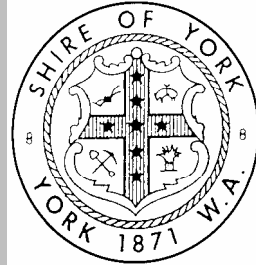


UNCONFIRMED



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 18 JUNE 2007
COMMENCING AT 3.00PM
IN THE PAVILION, FORREST OVAL, YORK**

Distributed 28 June 2007

SHIRE OF YORK

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**RAY HOOPER
CHIEF EXECUTIVE OFFICER**

SHIRE OF YORK
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SHIRE OF YORK

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL HELD ON
MONDAY, 18 JUNE 2007, COMMENCING AT
3.00PM IN THE SHIRE PAVILION, YORK.**

1. OPENING

1.1 DECLARATION OF OPENING

The Shire President, Cr Pat Hooper declared the meeting open at 3.00pm.

The Chief Executive Officer read the disclaimer.

1.2 ANNOUNCEMENT OF VISITORS

Nil.

1.3 ANNOUNCEMENT OF ANY DECLARED FINANCIAL INTERESTS

COUNCILLOR/OFFICER	ITEM	NATURE OF INTEREST
Cr Fisher	9.1.2	Financial – Land Owner
Cr Delich	9.5.1	Financial – Stall Holder

2. ATTENDANCE

2.1 MEMBERS

Cr Pat Hooper President
Cr Brian Lawrance Deputy President
Cr Michael Delich

Cr Tony Boyle
Cr Ashley Fisher

2.2 STAFF

Mr Ray Hooper	Chief Executive Officer
Mr Graham Stanley	Deputy Chief Executive Officer
Mr Peter Stevens	Environmental Health / Building Officer
Mr David Lawn	Planning Consultant
Mrs Tyhscha Cochrane	Senior Administration Officer
Mrs Natasha Brennan	Executive Assistant

2.3 APOLOGIES

Cr Trevor Randell

2.4 LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil.

2.5 NUMBER OF PEOPLE IN GALLERY PRESENT AT COMMENCEMENT OF MEETING

The Shire President welcomed the twenty two (22) people present at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

4.1 Geraldine Osgood

Question 1

Can the Chief Executive Officer or Council give a definite time line as to when the broken equipment in the gym at the recreation centre will be either repaired or replaced?

Response

The cost of repair or replacement will be considered in the 2007/08 budget programmed for adoption on the 27th July 2007.

Expenditure included in the budget for this matter will be expended within 6 weeks of the budget adoption.

Question 2

Has any thought been given to the update / replacement of the out of date equipment that is at present in the gym? Perhaps Council could outsource a grant for this purpose? Department of Sports and Recreation or similar?

Response

The need for a properly equipped and set out gymnasium or fitness centre has been considered by Council and it is included in the strategic planning for the Forrest Recreation Centre Re-development.

Grant funds can be applied for from a range of agencies and organisations and these can be applied for by community groups as well as the local government.

Question 3

Does the Chief Executive Officer intend requesting another annual payment at the end of this month, by current groups that use the gym weekly, considering the antiquated and out of order equipment contained there at present?

Response

The Chief Executive Officer will levy changes as detailed in the schedule of fees and charges adopted in the budget as he is legally bound to do.

Whether individuals or groups are prepared to pay the fees for the service and standard provided is at their discretion.

Council acknowledges that the gym is a reasonably high use facility however it does have to compete with other community priorities for funding allocations.

Community and sporting groups could assist themselves and others by applying for grants in their own right for specific or general exercise equipment.

4.2 Liz Christmas

Referring to Item 9.2.4 Draft Disability Access & Inclusion Plan

Question 1

Does "York Access Group" refer to the York Health Area Group (YHAG)?
If not then what is the "York Access Group?"

Response

No.

The York Access Group is a local community group that provides advice and assistance to community members who have a disability in regards to access and amenities.

Question 2

If the "York Access Group" and the "York Health Area Group" are separate things, will a copy of the Plan (being relevant to all of the local health provisions affiliated with the Health Department? Also be sent the latter?

Response

Yes.

Question 3

Would the Shire President explain for the benefit of the general public what the YHAG is? (York Health Area Group).

Response

The Shire President responded that the YHAG was responsible for working in consultation with organisations like the Avon Health Services in assisting people with health services.

4.3 Ms Giles

With regards to street lighting and in particular Smales Lane, can you please advise what is happening and when the lighting will be fixed?

Response

The Chief Executive Officer responded that issues relating to lighting, safety & cleanliness were all on the Council agenda to be considered during the forthcoming budget deliberations for 2007/08.

4.4 Denese Smythe

Question 1

Relating to the proposed new zoning and the number of new lots being created within the York Shire - Does the York Shire Council have the community facilities / infrastructure to cope with the increase in population?

Response

The President responded that Council is aware of the problems faced with the creation of the new lots and the difficulty in not having enough community facilities.

Council has set aside funding in 2007/08 for a co-location centre to be built by mid next year.

It was also noted that the Council is liaising with other government organisations ie: Telstra, MRWA, Western Power, Water Corporation etc to assist with the requirements the new lots & developments are creating.

The Chief Executive Officer advised that any large-scale developments would be required to provide their own community infrastructure. There needs to be a balance and currently Council is working on the Strategic Plan to work on these issues.

It was noted that the 2006 Census Information was expected to be released on the 27 June 2007.

Question 2

Crawford Court & Chandos Road

Looking at the Outline Development Plan for Crawford Court it was noted that Chandos Road is sealed in part from Crawford Court to Atfield Road.

Response

The Chief Executive Officer noted that Chandos Road would not be built. The adjoining landowner would need to apply in their subdivision to have the road built to the standard required.

4.5 Geoff Barker

Referring to the need for gym equipment and also a Community Development Officer, have any thoughts been given in this year's budget to appoint a Community Development Officer who could assist community groups in applying for grants?

Response

The Shire President responded that Council has been looking at options to employ an officer who could provide assistance to the community in this area and also perhaps perform other related jobs as well.

The Chief Executive Officer noted that sustainability was a major concern and that Council needed to look at ongoing maintenance and the 'whole life cost' of projects and also the need for matching funds when applying for grants.

The Chief Executive Officer also confirmed the value of a Community Development Officer if appropriate financial resources were available.

4.6 Jan Underwood

Referring to the subdivision of lots in Harriott Street – 600sqm and also to footings & siteworks.

How did the developer obtain approval to reduce the blocks to 600sqm and why was this allowed in a brick area? What about the issues of power, water & deep sewerage?

Response

The Shire President responded that there were seven (7) blocks in question, at 600sqm and that they have not been subdivided. They are the original lot sizes and have been in place for years.

The Chief Executive Officer advised that no new lot could be created below 2000sqm unless the block is connected to the sewer for environment & health reasons.

Developers need to obtain a building permit and also obtain approval for a septic installation system.

Existing lots below 2000sqm are still entitled to be legally built on.

With the issue of cladding in a brick area it was noted that within Council in the past there had been a continual change / variances to the brick policy.

At present the developer in question has a proposal with Council for planning consent and submissions are still being received. A site inspection has taken place and the developer has been told to cease all work this morning.

4.7 Tricia Walters

Item 9.2.2 Parking in Avon Terrace (South Street to Macartney Street), York. The issue of parking has never been policed in the past, and given the current changes that are being recommended, is Council going to police the parking this time?

Response

The Shire President confirmed that yes; Council will be policing the parking.

4.8 Yvonne Dols

I believe a Minister came recently and among other topics, the Ficus Tree was also discussed, regarding sustainability with the proposed development, as an option.

Would Council please share this information with us as a number of concerned residents have only 'hearsay' to go on at this time?

Response

The Shire President responded that he was away, however the Councillors have not met with any Ministers over this issue.

The Chief Executive Officer confirmed that discussions had been held with the Minister for Planning & Infrastructure and that the Ministers Office offered to provide the developer with the services of a government architect to redesign the plans for the units if the Council agrees to maintain the ficus tree forever. The offer would be conveyed to the developer.

4.9 Denese Smythe

With regards to the York Bakery and legal fees noted in the agenda of \$4861.00, could you please advise what the legal fees are for?

Response

The Shire President confirmed that the York Bakery had been charged with 6 offences under the Health Act and was prosecuted last Wednesday by the Council.

The Councils Health Officer Mr Peter Stevens advised that a report would be going to the July Council Meeting.

It was also confirmed that Council would be awarded some of the costs associated with the legal fees.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS/PRESENTATIONS/DEPUTATIONS

Citizenship Ceremony – Kima Fenn

The citizenship ceremony was conducted prior to the commencement of the Council Meeting.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Ordinary Council Meeting held 21 May 2007

Corrections

Resolution 220507 - Advising of the June Council Meeting.

Venue to be changed in the minutes, from the Lesser Hall to the Pavilion.

Confirmation

Resolution

010607

MOVED Cr Lawrance seconded Cr Delich

That the minutes and corrections of the Ordinary Council Meeting held 21st May 2007 be confirmed as a correct record of proceedings.

CARRIED (5-0)

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President made the following announcements:

Football Milestones

Chance Bateman

The Shire President congratulated Mr Chance Bateman on being the first indigenous player to captain the Hawthorn Football Club as part of the AFL 'Dreamtime Round'.

David Gault

The Shire President congratulated Mr David Gault on playing his 200th league game for South Fremantle in the foundation derby on Monday 4th June 2007.

Naturalisation Ceremony

The Shire President advised that the following Australian Citizenship Ceremonies had been performed during the month of June:

- Ms Kima Fenn
- Ms Donna Edwards
- Ms Linda Grant
- Miss Britanie Grant

Planting of Trees – Ford Street

The Shire President advised that the Council would be providing trees & shrubs to students at the York District High School to plant on the 27th July 2007 as an Arbor Day Project.

It was also noted that Council was supplying another 350 native shrubs and trees to be presented on the 3rd August 2007 to all the primary school students to take home and plant.

Visit – Archbishop of York (England)

The Shire President advised that the Archbishop of York in England would be visiting Western Australia in July and would be coming to York on Monday 30th July 2007.

An open invitation would be extended to all residents in York to attend a function at the York Town Hall to welcome the Archbishop to York.

9. **REPORTS**

9.1 **Development Services**

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.1 DEVELOPMENT PLAN – DALIAK

FILE NO: Mo4.1001
COUNCIL DATE: 18 June 2007
REPORT DATE: 8 June 2007
LOCATION/ADDRESS: Lots 5,6 & 8 Morris Edwards Drive, York
APPLICANT: Whelans, Tilli Group
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: David Lawn – Planning Consultant
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Development Plan
DOCUMENTS TABLED: 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.

Summary:

The proposal is for the development of a retirement village on Lots 5, 6 and 8 Morris Edwards Drive, in the locality known as Daliak.

Background:

This submission is more in the line of an expression of interest with the intent of follow-up site investigations and detail designs. The sketches in the report illustrate preliminary concepts of the retirement village layout.

The lots, subject of the proposal, form part of the larger Daliak Precinct which has been nominated as suitable for inclusion in the Local Planning Strategy as an extension to the townsite and adjoining the public purposes site of the hospital and the school. When the sewer reticulation reaches the school and hospital, it is a logical extension into this larger precinct.

Consultation:

Mr Justin Page, of Whelan's, has inspected the site and has had preliminary discussions with the Shire's Planning Staff. The Council has already considered this precinct as a promising area for development providing additional fully serviced residential lots. This precinct together with retirement dwellings being close to the hospital and the town's commercial centre has great potential.

Consultation has been made on a preliminary basis of other major landholders in the precinct with the view of further development prospects.

Statutory Environment:

The land is currently zoned General Agriculture.

Future zoning is likely to be a new zone to the Town Planning Scheme – Development Zone. This zone can permit a variety of compatible land uses based on a detailed development plan.

The permitted and non-permitted uses can be negotiated keeping in mind the overall intent of a tranquil residential area (with various lot and dwelling sizes), with community facilities, fully landscaped, and with traffic management all in sympathy with the constraints of the landform and land capability.

Financial Implications:

Administration time associated with meetings and preparation of a report.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Further site inspections are required as the planning proceeds and the land capability analysis becomes available.

Triple Bottom Line Assessment:

Economic Implications:

The scope of the development within the precinct is extensive, bringing a large increase in population and services to the town. The engagement of local contractors from a wide variety of skills will provide employment.

