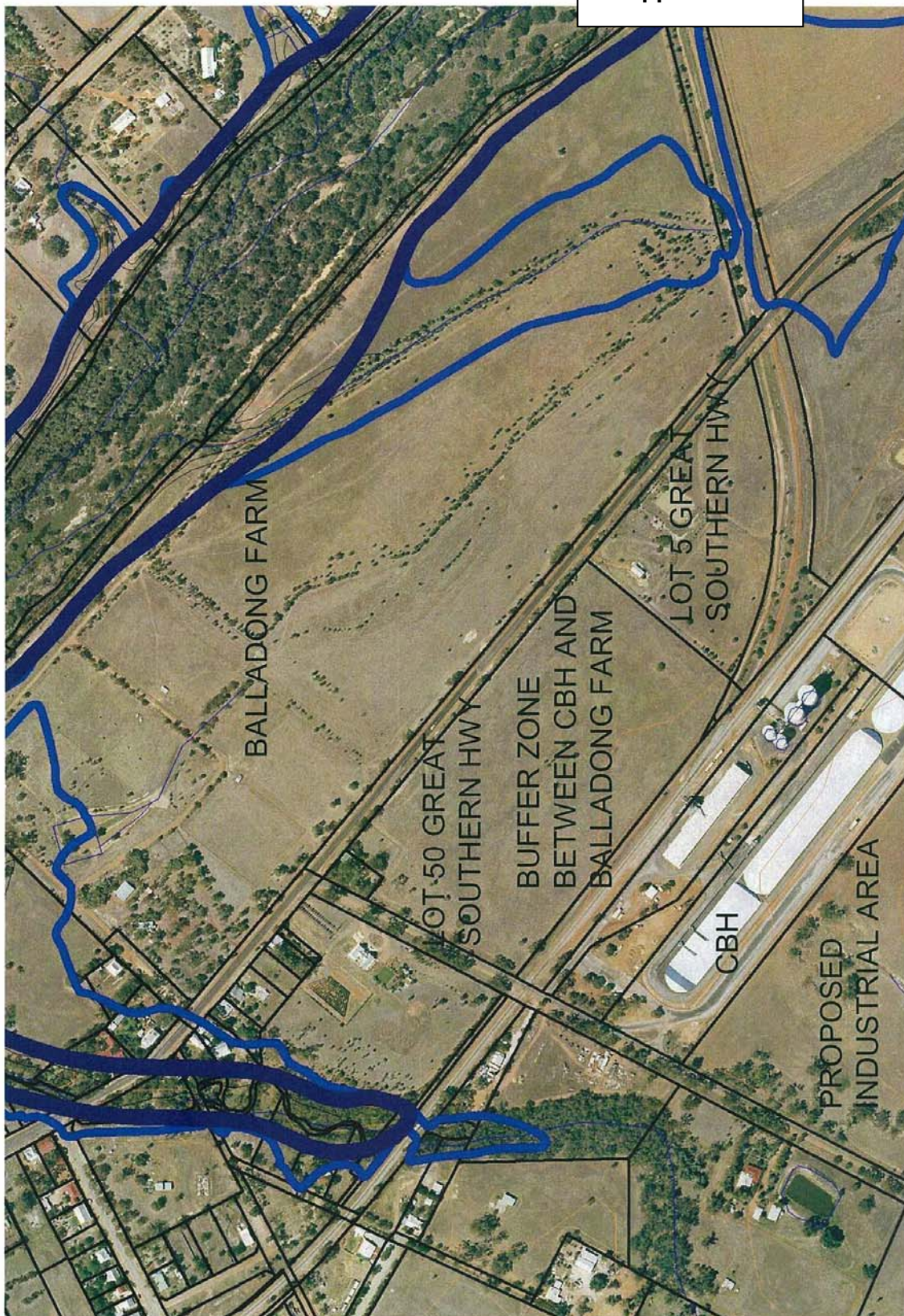
Once the Balladong Industrial Precinct ODP progresses, the area will be defined in more detail. In a future rezoning exercise, this area is intended to become a ‘Special Use Zone’ clearly stating that only businesses will be permitted that do not compromise any of the surrounding land uses, whether existing or intended.

Council’s commitment to Balladong Farm and the Industrial Area south of CBH is quite clear given the relevant Council decisions in the past.

It is, however, not possible to come to a final determination of the future of the land in question given that the Balladong Industrial Precinct ODP can only be progressed when the future bypass realignment has been identified, the grain/freight discussion has advanced (including the possible closure of railway lines) and drainage issues have been resolved for the wider area.”

CARRIED (6/0)

Item 9.5.1
Appendix A



9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.2 Recreation Centre Design Tender

FILE NO:	AS.TEN.19 / CCP.7
COUNCIL DATE:	20 July 2009
REPORT DATE:	20 July 2009
LOCATION/ADDRESS:	Forrest Oval
APPLICANT:	N/A
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Ray Hooper, Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil advised at time of report
APPENDICES:	Nil
DOCUMENTS TABLED:	Tender Documents

Summary:

Tenders were called for the design and costing of the recreation centre to support the Forrest Oval Redevelopment Project.

12 tenders were received from the following:

Braude & Associates

Matthew Coniglio Architect

Q3 Architecture

Adcroft Architects

Holton Connor Pty Ltd

Bollig Design Group Pty.Ltd

Rob Anson Architects Pty Ltd

Hodge & Collard Architects

Paterson Group Architects

Copraxis Architects

Gresleyabas Architcture

Enviro Designs

Gavin Construction

Background:

The Shire of York has received funding for Stage 1 of the Forrest Oval Project including the building design, oval re-alignment, hockey club room extensions and other works.

Consultation:

Not applicable

Statutory Environment:

Local Government Tender Regulations

Policy Implications:

Nil

Financial Implications:

Funding is allocated through the Stage 1 development and approval process and funding allocated in 2008/09 to be carried forward to 2009/10.

Strategic Implications:

Key Result Area 3:

Community Development

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

The development of high quality recreation facilities improves the investment potential of York and this may provide opportunities for attraction of conferences and other income generating functions.

Social Implications:

The redevelopment of the recreation facilities will have high beneficial impacts on a large section of the community and the establishment of high quality facilities will provide a community hub.

Environmental Implications:

All environmental issues will be considered in the design process.

Comment:

12 tenders were received with one being deemed as non-conforming.

The 11 tenders were assessed against the scoping paper and the selection criteria and five companies were shortlisted for interviews.

Reference checks were undertaken with local governments involved with current and past projects.

OFFICER RECOMMENDATION

RESOLUTION

090709

Moved: Cr Fisher

Seconded: Cr Lawrance

“That Council:

Accept the tender from Hodge & Collard Pty Ltd of \$164,285 incl. GST for the design and costing of the York Recreation Centre Building and enter into a formal contract agreement for the provision of the designated services.”

CARRIED (6/0)

10. NEXT MEETING

RESOLUTION

100709

Moved: Cr Randell

Seconded: Cr Lawrance

“That Council:

hold the next Ordinary Meeting of the Council on August 17, 2009, commencing at 3.00pm in the Lesser Hall, York.”

CARRIED (6/0)

11. CLOSURE

Cr Hooper thanked all for their attendance and declared the meeting closed at 4.05pm