Social Implications:

The increase in population will demand a range of services (personal and domestic) placing pressure on the existing commercial services. This will include pressure on community and recreation facilities.

Environmental Implications:

The environmental impact is not yet known. This may be borne out when the land capability information becomes available.

Land drainage is an important issue. The land is currently extensively cleared and used for grazing. When fully built the storm water discharge will be magnified due to the vast increase in impervious surfaces (roads, roofs, driveways and patios, etc). Council will require a comprehensive analysis of the impacts of downstream discharge into the Avon River.

Part of any development proposal will be the landscaping elements throughout the precinct. Protection and enhancement of the existing drainage pattern (watercourses) will be required.

View lines, as from the Great Southern Highway and Morris Edwards Road need attention to create an aesthetic presentation.

Comment:

This submission is regarded as the preliminary introduction as the intent of the landowner/developer.

Within the report the applicants have highlighted many of the outstanding issues for further investigation and consideration and are waiting for a response from Council.

This is understandable due to the costs involved in the environmental, engineering and planning studies to be undertaken.

From a planning point of view, it is essential that the whole of the Daliak Precinct be subject to an overall Outline Development Plan, or at least a Broad Concept Plan, to account for all issues, in particular are the service connections, traffic management and land uses.

Officer Recommendation:

Resolution

020607

MOVED Cr Boyle seconded Cr Fisher

“That Council:

- a) ***Provide in principle endorsement of the submission by Whelans for a Retirement Village for the Daliak Precinct’;***
- b) ***Advise the applicant that a Precinct Plan is required for the whole area and that a cooperative effort by all landowners is needed to satisfy all elements of environmental protection, planning design and engineering, as a basis for a subdivision and development application;***
- c) ***Act as a coordinator between the landowners to achieve a satisfactory outcome; and***
- d) ***Agree to initiate a Scheme Amendment to rezone land from General Agriculture to Development Zone for this precinct as soon as the Local Planning Strategy is approved subject to landowners/developers entering an agreement to meet all associated costs.”***

CARRIED (5-0)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.2 OUTLINE DEVELOPMENT PLAN –
CRAWFORD COURT PRECINCT

FILE NO: PS.PPD.4.1
COUNCIL DATE: 18 June 2007
REPORT DATE: 8 June 2007
LOCATION/ADDRESS: Crawford Court Precinct
APPLICANT: Shire of York
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane – SAO/D, David Lawn –
Planning Consultant
DISCLOSURE OF INTEREST: Cr Fisher – Financial
APPENDICES: Appendix A – ODP
Appendix B - Schedule of Submissions
DOCUMENTS TABLED: Nil

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.

Summary:

The final Crawford Court Precinct Outline Development Plan has been prepared after two (2) processes of public consultation and appropriate modifications have been made. Council needs to adopt the Outline Development Plan and request the Western Australian Planning Commission to approve and endorse the Plan prior to a Scheme Amendment.

Background:

The Council at its Ordinary Council meeting held on 20 November 2006 resolved as follows:

“That Council receive the preliminary draft ‘Shire of York Crawford Court Outline Development Plan’, as tabled for the purposes of advertising for public comment for a period of 28 days.”

The Council at its Ordinary Council meeting held on 19 February 2007 resolved as follows:

“That Council:

- 1. Modify the Crawford Court Precinct documentation with the acceptable submissions and formally advertise the revised document for a period of 28 days;*
- 2. Rezone those western portions of lots 279 – 283 as Residential R5, as a transitional buffer between Herbert Road development and the 1 hectare lots; and*
- 3. Initiate Scheme Amendment No. 18 to amend the requirements of Schedule 6 of Town Planning Scheme No. 2 in relation to lots identified in the Crawford Court Outline Development Plan and amend the Scheme Amendment taking into account the changes proposed in Condition 2.”*

The Council at its Special Council meeting held on 23 March 2007 resolved as follows:

“That Council:

- A. *Rescinds motions 2 & 3 of report 9.1.3 of the Ordinary Council Meeting held on the 19th February 2007:*
- 2. Rezone those western portions of lots 279 – 283 as Residential R5, as a transitional buffer between Herbert Road development and the 1 hectare lots; and*
 - 3. Initiate Scheme Amendment No. 18 to amend the requirements of Schedule 6 of Town Planning Scheme No. 2 in relation to lots identified in the Crawford Court Outline Development Plan and amend the Scheme Amendment taking into account the changes proposed in Condition 2.*
- B. *Proceeds only with motion 1 at this time, which reads:*
- 1. Modify the Crawford Court Precinct documentation with the acceptable submissions and formally advertise the revised document for a period of 28 days.*

Advice Note:

Further research has revealed that it may not be appropriate for all of this land to be more densely developed.

It is considered beneficial to wait for the Outline Development Plan for the Crawford area to be considered in its entirety, as information has gone out to government departments and new submissions through the formal advertising period may be received.”

The draft Local Planning Strategy is currently with the Western Australian Planning Commission waiting for endorsement and is intended to provide guidance for development within York for a 10-15 year period.

Consultation:

Council has completed a preliminary advertising period and a formal advertising period.

Statutory Environment:

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

Financial Implications:

Administration time will incur costs.

Strategic Implications:

The ODP will work in conjunction with the LPS and will be an integral part of future strategic planning for York.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

The ODP will provide an opportunity for managed land development and release to meet market demand for residential land in York.

Social Implications:

Population increases as a result of land development will need to be managed.

Environmental Implications:

Environmental management, particularly drainage control is a focus of the ODP.

Comment:

This will be the first of many Outline Development Plans for York, which will provide for good land use planning for the future.

OFFICER RECOMMENDATION

Cr Fisher declared an interest in this item and left the meeting at 3.35pm.

Resolution

030607

MOVED Cr Delich seconded Cr Boyle

“That Council:

- 1. Adopt the Crawford Court Precinct Outline Development Plan as modified and attached labelled ‘Appendix A’;***
- 2. Note the Schedule of Submissions as per Appendix B;***
- 3. Forward the Crawford Court Precinct Outline Development Plan to the Western Australian Planning Commission (WAPC) for endorsement; and***

4. ***Prepare a Scheme Amendment for submission to the WAPC in accordance with the approved Crawford Court Precinct Outline Development Plan once endorsement is provided by the WAPC.”***

CARRIED (4-0)

Cr Fisher returned to the meeting after the vote at 3.47pm.

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.3 RESITED HOUSE

FILE NO: Fo 3.60276
COUNCIL DATE: 18 June 2007
REPORT DATE: 11 June 2007
LOCATION/ADDRESS: Lot 31 Forrest Street, York
APPLICANT: Mr and Mrs Savage
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Tyhscha Cochrane, SAO
DISCLOSURE OF INTEREST: No
APPENDICES: Mapping and Details
DOCUMENTS TABLED: Coloured photo of house to be resited

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.

Summary:

The applicant is requesting approval from Council to place a resited dwelling on the property at Lot 31 Forrest Street, York.

Background:

The land is zoned General Agriculture under the Shire of York Town Planning Scheme No. 2 and the total area is approximately 11.88 hectares.

The property is listed on the Council's Municipal Inventory and operates as a Bed and Breakfast facility.

The applicants provided the following correspondence in support of their development proposal:

"We seek permission to relocate a weatherboard home, currently situated in Midland, to our property at Hillside. We operate a bed and breakfast business at Hillside and wish to expand our self-contained option to accommodate families with children and visitors seeking total privacy.

The cottage in question is bordering on "heritage" and would blend in well with the existing buildings on our property. Access to the cottage would be via the existing driveway to the bed and breakfast wing.

Enclosed in our application form and supporting documentation. We hope you will give this application your favourable consideration bearing in mind that a number of accommodation outlets have been recently sold, are now private residences, thereby leaving a void which we would like to take the opportunity to fill."

Consultation:

Adjoining neighbours were notified of the proposal and no submissions were received. A sign was placed on the property and advertising took place.

Statutory Environment:

Shire of York Town Planning Scheme No.2.

Policy Implications:

Resited Houses Policy.

Financial Implications:

Nil to Council.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: No

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Provide further business opportunities in York, which may prove beneficial for its growth.

Environmental Implications:

Stormwater needs to be retained on the property to ensure there are no adverse impacts on the drainage in the area.

Comment:

A bond payment will be required and released when an acceptable standard has been met this will ensure that an acceptable standard will be reached.

OFFICER RECOMMENDATION

Moved Cr Delich seconded Cr Boyle

“That Council advise the applicant:

1. *that the proposed resited dwelling to be located at the property at Lot 31 Forrest Street, York is approved subject to the following:*
 - a. *A building licence and septic system licence being issued prior to relocation;*
 - b. *Payment of a \$5,000.00 bond is required at the time of lodging a building licence, which will be released as the development reaches different stages;*
 - c. *An engineer’s report to certify that the dwelling is suitable for transportation and relocation at the above address;*

- d. *All damaged sections of external cladding to be replaced by new full sheets to match existing;*
 - e. *If more than 10% of roofing sheets, gutters, ridgecaps or flashings are affected by rust then all must be replaced with new roofing materials;*
 - f. *Any damaged or rusted gutters or downpipes are to be replaced with new materials;*
 - g. *All windows and openings are to comply with the Building Code of Australia. All broken glass in the dwelling is to be replaced, all windows and doors to open and close freely, and all locks and catches are to be easily operable;*
 - h. *If asbestos is detected it is a requirement to comply with the Health (Asbestos) Regulations 1992 and Council's Information Note – Removal and Disposal of Asbestos Cement Building Products;*
 - i. *Entering into a contract prepared by Council's Solicitor at the expense of the applicant in accordance with Council' Planning Policy relating to Resited Houses Section 10;*
 - j. *The dwelling is to be completed within a 12 month period;*
 - k. *Compliance with Council's Planning Policy relating to Resited Houses; and*
 - l. *All stormwater is to be retained onsite.*
2. *that the lodging house business is subject to compliance with the Health Act 1911.*

Advice Note:

This approval does not constitute a building approval. A building licence is a separate issue and will be dealt with accordingly.

Due to the number of rooms available the business is classed as a lodging house and will be subject to inspections."

Resolution

040607

MOVED Cr Delich seconded Cr Boyle

Amendment

"That the Officer's Recommendation be adopted, subject to:

Point d – to read:

All damaged sections of external cladding to be replaced by new full sheets to match the finished cladding prior to relocation;

Point h – to read:

All asbestos to be removed prior to relocation as a requirement to comply with the Health (Asbestos) Regulations 1992 and Councils Information Note – Removal and Disposal of Asbestos Cement Building Products;

Advice Note: to read:

This approval does not constitute a building approval. A building licence is a separate issue and will be dealt with accordingly.

Due to the number of rooms available the business is classed as a lodging house and will be subject to inspections and subject to all relevant fees and charges.

This approval for the additional house is not to be construed as a precursor to subdivision.

A memorial to be placed on the title to state that the dwelling is to be used for short term accommodation.”

The amendment was put and
(0)

CARRIED (5-

The amendment became the substantive motion and was put and
(0)

CARRIED (5-

“That Council advise the applicant:

1. that the proposed resided dwelling to be located at the property at Lot 31 Forrest Street, York is approved subject to the following:

- a. A building licence and septic system licence being issued prior to relocation;**
- b. Payment of a \$5,000.00 bond is required at the time of lodging a building licence, which will be released as the development reaches different stages;**
- c. An engineer’s report to certify that the dwelling is suitable for transportation and relocation at the above address;**
- d. All damaged sections of external cladding to be replaced by new full sheets to match the finished cladding prior to relocation;**
- e. If more than 10% of roofing sheets, gutters, ridgecaps or flashings are affected by rust then all must be replaced with new roofing materials;**

- f. Any damaged or rusted gutters or downpipes are to be replaced with new materials;*
 - g. All windows and openings are to comply with the Building Code of Australia. All broken glass in the dwelling is to be replaced, all windows and doors to open and close freely, and all locks and catches are to be easily operable;*
 - h. All asbestos is to be removed prior to relocation as a requirement to comply with the Health (Asbestos) Regulations 1992 and Councils Information Note – Removal and Disposal of Asbestos Cement Building Products;*
 - i. Entering into a contract prepared by Council's Solicitor at the expense of the applicant in accordance with Council' Planning Policy relating to Resited Houses Section 10;*
 - j. The dwelling is to be completed within a 12 month period;*
 - k. Compliance with Council's Planning Policy relating to Resited Houses; and*
 - l. All stormwater is to be retained onsite.*
- 2. that the lodging house business is subject to compliance with the Health Act 1911.**

Advice Note:

This approval does not constitute a building approval. A building licence is a separate issue and will be dealt with accordingly.

Due to the number of rooms available the business is classed as a lodging house and will be subject to inspections and subject to all relevant fees and charges.

This approval for the additional house is not to be construed as a precursor to subdivision.

A memorial to be placed on the title to state that the dwelling is to be used for short term accommodation."

CARRIED (5-0)

9
9.1
9.1.4

**OFFICER'S REPORTS
DEVELOPMENT REPORTS
PLANNING POLICY – RESTRICTION ON
BUILDING MATERIALS**

FILE NO: Fo 2.11750
COUNCIL DATE: 18 June 2007
REPORT DATE: 8 June 2007
LOCATION/ADDRESS: Lot 62 Ford Street, York
APPLICANT Mr R B Carter
SENIOR OFFICER R Hooper - CEO
REPORTING OFFICER T Woolcock - SAO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Building Plans
DOCUMENTS TABLED: Nil

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.

Summary:

The applicants have requested an exemption from the Restriction on Building Materials Policy. They wish to build a small extension onto their existing dwelling, being 3m x 4m at 22 Ford Street, York.

Background:

The existing house is constructed of wood and weatherboard.

The builder on behalf of the owner submitted the following correspondence dated 7 May 2007:

“Following our discussion regarding an extension to the above property. It is our intention to construct the extension in cement sheet in order to comply with “Brick Area” requirements. Therefore could you sign off the planning permission for this construction.

Planning permission is also sought, through the Shire Council to convert the cement sheet to weatherboard at the earliest time possible, in order for the extension to match the original house, which is wood construction with weatherboard (although in a Brick area). All paperwork for this is being submitted at this time.”

Consultation:

Surrounding landowners;
Advert in paper;
Sign on Property.

No submissions were received during the advertising period.

Statutory Environment:

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

Financial Implications:

Nil to Council.

Strategic Implications:

To encourage development which is appropriate to York's history and heritage.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: N/A

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

Nil to Council.

Social Implications:

No submissions were received and therefore it is not considered inappropriate to grant such an exemption.

Environmental Implications:

Nil.

Comment:

The builders intent was to gain approval from Council to commence building in an approved product, which has been done through delegation to the Chief Executive Officer. However as Council approval is required for an exemption of other materials that are not of a rendered look or masonry type the builder wishes to proceed to request Council to consider using the same materials as exists.

To add on an extension of this size in a masonry type building material or even the rendered look finish would result in the building looking like the extension has been tacked on. The extension proposed is to match the existing materials and will not visually detract from the area if kept in the same materials, as what exists currently. The exemption is therefore recommended for approval.

OFFICER RECOMMENDATION

Resolution
050607

MOVED Cr Lawrence seconded Cr Delich

“That Council advise the applicants that the exemption from the Restriction on Building Materials Policy is granted for 22 Ford Street, York subject to the following:

- 1. A building licence being issued;***
- 2. Compliance with the Residential Design Codes and Shire of York Town Planning Scheme No. 2; and***
- 3. The materials and colour scheme are to match the existing dwelling.***

Advice Note:

Should approval be granted the changes need to be reflected on the building licence and will be subject to any relevant fees.

The delegation dated 8 June 2007 is superceded by the above recommendation, the delegation stated as follows:

I am pleased to advise you that approval is granted under delegated authority to build in a non-brick product subject to the following:

- 1. The rendered look is to be finished with a high profile textured coating;***
- 2. A building licence to be obtained prior to work being carried out; and***
- 3. The textured exterior finish is to be completed prior to occupancy.”***

CARRIED (5-0)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.5 VARIATION TO RESIDENTIAL DESIGN CODES

FILE NO: BR4.60229, BR4.60230
COUNCIL DATE: 18 June 2007
REPORT DATE: 8 June 2007
LOCATION/ADDRESS: Lit 20 Brunswick Road, York
APPLICANT C & A Diciano
SENIOR OFFICER Ray Hooper , Chief Executive Officer
REPORTING OFFICER Tyhscha Cochrane – Senior Admin Officer
DISCLOSURE OF INTEREST: No
APPENDICES: Site Plan, Floor Plan and Elevations
DOCUMENTS TABLED: Nil

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.

Summary:

The applicants requested a residential dwelling at their property located at Lot 20 Brunswick Road, York in accordance with the plans attached and labeled "Appendix A" with a reduced rear setback.

Background:

As required by the Residential Design Codes of Western Australia a Codes Approval Application Form was completed by the applicants and comments were requested from neighbours adjoining the property.

One of the neighbours objected to the dwellings and the comments are provided below:

"We have 3 areas of concern: Privacy, Noise and Drainage.

The setbacks for the proposed dwelling are too close to our boundary. Looking at the plans an entertainment area will be very close to the boundary. This is a concern for privacy and noise.

The land itself is not the best for drainage. We have been in our own home going on 19 years and have had to have the drains pumped out. That's with only 2 people living in the house. Our next-door neighbours drains at times smell. Where will the run off water be directed to? Down pipe water?"

The other adjoining neighbours consented to the proposed dwellings.

Consultation:

Adjoining neighbours.

Statutory Environment:

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

Residential Design Codes of Western Australia.

Financial Implications:

No financial implications to the Council.

Strategic Implications:

Nil strategic implications result from this report.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: No

Triple bottom Line Assessment:

Economic Implications:

Additional costs associated with screening and subsoil drainage will be incurred by the applicants.

Social Implications:

It is the aim of the officer to ensure that adverse impacts on neighbouring residents are minimised and therefore conditions which are deemed appropriate have been included as part of the recommendation for approval.

Environmental Implications:

All stormwater runoff needs to be contained onsite.

Comment:

In the opinion of the officer with the appropriate conditions it would not have a detrimental affect on surrounding properties, it is therefore recommended for approval with conditions.

OFFICER RECOMMENDATION

Moved Cr Delich seconded Cr Boyle

“That Council advise the applicant that it approves the Variation to the Residential Design Codes of Western Australia for a reduced setback to the rear boundary (2.246m) in accordance with the attached plans to be located at Lot 20 Brunswick Road, York subject to:

- 1. a building licence being issued;*
- 2. all stormwater being contained onsite and subsoil drainage to be incorporated to ensure no runoff onto neighbouring properties; and*
- 3. screening to be provided to the satisfaction of the Chief Executive Officer.*

Advice Note:

The neighbouring properties to be provided with a copy of Council’s resolution.”

Resolution

060607

MOVED Cr Delich seconded Cr Boyle

Amendment

“That the Officer’s Recommendation be adopted, subject to:

Point 2 to read:

All storm water to be contained onsite to ensure no runoff onto neighbouring properties; and

Point 3 to read:

screening to be provided to the satisfaction of the Chief Executive Officer and the total cost to be met by the applicant and completed with 12 months.

Advice note to read:

The neighbouring properties to be provided with a copy of Council’s resolution.

Geotechnical Report of the site may be required prior to approval.

The property is low lying and an ATU may also be required.

The amendment was put and **CARRIED (5-0)**

The amendment became the substantive motion and was put and **CARRIED (5-0)**

“That Council advise the applicant that it approves the Variation to the Residential Design Codes of Western Australia for a reduced setback to the rear boundary (2.246m) in accordance with the attached plans to be located at Lot 20 Brunswick Road, York subject to:

- 1. a building licence being issued;***
- 2. all stormwater being contained onsite and subsoil drainage to be incorporated to ensure no runoff onto neighbouring properties; and***
- 3. screening to be provided to the satisfaction of the Chief Executive Officer and the total cost to be met by the applicant and completed with 12 months.***

Advice Note:

The neighbouring properties to be provided with a copy of Council’s resolution.

Geotechnical Report of the site may be required prior to approval.

The property is low lying and an ATU may also be required.”

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.6 FINAL OUTLINE DEVELOPMENT PLAN
EQUINE PRECINCT

FILE NO: PS.PPD.3
COUNCIL DATE: 18 June 2007
REPORT DATE: 12 June 2007
LOCATION/ADDRESS: Whole of Equine Precinct
APPLICANT Shire of York
SENIOR OFFICER Ray Hooper, Chief Executive Officer
REPORTING OFFICER David Lawn – Planning Consultant
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Equine Precinct ODP
Appendix B – Guidelines for Keeping Horses
Appendix C – Schedule of Submissions
DOCUMENTS TABLED: Nil

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.

Summary:

The final Equine Precinct Outline Development Plan has been prepared after the processes of public consultation and appropriate modifications have been made. Council needs to adopt the Outline Development Plan and request the Western Australian Planning Commission to approve and endorse the Plan prior to a Scheme Amendment.

Background:

The Local Planning Strategy (LPS) for York recommended the northern portion of the town be designated for an equine precinct to achieve:

- a) a centre for all equine activities based in and around the current racecourse, and
- b) to encourage the location of horse keeping in one area but considering the potential for subdivision and development in association with the environmental concerns and the general rural living amenity of the area.

The Precinct Boundaries were modified to include small areas omitted from the LPS, which logically should be included to ensure all factors affecting the precinct are included.

The Outline Development Plan in draft form has been presented to Council and made available for preliminary public comment.

Council at its Ordinary Council meeting held on the 19th March 2007 resolved as follows:

“That Council:

1. *Formally advertise the Draft Outline Development Plan (as amended);*
2. *Initiate a Scheme Amendment for land not appropriately zoned once the Outline Development Plan is finalised, subject to the following information being provided:*
 - a. *Land Capability Assessment;*
 - b. *Flora and Fauna Study;*
 - c. *Fire Management Plan;*
 - d. *Building Envelopes of not less than 2,000m² for each lot to be created;*
 - e. *Remnant Vegetation Protection and Enhancement;*
 - f. *Reticulation Water Scheme availability;*
 - g. *Soil Capability Assessment for effluent disposal management and conditions;*
 - h. *Surface water management including streamline protection; and*
 - i. *Payment of all fees as determined by the Council.*

Advice Note:

Performance criteria will be established for fencing, crossovers, firebreaks etc through the preparation of a scheme amendment.

Relevant submissions have been acknowledged in the amended document.”

At the Ordinary Council meeting held on the 21st May 2007 part of the motion was rescinded and the resolution is as follows:

“That Council:

1. *Rescind the part of the resolution of the 19th March 2007 being parts 2b. and 2g. as follows;*
 - b. *Flora and Fauna Study;*
 - g. *Soil Capability Assessment for effluent disposal management and conditions.*
2. *Acknowledges the following recommendation, which now is applicable:*

That Council:

1. *Initiate a Scheme Amendment for land not appropriately zoned once the Outline Development Plan is finalised, subject to the following information being provided:*
 - a. *Land Capability Assessment;*
 - b. *Fire Management Plan;*
 - c. *Building Envelopes of not less than 2,000m² for each lot to be created;*
 - d. *Remnant Vegetation Protection and Enhancement;*
 - e. *Reticulation Water Scheme availability;*
 - f. *Surface water management including streamline protection; and*
 - g. *Payment of all fees as determined by the Council.*

Advice Note:

Performance criteria will be established for fencing, crossovers, firebreaks etc through the preparation of a scheme amendment.”

Summary of the written submissions is attached.

Consultation:

Public comment has been sought in accordance with the provisions of the Town Planning Scheme and principles of good governance.

Statutory Environment:

The ODP is part of the planning process as enabled under the provisions of the Town Planning Scheme No 2.

The Town Planning Scheme will then be required to be amended in accordance with the Planning and Development Act 2005.

Financial Implications:

Council has incurred costs for advertising of the ODP and will incur further costs once preparation of a Scheme Amendment is required.

Acquisition of land for open space/drainage will be necessary where watercourses need to be protected and enhanced. This may be funded by a per lot contribution or another funding mechanism.

Voting Requirements:

Absolute Majority Required: No

Site Inspection Undertaken: Yes

Several site inspections have been carried out during the course of the preparation of the ODP.

Triple Bottom Line Assessment:

Economic Implications:

Once the ODP and the Scheme Amendment have been finalised it is expected that there will be significant benefits for the landowners by providing subdivision and development opportunities to meet land demand and for population growth.

The establishment of the Equine Centre will require significant investment to bring the current facilities at the racecourse site to meet proper standards of a regionally important facility.

Social Implications:

The concentration of the equine activities in one centre will encourage interaction between the different forms of horse associated recreation.

The use of private land around the racecourse for horse agistment and stabling with specific development conditions should create a healthy living environment.

Additional road access will provide for improved traffic circulation and efficient access for local landowners.

Environmental Implications:

The principal natural environmental concerns are;

- a) Management of stormwater runoff and nutrient export;
- b) Definition of watercourses and their protection and enhancement;
- c) Protection and enhancement of the natural environment by protection of remnant vegetation and replanting programs.

Comment:

The establishment of a central and multi-purpose equine centre will have a strong impact on the overall living environment both for local activities and regional equine events.

The changes in land uses and development are likely to be slow and incremental rather than a massive change.

Special conditions of development and development guidelines will create a high standard of physical development and land management.

The additional submissions made to the documents, which influence the overall layout are incorporated into the main document. This document is a living document and can be revisited in the future.

OFFICER RECOMMENDATIONResolution

070607

MOVED Cr Lawrance seconded Cr Fisher

“That Council:

- 1. Adopt the Equine Precinct Outline Development Plan as modified and attached labelled ‘Appendix A’;***

- 2. Note the Schedule of Submissions as per Appendix B;**
- 3. Forward the Equine Precinct Outline Development Plan to the Western Australian Planning Commission (WAPC) for endorsement; and**
- 4. Prepare a Scheme Amendment for submission to the WAPC in accordance with the approved Equine Precinct Outline Development Plan once endorsement is provided by the WAPC.”**

CARRIED (5-0)

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.7 OUTLINE DEVELOPMENT PLAN – AVON RIVER PRECINCT

FILE NO: PS.PPD.4.6
COUNCIL DATE: 18 JUNE 2007
REPORT DATE: 12 JUNE 2007
LOCATION/ADDRESS: AVON RIVER PRECINCT
APPLICANT: SHIRE OF YORK
SENIOR OFFICER: RAY HOOPER, CHIEF EXECUTIVE OFFICER
REPORTING OFFICER: DAVID LAWN – PLANNING CONSULTANT
DISCLOSURE OF INTEREST: NIL
APPENDICES: APPENDIX A – ODP
DOCUMENTS TABLED: NIL

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.

Summary:

The Avon River ODP covers the narrow band of development on both sides of the river from Pool Street to Ninth Road and between Newcastle Street on the eastern side and the railway to the west.

The majority of the land has little potential for further development due to the flood plain, leaving only a narrow band between the railway line reserve and Avon Terrace.

A Scheme Amendment is required only for the modification of the residential densities of some of this land – from R5 to R30 (until such stage as Amendment 17 goes through, which will result in a R40 density).

At the northern end of the precinct the ODP also recommends the increase in development from R2.5 to R5 in the Lee Crescent - Ninth Road quarter.

Background:

This narrow precinct was required to come under an ODP by direction from the Western Australian Planning Commission.

There is reference to this area in the Local Planning Strategy, which had certain recommendations such as the increase in development and the construction of a 'hard edge' along the river in the form of a pathway or road. This would be impractical given the requirements for land resumptions and construction costs.

The WAPC also requested an ODP to allow it to pursue the proposed re-coding of the lots on Avon Terrace (Lots 299 –301) and subsequent subdivision and residential development.

The main constraints to further development are the lack of deep sewerage as a major service requirement, and the limitations by the projected 100 Year Flood Risk.

Consultation:

The ODP requires advertising and assessment of submissions before proceeding to the Western Australian Planning Commission for final endorsement.

The servicing authorities should be thoroughly consulted, particularly the Department for Water and the Water Authority.

Financial Implications:

Costs of advertising and administration time.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple Bottom Line Assessment:

Economic Implications:

The increase in land values for those areas subject to R Coding increases.

Social Implications:

More development of a higher standard on currently underutilised serviced land should improve the presentation along the main street.

Environmental Implications:

Protection of the river foreshore with improved land drainage control may improve effluent disposal and should lead to cleaner stormwater runoff and seepage into river.

Comment:

This ODP limits the extended development potential. Those areas with additional development potential will see an improved use of and presentation of the main street into the town centre.

OFFICER RECOMMENDATION:

Resolution

080607

MOVED Cr Boyle seconded Cr Fisher

“That Council:

Adopt the Outline Development Plan for the Avon Precinct and advertise it as part of the community consultation process.”

CARRIED (5-0)

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 SOUTH EAST AVON VOLUNTARY REGIONAL ORGANISATION OF COUNCILS (SEAVROC)

FILE NO: OR.RDT.4
COUNCIL DATE: 18 June 2006
REPORT DATE: 29 May 2006
LOCATION/ADDRESS: South East Avon
APPLICANT: N/A
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Natasha Brennan, Executive Assistant
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix "A" - Draft Local Recovery Arrangements
Appendix "B" - Partnering Agreement for the Provision of Mutual Aid for Recovery During Emergencies
DOCUMENTS TABLED: Nil

Summary:

The aim of SEAVROC with this project was to provide each Council with five (5) coordinated Local Emergency Management Plans, which are easily understood and fully workable by each Local Authority for the benefit of, and to the satisfaction of, Local Communities and Hazard Management Agencies.

The plans differ only in specific local information and contain operating procedures that are common to all Shires.

The end result is that there will be (1) consolidated plan incorporating the five (5) coordinated plans in the name of SEAVROC.

Background:

In October 2006 SEAVROC was successful in applying for a grant application to review, update and consolidate the Local Emergency Management Plans for the South East Avon Voluntary Regional Organisation of Councils and to incorporate requirements of the Emergency Management Act 2005 into these plans.

The funding allocated was in the form of a grant for \$90,000 (Federal Government), and BHW Consulting were awarded the contract to prepare the Emergency Management Plans.

Consultation:

- Shires of Beverley, Brookton, Cunderdin and Quairading
- Consultants – BHW Consulting
- Department of Local Government and Regional Development
- Local LEMAC Committee

Statutory Environment:

Emergency Management Act 2005.

Policy Implications:

Not Applicable.

Financial Implications:

There are no specific financial implications arising from the Emergency Management Plans at this stage.

Strategic Implications:

KRA 7 – Community Services – Objectives 1, 2 and 3 stated:

- (1) *To meet community needs in terms of physical infrastructure and overall community services.*
- (2) *To provide and maintain high quality services and infrastructure in an efficient and cost effective way.*

To ensure a safe community environment.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Funding opportunities are increased if applied for on a regional basis. The objective of SEAVROC is to reduce costs and to improve services to the communities.

Social Implications:

The Emergency Management Plans are for the benefit of the region as a whole, local authorities, the local community and also hazard management agencies.

There is already interaction between the Shires in the other areas such as recreation, education, health, law and order and these plans add to what is already a pro-active regional association.

Environmental Implications:

Not applicable.

Comment:

SEAVROC has been recognized as a pro-active regional grouping at the state and federal levels and this is reflected in the level of grant funding received to date.

OFFICER RECOMMENDATION

Resolution
090607

MOVED Cr Boyle seconded Cr Lawrance

“That Council:

- (a) Adopt the Local Recovery Arrangements for the Shire of York; and***
- (b) Authorise the signing of the Partnering Agreement for the provision of mutual aid for recovery during emergencies.”***

CARRIED (5-0)

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 AVON TERRACE, YORK (SOUTH STREET TO
MACARTNEY STREET) –
CHANGES TO PARKING LOCAL LAW

FILE NO: LE.LLW.8
COUNCIL DATE: 18 June 2006
REPORT DATE: 31 May 2006
LOCATION/ADDRESS: Avon Terrace, York (South Street to
Macartney Street)
APPLICANT: N/A
SENIOR OFFICER: N/A
REPORTING OFFICER: Ray Hooper, Chief Executive Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Map
DOCUMENTS TABLED: Parking Local Law

Summary:

The length of time that individual vehicles are parked in the main business area has been of concern for a considerable period with the current three (3) hour limit being ignored.

A reduced time limit to allow people time to conduct business and then to move will benefit Avon Terrace businesses.

Background:

The Parking Local Law was adopted on the 15th November 1999, however the laws have not been adequately enforced since that time.

Consultation:

York Chamber of Commerce
Business Operators

Statutory Environment:

The Shire of York Parking & Parking Facilities Local Law.
Sections 2.8, 2.9, 3.1, 3.2, 3.3, 3.4, 3.17 and 4.3

Part 2 - Parking Stalls and Parking Stations

2.8 Vehicles to be within parking stall in parking station

Unless otherwise directed by an Authorized Person, a person shall not park a vehicle in a parking station otherwise than wholly within a parking stall.

2.9 Parking prohibitions and restrictions

- (1) A person shall not -
- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
 - (b) except with the permission of the local government or an Authorized Person park a vehicle on any part of a parking station contrary to a sign referable to that part;

- (c) permit a vehicle to park on any part of a parking station, if an Authorized Person directs the driver of such vehicle to move the vehicle; or
 - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked "M/C", if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle –
- (a) in a parking stall other than in a stall marked "M/C"; and
 - (b) in such stall other than against the kerb.

Part 3 - Parking Generally

3.1 Prohibition and regulation of parking by signs

The local government may by resolution prohibit or regulate by signs or otherwise the parking of any vehicle or class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.

3.2 Restrictions on parking in particular areas

- (1) *A person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station -*
 - (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) A person shall not park a vehicle -
 - (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law;
 - (c) in a stall marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (3) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked "M/C".
- (4) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating "Authorized Vehicles Only".
- (5) In a Loading Zone, a person shall not -
 - (a) park a vehicle other than a commercial vehicle which is being loaded or unloaded with goods; or
 - (b) park a commercial vehicle which is being loaded or unloaded with goods for more than 30 minutes.
- (6) In paragraph (b) of subclause (5) "goods" means an article or collection of articles weighing at least 13.6kg and of which the cubic measurement is not less than 0.17m³.

3.3 Parking vehicle on a carriageway

A person parking a vehicle on a carriageway shall park it -

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or between the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that it is not less than 1.2 metres from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this Local Law;
- (e) so that it does not obstruct any vehicle on the carriageway; and
- (f) so that it is entirely within the confines of any parking stall marked on the carriageway.

3.4 Vehicle to be wholly within parking area

A person shall not park a vehicle partly within and partly outside a parking area.

3.17 Suspension of parking limitations for urgent, essential or official duties

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an Authorized Person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) *Where permission is granted under subclause (1), the local government, the CEO or an Authorized Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.*

4.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this Local Law.

Policy Implications:

Not Applicable.

Financial Implications:

Changes to signage will incur costs of \$400.00.

Policing of the Local Law will be met from the re-allocation of Ranger duties and no additional costs will be involved.

Income may be derived from infringements if the new parking time limits are ignored. The modified penalty is \$45.00.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

A structured and enforced time limit on town centre parking will benefit local businesses.

Social Implications:

Managed parking is a fact of life for shopping and other matters and while there may be some community disharmony initially, people will accept the benefits.

Environmental Implications:

Not applicable.

Comment:

The Parking Local Law has been in place for 6½ years without proper enforcement or compliance by some members of the community.

Many vehicles are parked in this section of Avon Terrace for extended periods to the detriment of some businesses and inconvenience to residents and visitors who cannot get main street parking.

OFFICER RECOMMENDATION

Resolution

100607

MOVED Cr Delich seconded Cr Lawrance

“That Council:

In accordance with the provisions of clause 3.1 of the Shire of York Parking and Parking Facilities Local Laws amend the parking time limits for the section of Avon Terrace between Macartney Street and South Street on both sides of the Street from 3 hours to 1 hour effective from the 1st July 2007 for parking between the hours of 8.00am to 5.00pm Monday to Friday and 8.00am to noon on Saturday.

- (a) New Time Limit Signs to be in place;***
- (b) Cautions being issued for the first month whilst the new time limits are in place”***

CARRIED (4-1)

Those Voting for the Motion

Cr Hooper

Cr Lawrance
Dr Delich
Cr Fisher

Those Voting Against the Motion

Cr Boyle

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 DELEGATIONS

FILE NO: OR.CMA.1
COUNCIL DATE: 18 June 2007
REPORT DATE: 5 June 2007
LOCATION/ADDRESS: Not applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Peter Stevens, EHO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Yes – Proposed Delegation Manual
DOCUMENTS TABLED: Current Delegation Manual

Summary:

Following a review of Council's existing Delegation Manual (**Tabled**) it is proposed that the current Manual be updated and replaced by the Manual as it appears in **Appendix A**.

Background:

The existing delegation manual was reviewed in accordance with the Local Government Act and some minor alterations were undertaken.

Consultation:

Staff.

Statutory Environment:

Clause 5.42 & 5.43 of the Local Government Act 1995:

“5.42. Delegation of Some Powers and Duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.”*

5.43. Limits on Delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
(b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
(c) *appointing an auditor;*

- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.99 or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (h) *any power or duty that requires the approval of the Minister or the Governor; or*
- (i) *such other powers or duties as may be prescribed.*

The Delegation Manual also refers to the following clauses:

5.41. Functions of CEO

The CEO's functions are to —

- (a) *advise the Council in relation to the functions of a local government under this Act and other written laws;*
- (b) *ensure that advice and information is available to the Council so that informed decisions can be made;*
- (c) *cause Council decisions to be implemented;*
- (d) *manage the day to day operations of the local government;*
- (e) *liaise with the Mayor or President on the local government's affairs and the performance of the local government's functions;*
- (f) *speak on behalf of the local government if the Mayor or President agrees;*
- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

5.46. Register of, and records relevant to, delegations to CEO's and employees

(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

9.5. Objection may be lodged

- (1) *An affected person may object to a decision if the person has not lodged an appeal against the decision.*
- (2) *The objection is made by preparing it in the prescribed form and lodging it with the local government in the prescribed manner within 28 days after the right of objection arose [i.e. within 28 days after the decision], or within such further time as the local government may allow.*

The Shire of York Town Planning Scheme Clause 8.2 states as follows:

“8.2 Delegation of Functions

- 8.2.1 *The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the Local Government Act 1995, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.*
- 8.2.2 *The CEO may delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s duties under clause 8.2.1.*
- 8.2.3 *The exercise of the power of delegation under clause 8.2.1 requires a decision of an absolute majority as if the power had been exercised under the Local Government Act 1995.*
- 8.2.4. *Sections 5.45 and 5.46 of the Local Government Act 1995 and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.”*

Policy Implications:

No policy implications arise from this report.

Financial Implications:

No financial implications arise from this report.

Strategic Implications:

No strategic implications arise from this report.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Delegation of components of planning process to the Chief Executive Officer can assist in streamlining the processing of development applications assisting in a speedier approvals process.

Social Implications:

These types of delegations will expedite the planning and other administrative processes, as there will be no need to refer operational decisions to Council. Delegations provide a higher level of customer service.

Environmental Implications:

Nil.

Comment:

The annual review of delegations is a requirement under Part 5 Division 4 of the Local Government Act. After consultation with staff some minor alterations were made to the Delegations Manual.

OFFICER RECOMMENDATION

Resolution
110607

MOVED Cr Boyle seconded Cr Delich

“That Council pursuant to Section 5.4 of the Local Government Act 1995 update the current Delegation Manual (Tabled) to the Delegation Manual labelled Appendix A.

Advice Note:

It is the intention to replace the current Manual with Appendix “A”. Absolute Majority required.”

CARRIED (5-0)

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.4 DRAFT DISABILITY ACCESS AND INCLUSION PLAN

FILE NO: CS.SSP.1
COUNCIL DATE: 18 June 2007
REPORT DATE: 8 June 2007
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Peter Stevens, EHO / Building Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Draft Disability Access and Inclusion Plan
DOCUMENTS TABLED: Nil

Summary:

The Disability Services Act 1993 required Council to develop a Disability Services Plan (DSP), which was prepared and endorsed by Council in 1996. The Disability Services Amendment Act 2004 required Council (and all other public authorities) to develop a Disability Access and Inclusion Plan (DAIP), which is required to be completed and lodged with the Disability Services Commission by 31 July 2007.

Background:

The purpose of a DAIP is to ensure that people with disabilities can access services provided by public authorities in Western Australia, and to participate and be included in their community. The goal is to provide, as much as is reasonable, the same level of access as people without a disability enjoy, and to ensure that people are not discriminated against on the basis of their disability.

When developing a DAIP, a local government must aim to achieve six desired outcomes. These provide a framework for translating the principles and objectives of the Act into tangible and achievable results.

The six desired outcomes are:

1. People with disabilities have the same opportunities as other people to access the services of, and any events organised by, a public authority.
2. People with disabilities have the same opportunities as other people to access the building and other facilities of a public authority.
3. People with disabilities receive information from a public authority in a format that will enable them to access the information, as readily as other people are able to access it.
4. People with disabilities receive the same level and quality of service from staff of a public authority as other people receive from staff of that public authority.
5. People with disabilities have the same opportunities as other people to make complaints to a public authority.

6. People with disabilities have the same opportunities as other people to participate in any public consultation by a public authority.

The Disability Services Act stipulates that each local government is required to:

- Develop and implement a DAIP;
- Ensure staff, officers, agents and contractors implement the plan;
- Consult and promote the plan;
- Review and lodge the plan at least every five years;
- Report to the Commission every time the DAIP is reviewed or amended;
- Report to the Commission progress in implementing the DAIP each year; and
- Describe the DAIP activities in the Shire's Annual Report.

Consultation:

Staff.

Statutory Environment:

Disability Services Amendment Act 2004.

The Disability Services Regulation 2004, Part 10 - Procedure for Public Consultation by Authorities, states:

- “(1) For the purposes of the Act, a public authority is to undertake consultation in relation to its disability access and inclusion plan by calling for submissions either generally or specifically -
 - (a) by notice in a newspaper circulating throughout the State, or in the case of a local government, the district of that local government under the Local government Act 1995; or
 - (b) on any website maintained by or on behalf of the public authority.
- (2) Nothing in sub regulation (1) prevents a public authority from also undertaking any other consultation.”

Policy Implications:

Nil.

Financial Implications:

Advertising Costs associated with consultation period.

Strategic Implications:

Key Result Area 3, Community Development - To foster community leadership and a mutually supportive and inclusive community.

Voting Requirements:

Absolute Majority Required: No

Site Inspection Undertaken: Not Applicable.

Triple bottom Line Assessment:

Economic Implications:

Advertising costs will be incurred as part of the consultation process.

Social Implications:

The plan is designed to help create a culture of inclusion and universal access for people of all abilities.

Environmental Implications:

Nil.

Comment:

This report introduces the draft DAIP to Council and requires Council approval to commence the consultation period required under the Disability Services Regulation 2004.

OFFICER RECOMMENDATION

MOVED Cr Fisher seconded Cr Lawrance

“That Council:

That Council commence public consultation as required by the Disability Services Regulation 2004 inviting public submissions and comment on the draft Shire of York Disability Access and Inclusion Plan 2007 – 2012.

Advice Note

- * *A copy to be forwarded to the York Access Group*
- * *Advertising period to be 21 days”*

Resolution

120607

MOVED Cr Fisher seconded Cr Lawrance

Amendment

“That the Officer’s Recommendation be adopted subject to adding – and other interested groups after the first dot point.

The amendment was put and **CARRIED (5-0)**

The amendment became the substantive motion and was put and **CARRIED (5-0)**

“That Council:

That Council commence public consultation as required by the Disability Services Regulation 2004 inviting public submissions and comment on the draft Shire of York Disability Access and Inclusion Plan 2007 – 2012.

Advice Note

- * ***A copy to be forwarded to the York Access Group and other interested groups***
- * ***Advertising period to be 21 days”***

CARRIED (5-0)

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.5 WILBERFORCE ROAD – DEDICATION AND ROAD CLOSURE

FILE: Wi 1
COUNCIL DATE: 18 June 2007
REPORT DATE: 11 June 2007
LOCATION/ADDRESS: Wilberforce Road, York
APPLICANT: Wilberforce Pastoral Co Pty Ltd, Westpac Banking Corporation and Shire of York
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Tyhscha Cochrane – SAO
DISCLOSURE OF INTEREST: No
APPENDICES: Mapping
DOCUMENTS TABLED: Nil

Summary:

To complete the process of the road closure and dedicate the realignment of Wilberforce Road shown on the attached map in accordance with Section 56 and Section 58 of the Land Administration Act.

Background:

Council at its Ordinary Council meeting held on 19 February 1990 resolved as follows:

“That Wilberforce Pastoral Company be advised that:

- 1. The Council does not believe that the installation of cattle grids in Wilberforce Road is necessary;*
- 2. The complete closure of Wilberforce Road “when the school bus ceases to or no longer requires to use the road” would need to be considered as part of a statutory advertising process at that future time and accordingly closure authority in advance of that time cannot be considered;*
- 3. Guarantees relating to the rateable value of land affected by the realignment cannot be given as the determination of rateable values is a function of the Valuer General’s Department;*
- 4. The Council will meet the costs of land title adjustments involved with the realignment;*
- 5. The Council agree to take all reasonable precautions to notify motorists of the closure of Wilberforce Road when the road is impassable at the Avon River crossing.”*

Negotiations with the affected owner broke down to the extent that agreement could not be reached between the Council and the owner. The issue was then raised again as the owner was concerned regarding the fact that he may be liable for compensation in the event of an accident occurring on the road and that as the Council has continued to maintain and improve the road, there is some responsibility for resolving the situation. At the Ordinary Council meeting held on 20 March 1995 it was resolved as follows:

"That the Shire Clerk prepare a detailed report on the options available to the Council in regard to the Wilberforce Road deviation."

Council at its Ordinary Council meeting held on 15 May 1995 resolved as follows:

"That:

- 1. The Wilberforce Pastoral Company be advised that the Council declines to agree to fencing the sections of road nominated in the application.*
- 2. The applicant be advised in the terms of the Council's Legal advice."*

The Department of Land Administration on 29 April 2003 provided the following information:

"I refer to your letter dated 6 January 2003 and apologise for the delay for a reply.

In March 1990 Council advise Department of Land Administration (DOLA) that due to the conditions imposed by Wilberforce Pastoral Company negotiations had reached an impasse.

DOLA then advised Council in August 1990 of two possible options,

- 1) Compulsory land resumption via Section 17 of the Public Works Act.*
- 2) Complete closure of Wilberforce Road at a future date.*

DOLA did not receive advice as to Council's preferred option and therefore no further action was taken, I have enclosed copies of the correspondence for your reference.

Should Council wish to proceed, action would need to start from the beginning with the preparation of a new Deposited Plan to replace the old Crown Plan 17416 which no longer complies with current registration requirements, please advise accordingly."

The Department for Planning and Infrastructure advised on 16 June 2005:

"... The issue of native Title for Lot 302 is being addressed by using section 24KA of the Native Title Act. What this means is that the dedication of Lot 302, over portion of the Avon River, can proceed without extinguishing any Native Title rights and interests. Native Title for the land to be Taken from Lot 3 and part lot 4 is not an issue.

On receiving the information received from the Shire of York (the Shire), I note that specific statutory requirements have not been finalised. In this regard, would you please provide:-

- (i) a copy of the Shire's compliance with section 58 of the Land Administration Act 1997 (LAA) to close the redundant section of Wilberforce Road;*
- (ii) a copy of the Shire's compliance with section 56 of the LAA to formally dedicate the realignment of Wilberforce Road;*
- (iii) the Shire's indemnification of the Minister for Planning and Infrastructure for the Taking of the freehold land, to facilitate Taking under section 177(3) of the LAA.*

With regard to the last point, would you please provide a copy of the written agreement to the Taking and acknowledgement of the receipt of the enclosed Statement of Procedures for Acquiring Land for a Public Work, from Wilberforce Pastoral Co Pty Ltd

and Westpac Banking Corporation. Each of the parties will need to initial and return a copy of the Deposited Plan 217416.

Finally would you please advise whether Wilberforce Pastoral Co Pty Ltd intends acquiring the redundant portion of Wilberforce Road. If not, the subject land will need to be fenced out of their property.”

Council’s records show that work was completed on the bridge in the 2002/03 financial year but the gravel sheeting was still outstanding and that it was to be carried forward to the next financial year, being 2003/04.

The Council resolved on the 19th September 2005 the following:

“That Council advise the Department for Planning and Infrastructure:

- 1. to proceed with the dedication of the section of road that has been realigned as shown on the attached map, labelled “Appendix A”, in accordance with Section 56 of the Land Administration Act;*
- 2. to proceed with the road closure of the redundant section of Wilberforce Road as per the attached map, labelled “Appendix A”, in accordance with Section 58 of the Land Administration Act (as amended);*
- 3. that it indemnifies the Department for Planning and Infrastructure against all costs.”*

Correspondence to Mr Johnson on the 19th September 2005 stated as follows:

“Please be advised that Council received correspondence from the Department for Planning and Infrastructure regarding the above matter.

To finalise the processes that have been ongoing for some time please initial and return a copy of the Deposited Plan 217416. I have enclosed two (2) copies one for you to retain for your records.

The Department for Planning and Infrastructure have also enquired whether you intend on acquiring the redundant portion of Wilberforce Road. Please note that if you do not wish to purchase this portion then it is required to be fenced out of the property.

I have enclosed the ‘Statement of Procedures for Acquiring Land for a Public Work’ for your information, which you are required to provide a copy of the written agreement to the Taking and acknowledgement of the receipt of the attached Statement.”

Correspondence to Mr K Buchan - Land Asset - Mid West - Department for Planning and Infrastructure on the 20th September 2005 stated as follows:

“Further to Council’s correspondence dated 16 August 2005 regarding the above matter please be advised of the following.

Council considered the Wilberforce Road Taking and Dedication at its Ordinary Council meeting held on 19 September 2005 and resolved as follows:

“That Council advise the Department for Planning and Infrastructure:

1. *to proceed with the dedication of the section of road that has been realigned as shown on the attached map, labelled "Appendix A", in accordance with Section 56 of the Land Administration Act;*
2. *to proceed with the road closure of the redundant section of Wilberforce Road as per the attached map, labelled "Appendix A", in accordance with Section 58 of the Land Administration Act (as amended);*
3. *that it indemnifies the Department for Planning and Infrastructure against all costs."*

Please be advised that Council has forwarded information to both parties, as stated in your correspondence, and will forward a copy to you once these have been acted upon..."

Correspondence provided from the then known Department of Land Administration dated 28 August 1990, which was provided with the correspondence to Mr W Johnson on the 22nd September 2005 stated as follows:

"I refer to your letter of March 13, 1990.

While the Department would prefer to see an amicable agreement reached between Council and the landowner, the following information may be of assistance:

- 1) *Compulsory land resumption can be effected under Section 17 of the Public Works Act, copy enclosed. The sections of Wilberforce Road closed by the resumption and dedication action (my letter of August 28, 1989 refers) would be included into the landowners property exchange. I note Council's agreement to meet all cost related to land title amendments.*
- 2) *Complete closure of Wilberforce Road, as a future date, would need to be considered by council at that time and in accordance with normal procedures. Bearing in mind that the existing landowner had already been compensated, by exchange for the land resumption (1 above), disposal of the land contained within the proposed closure would be on a market value purchase basis."*

Correspondence to Mr W Johnson - Wilberforce Pastoral Company Pty Ltd of the 22nd September 2005 stated as follows:

"Further to your discussions with Tyhscha Woolcock of this office and the Department of Planning and Infrastructure's correspondence, which was forwarded to you today please note that further correspondence has been located in regard to the above matter.

The correspondence is from the Department of Land Administration, now known as Department of Land Information, and is attached for your information. Please note that Section 2 of the letter states that you have already been compensated. Any enquiries that you may have please refer to the relevant Department, as this matter is out of Council's control.

Please be advised that the Work Supervisor and myself undertook an inspection of Wilberforce Road today and your concern will be acted upon immediately."

Correspondence from the Department for Planning and Infrastructure – Mid West Region – Land Asset Management Services dated 17th February 2006 stated as follows:

“I refer to your correspondence dated 20th September 2005 (copy enclosed).

Could you please advise this office if you have received a response from Wilberforce Pastoral Pty Ltd and Westpac Banking Corporation in regards to written agreement to take land for road dedication. Also advise if you have obtained service clearances and advertised in regard to road closure under Section 58 of the LAA.”

Correspondence to the Manager – Mid West Region - Land Asset Management Services - Department for Planning and Infrastructure 22nd February 2006 stated as follows:

“Thank you for your correspondence dated 17 February 2006 regarding the above matter.

Please be advised that Council has forwarded information to both parties, as stated in your correspondence, and whilst Council have not had a written response verbal discussions have been held. The owner of the land is not satisfied with the arrangement and he has advised that he is investigating the matter further. Mr Johnson has advised that he believes he should be compensated.

I have yet to commence any other statutory proceedings as I wish to wait until Mr Johnson contacts Council.”

Correspondence from the Department for Planning and Infrastructure – State Land Services Mid West dated the 18th December 2006 stated as follows:

“I refer to your letter dated 22 February 2006 wherein you advised that Council had not been able to secure a written agreement from the above company in respect to the taking of portion of their land for a road deviation.

It is noted that similar attempts in the early 1990’s were also unsuccessful and, as a consequence the road closure and dedication associated with the deviation did not eventuate. In the circumstances it may be necessary to commence Compulsory Taking procedures to secure the land required for the road dedication. This would require the Shire indemnifying the State against claims for compensation. In the event of a compensation claim it may be possible to offer the closed road as full compensation payment.”

Council forwarded the following correspondence to the Department for Planning and Infrastructure on the 3rd January 2007:

“Thank you for your correspondence dated 18 December 2006 regarding the above.

Please be advised that Council has sent correspondence to Mr W Johnson of Wilberforce Pastoral Co Pty Ltd on 3 January 2007 and advised that it may be necessary to commence Compulsory Taking procedures to obtain his view on the matter.

It would be appreciated if this matter can be put on hold until a response has been received.”

Council forwarded the following correspondence to Mr W Johnson on the 3rd January 2007:

“Please be advised that correspondence has been received from the Department for Planning and Infrastructure regarding the above issue.

As you are aware Council has been unsuccessful in securing a written agreement from you in respect to the taking of a portion of your land for a road deviation.

Council is keen to finalise the matter, which has been ongoing for a number of years. Please provide advice as to what your intentions are and whether an agreeable arrangement can be met.

The Department for Planning and Infrastructure have advised that it may be necessary to commence Compulsory Taking procedures to secure the land. Council would be happy to look at options eg. offering the closed road as full compensation to finalise the issue at hand.”

Correspondence received from Mr W Johnson on the 17th January 2007 states as follows:

“...As the Shire has broken almost all of any agreements we have ever had in regard to the above road would you please advise what does the Shire expect to offer in compensation for the portion of the land?

The last time I spoke to your Tyhscha Woolcock, I was expected to donate the land to the Shire and pay to acquire the closed section! This was contrary to our previous agreement and clearly unacceptable to this company.

As road is no longer considered a safe bus route, (despite our best endeavours to have it reinstated) would the Shire reconsider our previous application to the permanent closure of the road?

You will be aware the road is in poor condition due mainly to the operation of road-trains during harvest by others, a process denied to us by the Shire when we requested it.”

Correspondence to Mr W Johnson and Department for Planning and Infrastructure – State Land Services Mid West dated 6th February 2007 states as follows:

“Please be advised that Council is in receipt of correspondence regarding the above issue from Wilberforce Pastoral Company Pty Ltd, which is attached for your information.

I believe that it would be beneficial to hold a meeting with a representative from your department and Mr W Johnson of Wilberforce Pastoral Company Pty Ltd. There are various options that can be considered, closing Wilberforce Road does not seem the most practical option but these can be investigated and discussed further once a meeting is arranged.”

Correspondence to Mr W Johnson and Department for Planning and Infrastructure – State Land Services Mid West dated 16th May 2007 states as follows:

“Please be advised that a meeting has been held with Mr Steve Burgess of the Department for Planning and Infrastructure on the 15th May 2007. The above issue was raised at this meeting and as such a resolution needs to be met.

Council is willing to do a clean swap of the land in its current alignment for the land that is identified as the correct alignment on the attached maps to rectify this matter and lay the issue to rest. Council is not interested in closing this road permanently.

Should you not be agreeable with the offer Council has been left with no other choice other than to construct Wilberforce on the correct alignment.

Please provide a written letter confirming that you are agreeable to the land swap or alternatively if you have any questions regarding the process please feel free to contact Mr Steve Burgess on 9347 5100.”

Correspondence from Mr W Johnson dated 21st May 2007 states as follows:

“I have your letter of the 16th instant.

I am disappointed that the Council has again refused to close the above road considering the poor standard of maintenance it provides.

However, I agree to the “Clean Swap” of the land to realign the road, provided the council pays all costs in regard to the transaction and the recording thereof.

This is the agreement that we had some time ago.

For the safety of other road users, I request that, until the road is capable of supporting road trains, their access be restricted to a 40kph speed limit.

The matter of the school bus was not mentioned in your letter. Can you please advise how we can reinstate the Wilberforce Road bus route?”

Consultation:

Landowner.
Department for Planning and Infrastructure.
Department of Land Administration.

Statutory Environment:

Land Administration Act, 1997 (as amended) Section 56 and Section 58.

“Dedication of Roads

56. (1) *If in the district of a local government –*
- (a) land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government;*
 - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*

- (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
 - (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*
- or*

(c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

- (2) *If a local government resolves to make a request under subsection (1), it must -*
 - (a) in accordance with the regulations prepare and deliver the request to the Minister; and*
 - (b) provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*
- (3) *On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then -*
 - (a) subject to subsection (5), by order grant the request;*
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction;*

or
 - (c) refuse the request.*
- (4) *On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.*
- (5) *To be dedicated under subsection (3) (a), land must immediately before the time of dedication be -*
 - (a) unallocated Crown land; and*
 - (b) designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.*
- (6) *If land referred to in subsection (1) (c) is dedicated under subsection (3) (a), the holder of the freehold in that land is not entitled to compensation because of that dedication.”*

“Closure of roads

58.

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolved to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) -*
 - (a) *by order grant the request;*
 - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction;*
or
 - (c) *refuse the request.*
- (5) *If the Minister grants a result under subsection (4) -*
 - (a) *the road concerned is closed on and from the day on which the relevant order is registered;*
 - (b) *any rights suspended under section 55 (3) (a) cease to be so suspended; and*
 - (c) *the Minister must cause notice of the registration of the relevant order to be published in a newspaper circulating in the district of the relevant local government.*
- (6) *When a road is closed under this section, the land comprising the former road -*
 - (a) *becomes unallocated Crown land; or*
 - (b) *if a lease continues to subsist in that land by virtue of section 57 (2), remains Crown land."*

Land Administration Regulations, 1998 (as amended), Part 2 – General, Regulation 9 – Preparation and Delivery by Local Government of Request to close a road permanently.

"9. Preparation and delivery by local government of request to close a road permanently

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request;

- (a) *written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;*

- (b) *sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed;*
- (c) *copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions;*
- (d) *a copy of the relevant notice of motion referred to in paragraph (c);*
- (e) *any other information the local government considers relevant to the Minister's consideration of the request; and*
- (f) *written confirmation that the local government has complied with section 58(2) and (3) of the Act."*

Policy Implications:

Nil.

Financial Implications:

A deposited plan is available revealing that surveying costs have been previously dealt with. Costs associated with the dedication of the road and road closure will incur administration costs associated with staff time, advertising etc.

Strategic Implications:

Community Services – Key Result Area 7 – Objective 1 states:

"To meet community needs in terms of physical infrastructure and overall community services."

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Various staff

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

The recommendation is to proceed with the closure of the original road portion, which is some 200 metres off the road that is currently there, and to dedicate the new portion of road.

It appears from Council's records that there was a break down in the communication between departments and as such the works were undertaken and no formalisation of procedures was carried out, thus resulting in a letter from Department for Planning and Infrastructure requesting Council to finalise the statutory requirements.

It would be beneficial for Council to consider this closure and dedication at this time, as it now has correspondence from Mr W Johnson advising that he agrees to a clean swap of the land providing that Council pays the costs associated with the transaction and the recording of the transaction. This application requires finalisation to effectively record what is currently in use.

OFFICER RECOMMENDATION

Resolution
130607

MOVED Cr Delich seconded Cr Boyle

“That Council advise the Department for Planning and Infrastructure:

- 1. to proceed with the dedication of the section of road that has been realigned as shown on the attached map, labelled “Appendix A”, in accordance with Section 56 of the Land Administration Act;***
- 2. to proceed with the road closure of the redundant section of Wilberforce Road as per the attached map, labelled “Appendix A”, in accordance with Section 58 of the Land Administration Act (as amended);***
- 3. that it indemnifies the Department for Planning and Infrastructure against all costs; and***
- 4. that it will pay all costs associated with the change to the titles.***

Advice Note:

Mr W Johnson of Wilberforce Pastoral Company Pty Ltd and Westpac Banking Corporation have been notified.”

CARRIED (5-0)

9.
9.2
9.2.6

**OFFICER'S REPORTS
ADMINISTRATION REPORTS
CEO APPRAISAL**

FILE NO: P1
COUNCIL DATE: 18 June 2007
REPORT DATE: 11 June 2007
LOCATION/ADDRESS: Not Applicable
SENIOR OFFICER: Not Applicable
REPORTING OFFICER: Ray Hooper, Chief Executive Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Annual Performance Review Report
DOCUMENTS TABLED: Nil

Summary:

Council conducted the statutory appraisal of the CEO in May and June 2007 in consultation with WALGA Workplace Solutions.

The Template used in the assessment and the results of the appraisal are detailed in the appendix.

Background:

Four Councillors undertook the WALGA training course on the CEO appraisal process in March 2007.

Consultation:

WALGA Workplace Solutions

Statutory Environment:

Local Government Act – Section s 5.38 and 5.39 (3)(b) and Regulation 18D.

Policy Implications:

Nil.

Financial Implications:

The cost of the assessment is included in the 2006/07 budget allocations for Consultancy services.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: N/A

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

The annual appraisal process reviews the past year and sets the performance indicators for the next years and as such it is a powerful management and accountability tool.

OFFICER RECOMMENDATION

Resolution

140607

MOVED Cr Lawrance seconded Cr Boyle

“That Council:

- 1. Council receive the Performance Review report and endorses the overall rating of Exceeds Expectations for Mr Ray Hooper as the Chief Executive Officer of the Shire of York.***
- 2. The next review of the CEO’S performance to be conducted in May 2008.***
- 3. That the existing Key Result Areas preparation document, as amended, be used for the 2007/08 review period.”***

CARRIED (5-0)

9.3 Finance Reports

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.1 FINANCIAL REPORT MAY 2007

FILE: FI.FRP
COUNCIL DATE: 18 June 2007
REPORT DATE: 7 June 2007
LOCATION/ADDRESS: Not Applicable
ACTION OFFICER: Annette Hunt, Finance Officer
SENIOR OFFICER: Graham Stanley, Deputy Chief Executive Officer
DISCLOSURE OF INTEREST: No
APPENDICES: Yes
DOCUMENTS TABLED: Nil

Summary:

The Financial Report for the period ending 31 May 2007 is hereby presented for the consideration of the Council.

The Financial Statement is based on a similar format to that used in the Municipal Budget to aid interpretation and allow consistent comparison and analysis.

The Financial Income and Expenditure Report is attached in Appendix A. Variation reporting is predicated on Council adopting a materiality variance of 10% and / or \$10,000 as adopted in the October 2006 ordinary meeting of Council.

Also included in Appendix A are the following:

- Bank Account Reconciliations
- Statement of Financial Position
- Income and Expenditure Variation Report
- Cheque drawings on the Municipal Account
- EFT drawings on the Municipal Account
- Cheque drawings on the Trust Account
- Reserve Accounts Balances Summary
- Payroll Direct Bank Debits
- Shell Card Statement
- Corporate Credit Card Statements
- Capital Works / Major Projects Report

The Capital Works and Major Projects Report is presented to monitor the ongoing progress towards Councils budgeted Capital Works and non-recurrent type projects. It provides a summary of costs incurred to date and a brief summary of the current status of the project.

Consultation:

Department of Local Government and Regional Development.

Statutory Environment:

Local Government Act 1996 (As Amended)

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

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 May,2007

Sundry Creditors as per General Ledger	\$	107,447.57
Sundry Debtors as per General Ledger	\$	52,925.28
Unpaid rates and services current year (incl ESL)	\$	118,765.38
Unpaid rates and services previous years (incl ESL)	\$	136,237.38

Strategic Implications:

Not Applicable.

Voting Requirements:

Simple Majority.

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Nil.

Economic Implications:

A zero balance or surplus end of year financial position will increase community confidence and cohesion and provide an opportunity for improved community benefits in 2006/07 and future years.

Environmental Implications:

Not applicable.

Comment:

1. Attached as an Appendix to this item is a variance report on the Shire's financial activity. The comments provided are based on a comparison of year to date budgets and actuals by line item. This is in accordance Financial Management Regulation 34.

OFFICER RECOMMENDATION

Resolution
150607

MOVED Cr Lawrance seconded Cr Delich

“That Council:

Receive the Monthly Financial Report and payments drawn from the Municipal and Trust accounts for the period ending 31,May 2007

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	27147-27186	\$ 99,058.76
<i>Electronic Funds Payments</i>	3287-3356	\$ 511,937.92
<i>Direct Debits Payroll</i>		\$ 79,967.38
<i>Bank Fees</i>		\$ 586.75
<i>Corporate Cards</i>		\$ 899.44
<i>Photocopier Lease</i>		\$ 1,037.22
<i>Shell Cards</i>		\$ 364.72
TOTAL		\$ 693,852.19
TRUST FUND		
<i>Cheque Payments</i>	3382-3391	\$ 2,662.85
<i>Direct Debits Licensing</i>		\$ 154,228.95
TOTAL		\$ 156,891.80
TOTAL DISBURSEMENTS		\$ 850,743.99

CARRIED (5-0)

Note to this item

The Chief Executive Officer has delegated authority under Delegation DE1 (Council Meeting 10 August 2006) to make payments from the Municipal and Trust accounts.

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.2 RATES WRITE OFF – H PLATELL ESTATE

FILE NO: FI.RTS
COUNCIL DATE: 18 June 2007
REPORT DATE: 24 May 2007
LOCATION/ADDRESS: Location 22066 Cubbine Road, York
APPLICANT: Shire of York
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Patricia Mogridge, Rates Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix "A" – Certificate of Title, Vol. 1044
Fol. 739
DOCUMENTS TABLED: Nil

Summary:

Council is to consider writing off balance of unpaid rates and services associated with Assessment 3560, Henry Platell Estate.

Background:

Assessment 3560 in the name of Henry Platell Estate being Location 22066 with an area of 4.836 hectares previously an old road reserve. Rates remained unpaid for years until the land was put up for auction on 2 April 2005 by the Council for non-payment of rates. Location 22066 was passed in at the auction as there was not a bidder on the day. The land was finally purchased after the auction for the sum of \$11,000. Portion of the purchase price \$686.71 has been paid to McLeods Solicitors for the creation of a new Certificate of Title and their fees.

Consultation:

Mrs Patricia Mogridge – Rates Officer

Statutory Environment:

Local Government Act – Section 6.12 – Power to Defer, Grant Discounts, Waive or Write Off Debts

- 6.1. (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
 - (b) waive* or grant concessions in relation to any amount of money; or
 - (c) write off* any amount of money,

which is owed to the local government.

* *Absolute majority required.*

- (2) Subsection (1) (a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1) (b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Policy Implications:

Nil.

Financial Implications:

The 2006/07 budget includes an allocation of \$15,000 for rates write offs. There will be no material impact on the current budget arising from this write off.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Council is to be seen to be proactive in debt recovery as the ultimate burden rests with the rate payers.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

The balance of the purchase price \$10,313.29 from the sale of Location 22066 has been offset against Assessment 3560, leaving an unpaid amount of \$1,587.57, this is should now be written off as the assessment is now non-current.

OFFICER RECOMMENDATION

Resolution

160607

MOVED Cr Delich seconded Cr Lawrance

“That Council:

Authorise the write off of \$1,587.57 charges for non- payment of rates against Assessment 3560”.

CARRIED (5-0)

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.3 RATES WRITE OFF – S SHILKIN

FILE NO: FI.RTS
COUNCIL DATE: 18 June 2007
REPORT DATE: 24 May 2007
LOCATION/ADDRESS: Lots 26(PT), 27(PT), 58(PT), 59(PT), 31 Plus
Private Roads and Laneways
APPLICANT: Shire of York
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Patricia Mogridge, Rates Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix "A" - Certificate of Title, Vol. CT
2003 Fol. 151
DOCUMENTS TABLED: Nil

Summary:

Council is to consider writing off balances of unpaid rates and services associated with Assessments 2943, 2941 and 2956, Steven Andrew Shilkin.

Background:

Assessments 2943, 2941 and 2956 in the name of Steven Andrew Shilkin, being lots 26(pt), 27(pt), 58(pt), 59(pt), 31 and private roads with laneways being Murphy, Reid, Nelson, Wellington and Parnell Streets of Greenhills on Certificate of Title, Volume 2003 Folio 151. Rates remained unpaid for years while trying to find the owner. Finally a land auction took place on 2 April 2005 by the Council for non-payment of rates, as these blocks and roads cannot be built upon, the land was passed in. Twelve months have now expired and the land is now being transferred into the ownership of the Shire of York. Landgate have advertised that the land is being transferred into the ownership of the Shire of York and no public submissions were received. A new Title Deed has been issued to the Shire of York.

Consultation:

Mrs Patricia Mogridge

Statutory Environment:

Local Government Act – Section 6.12 – Power to Defer, Grant Discounts, Waive or Write Off Debts

- 6.2. (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
 - (b) waive* or grant concessions in relation to any amount of money; or

- (c) write off* any amount of money, which is owed to the local government.

* *Absolute majority required.*

- (2) Subsection (1) (a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1) (b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Policy Implications:

Nil.

Financial Implications:

The 2006/07 budget includes an allocation of \$15,000 for rates write offs. To date there have been two rate write offs to the value of \$2,875 leaving a balance of \$12,125. These write offs will exceed the budget amount by \$21,143.79.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Council is to be seen to be proactive in debt recovery as the ultimate burden rests with the rate payers. In this instance all debt recovery and legal actions have failed.

Social Implications:

Nil.

Environmental Implications:

With Council now owning the land there is an opportunity to rationalise and control land use and development in this section of the Greenhills locality.

Comment:

Steven Andrew Shilkin purchased the original subdivision off a farmer for the sum of \$5,000, sold the majority of the blocks off for \$3 to \$4 thousand dollars each, left the remainder of the lots and never paid rates on them, then moved from place to place and could never be found by the Rates Officer or the Debt Collectors over the years. The write off of the rates and services to the value of \$33,268.79 will finalise this part of the saga of the Greenhills land sale, which originally took place on 24 June 1991.

OFFICER RECOMMENDATION

Resolution
170607

MOVED Cr Delich seconded Cr Boyle

“That Council:

Authorise the write off of \$33,268.79 charges for non-payment of rates against Assessments 2943, 2941 and 2956.”

CARRIED (5-0)

9.
9.3
9.3.4

OFFICERS' REPORTS
FINANCE REPORTS
PIONEER MEMORIAL LODGE DEPOSITS

FILE NO: CCP.33
COUNCIL DATE: 18 June 2007
REPORT DATE: 21 May 2007
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Graham Stanley, Deputy CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

The Shire of York is holding bond money paid by four residents of Pioneer Memorial Lodge in trust, in term deposits that mature on June 30th 2007. This report gives a recommendation on dealing with the monies.

Background:

When the Pioneer Memorial Lodge was set up residents were required to pay an ingoing fee that was in part a bond and in part a source of funding for the operation of the lodge. Each year the Lodge was able to draw down on the funds as a contribution for the building and to cover the on-going maintenance of the building. This all happened under rules set by the Federal Health Department covering funding for aged care facilities. It appears that at some stage since the opening of the Lodge that the rules were changed and ingoing contributions were no longer collected. The managing body of Pioneer Memorial Lodge held the funds collected.

With the transfer of control of the operations of Pioneer Memorial Lodge to the Health Service the Lodge asked if the Shire could place the funds in its trust account for the short term whilst arrangements were made for the refunding of the monies. As the Health Service is a State Government entity they were unable to hold the funds.

Four term deposits were set up with a maturity date of 30th June 2007 to allow time to write to the residents seeking their instructions for the funds bearing in mind that a sudden large cash injection may impact on their pensions. The deposits range between \$10,000 and \$15,000 in value.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995.

Policy Implications:

Nil.

Financial Implications:

Nil.

Strategic Implications:

Nil.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

It is proposed to write to the four residents seeking their direction on the funds offering three alternatives being:

- i) To pay the funds on maturity of the deposit;
- ii) To break the current deposits and pay the funds immediately (will result in a reduction of interest paid);
- iii) To continue to hold the funds in trust in the term deposit after the maturity date and reinvest for a term of the resident's choosing until payment of the funds is requested.

OFFICER RECOMMENDATION

Resolution

180607

MOVED Cr Lawrance seconded Cr Boyle

"That Council:

Writes to the four residents of Pioneer Memorial Lodge for whom the Shire is holding funds in trust seeking their instructions regarding the payment of the funds or the rollover of the existing deposits in which their funds are being held."

CARRIED (5-0)

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.5 NON-RATES WRITE OFF – VARIOUS

FILE NO:	FI.DRS
COUNCIL DATE:	18 June 2007
REPORT DATE:	8 June 2007
LOCATION/ADDRESS:	Not Applicable
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Yes – list of Sundry Debtors
DOCUMENTS TABLED:	Nil

Summary:

Following a study of Council's sundry debtors ledger it appears there are numerous outstanding charges relating to overdue library items. Borrowers were sent overdue notices and letters requesting the prompt return or payment of these items. This action proved mostly unsuccessful as many library patrons 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 \$528.50 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.

It should be noted that all borrowers with outstanding charges to be written off have since been blacklisted from using the York Library. No future issues will occur until outstanding items are returned or paid in full.

Consultation:

Library Patrons
Debt Collector
Council's Officers

Statutory Environment:

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

4

Policy Implications:

Not Applicable.

Financial Implications:

Given the amount of \$528.50 that is requested to be written off, no material impact will arise 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

190607

MOVED Cr Fisher seconded Cr Delich

"That Council, by an absolute majority, resolve to write off \$528.50 from the debts for unreturned library items as per Appendix "A"."

CARRIED (5-0)

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.6 NON-RATES WRITE OFF
HUNEL PTY LTD T/A AAA LIQUID WASTE

FILE NO: FI.DRS
COUNCIL DATE: 18 June 2007
REPORT DATE: 7 June 2007
LOCATION/ADDRESS: Not Applicable
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

Following months of extensive and costly legal action for recovery of outstanding debts incurred by Hunel Pty Ltd trading as AAA Liquid Waste, Council is asked to consider the write off of these debts amounting to \$24,359.93.

AAA Liquid Waste Contractors were sent countless letters and reminders requesting payment for outstanding debts with no response. After months of pursuing these charges, the Shire of York referred AAA Liquid Waste to Council's debt collectors in December 2004.

A court summons was issued and a search conducted to seize goods or property owned by the company. No land or unencumbered goods were found and it appeared no trading was taking place as the company had not lodged an Annual Return since March 2003. A Warrant for Arrest was granted however, due to the circumstances, Pioneer Credit advised there would be little chance of recovering funds from the debtor by means of this avenue.

As time progressed and costs to Council grew, it became evident there would be little benefit from pursuing this matter. As a result the Shire of York closed the account with Pioneer Credit with the intention to write off all charges.

Background:

The Council at its meeting on the 17 November 2003 approved the Shire of York enter into an agreement with AAA Liquid Waste Contractors for a period of 12 months permitting AAA Liquid Waste Contractors to utilise the Council's Septic Waste Ponds for the disposal of waste at the rate of \$0.06 per litre.

Between the months of November 2003 and June 2004 AAA Liquid Waste Contractors dumped 1,022,008 litres of waste and were invoiced accordingly. Payments for use of the Sewerage Ponds were regular between November 2003 and April 2004 however, for the period of May to June 2004 an amount of \$19,456.80 was never recovered resulting in legal action.

Consultation:

Hunel Pty Ltd
Pioneer Credit

Forbes Dowling
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:

The 2006/07 budget includes an allocation of \$23,000 for sundry debtor write offs. To date there have been no write offs of sundry debtors charges however after legal fees were taken into account this write off will exceed the budget amount by \$1,359.93.

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.

OFFICER RECOMMENDATION:

Resolution

200607

MOVED Cr Fisher seconded Cr Delich

“That Council, by an absolute majority, resolve to write off \$24,359.93 from unpaid debts against Hunel Pty Ltd trading as AAA Liquid Waste Contractors for the use of Council’s Sewerage Ponds.”

CARRIED

9. OFFICER'S REPORTS
9.3 FINANCE REPORTS
9.3.7 RESERVE TRANSFER YAC GRANT FUNDS

FILE NO: FI.ACC.2
COUNCIL DATE: 18 June 2007
REPORT DATE: 11 June 2007
LOCATION/ADDRESS: N/A
APPLICANT: N/A
SENIOR OFFICER: Graham Stanley, Deputy CEO
REPORTING OFFICER: Annette Hunt, Finance Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

Council is to consider the transfer of funds from Tied Grant Funds Reserve to Municipal Account.

Background:

Youth Advisory Council received a grant for Holiday Grant program in 2005/2006 and left a balance of \$363.00 unspent.

This was transferred to the Reserve account in 2005/2006.

Consultation:

Nil.

Statutory Environment:

Local Government Act S6.8(1)(b), S6.2(4)(e), S6.11
Local Government (Financial Management) Regulations 38

Policy Implications:

Nil.

Financial Implications:

Provision was made in the current budget for the expenditure of the grant, however no provisions were made in the Budget for the transfer of funds from Reserve to match up with expenditure.

The result will be an increase in Municipal and a decrease in Reserve Funds of \$363.00.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

Whilst this is only a minor transfer to comply with Local Government Act, Council is required to transfer Reserve Funds.

OFFICER RECOMMENDATION

Resolution

210607

MOVED Cr Boyle seconded Cr Lawrance

“That Council:

Transfer \$363.00 from the Tied Funds Reserve 40 to Municipal Account 109404 – Transfer from Reserve. This transfer being unspent Youth Advisory Grant 2005/2006 with expenditure of the Grant in 2006/2007.”

CARRIED

9.4 Confidential Reports

Nil.

9.5 Late Reports

9. OFFICERS' REPORTS
9.5 LATE REPORTS
9.5.1 OLIVE FESTIVAL – STALLHOLDER'S PERMIT FEES

FILE NO:	FI.FEE
COUNCIL DATE:	18 June 2007
REPORT DATE:	15 June 2007
LOCATION/ADDRESS:	Peace Park
APPLICANT:	York Visitor Centre
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Graham Stanley, Deputy CEO
DISCLOSURE OF INTEREST:	Cr Delich – Financial Interest
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

The York Visitor Centre requests that Council waives the "Permit Fee" portion of the Stallholder's Permit Applications for the Olive Festival that is to be held in York on the weekend of the 23rd June 2007.

Background:

The York Visitor Centre has conducted an Olive Festival at Peace Park for a number of years and stallholders at the Festival are required to obtain a Stallholder's Permit from the Shire under the requirements of Council's "Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law." The York Visitor Centre coordinates the permit applications by forwarding details and application forms to potential stallholders along with their applications to the Visitor Centre to participate in the Festival.

Council's Permit process contains two components – a \$10.00 Application Fee and a \$25.00 Permit Fee. It appears that there has been some confusion with the forms because in previous years stallholders have only been charged the \$10 application fee. The Visitor Centre forwarded out application packages again this year including a Shire Permit Application Form and advised potential stallholders that the cost of the permit was \$10.00. The Visitor Centre received all of the applications with the \$10.00 fee. Subsequently it has been picked up, by Shire staff, that the \$25 permit fee is also required. The Visitor Centre is now concerned that if stallholders are required to pay an additional fee of \$25 at this late stage that many of them may pull out making the Festival unviable or alternatively leave a bad impression that deters stallholders from attending future festivals.

Consultation:

York Visitor Centre.

Statutory Environment:

Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law and Local Government Act 1995 as amended.

LG Act Section 6.12 "Power to defer, grant discounts, waive or write off debts" states :

“(1) Subject to subsection (2) and any other written law, a local government may –

*(b) waive or grant concessions in relation to any amount of money; or
(c) write off any amount of money,
which is owed to the local government.”*

and

“(3) The grant of any concession under subsection (1)(b) may be subject to any conditions determined by the local government.”

Policy Implications:

Nil.

Financial Implications:

Non-collection of between \$500 and \$1,000 in permit holder fees dependent on the number of permits issued. Council’s budget for 2006/07 only included \$350 in anticipated income from stallholder permits and to date we have already received \$1,285 in income.

Strategic Implications:

By agreeing to waive the stallholder permit fees the Shire could be seen to be supporting the Olive Festival and the tourism benefits that it brings to the town.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Minimal foregoing of permit fee income. Support of Olive Festival likely to bring ongoing economic benefits to the York Community.

Social Implications:

A successful Olive Festival will raise the community’s morale and pride in York.

Environmental Implications:

Nil.

Comment:

The York Olive Festival has been a very successful event for York for a number of years, bringing increased visitor numbers to town and providing an outlet for many emerging local businesses to promote their products and services. In past years the stallholders at the Olive Festival have only been charged the \$10 application fee and it appears that this error may have occurred due to the design of the application form which does not make it clear that there are actually two charges to be paid to obtain a stallholders permit, being the \$10 application fee and the \$25 permit fee. The Olive Festival organisers assumed that the fee of \$10 that had been charged in past years still applied this year and sent that information out to potential stallholders and the

error was only picked up after the applications had been returned with the \$10 payment. It also appears that Council staff collecting and processing application fees have been unaware of the \$25 permit fee as until recently they have only been charging \$10 for a stallholder permit.

In order to prevent criticism and possibly affect the success of the Olive Festival it is recommended that Council agrees to waive the \$25 fee for Stallholder permits for the York Olive Festival for 2007 and advise the York Visitor Centre that future events will be charged the designated application and permit fees relating to stallholder permits.

Administration counter staff have been made aware of the correct fees relating to stallholder permits and the application forms will be redesigned to make the charging scale clearer.

OFFICER RECOMMENDATION

Cr Delich declared his interest in this item and left the meeting at 4.29pm.

Resolution
220607

MOVED Cr Boyle seconded Cr Lawrance

“That Council:

Agrees to waive the \$25 permit fee relating to stallholder permits for the 2007 York Olive Festival and advises the York Visitor that for 2007 only the \$10 application fee will apply however for future events stallholder permits will be charged both the application fee and a permit fee.”

CARRIED (4-0)

Cr Delich returned to the meeting after the vote at 4.31pm.

9. OFFICER'S REPORTS
9.5 LATE REPORTS
9.5.2 APPLICATION TO KEEP THREE DOGS

FILE NO: Li2.11290
COUNCIL DATE: 18 June 2007
REPORT DATE: 18 June 2007
LOCATION/ADDRESS: 2 Lincoln Street, York
APPLICANT: Mrs A Davies
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Angela Plichota, Ranger
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Reconsideration Request
Appendix B – Correspondence received 2nd February 2007
Appendix C – Shire advice of refusal 28th May 2007
DOCUMENTS TABLED: Nil

Summary:

An application has been received from Mrs Anna Davies for a reconsideration of the decision of the 21 May 2007 for the keeping of three (3) dogs on her property at 2 Lincoln Street, York.

In the original application correspondence received on the 2 February 2007 was not included in the details provided to Council.

Background:

It is a requirement 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.

Council at its Ordinary Meeting held on 21 May 2007 resolved as follows:

"That Council:

- (1) Refuse the application for exemption for the keeping of three (3) dogs at 2 Lincoln Street York;*
- (2) Direct the landowner to reduce the number of dogs kept or ordinarily kept at the property to two (2) within 28 days of the notice."*

Consultation:

The applicant has advised all adjoining neighbours of the request to Council who have provided correspondence that they have no objections to the proposal.

Statutory Environment:

Dog Act 1976 (As Amended)
York Shire Council Dogs Local Law (2000)
Local Government Act Sections 9.4 – 9.9

Policy Implications:

Not Applicable.

Financial Implications:

Not Applicable.

Strategic Implications:

Not Applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

The Shire Ranger has completed an external inspect of the property and has advised that there has been no written complaints and one verbal complaint received of the said dogs. Council's Ranger recommends against the application. The property is at 2 Lincoln Street and is on 1727m².

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:

OFFICER RECOMMENDATION

Resolution

230607

MOVED Cr Boyle seconded Cr Fisher

“That Council:

In relation to the reconsideration request,

- (1) Refuse the application for exemption for the keeping of three (3) dogs at 2 Lincoln Street York;**

(2) *Direct the landowner to reduce the number of dogs kept or ordinarily kept at the property to two (2) within 28 days of the notice.*

CARRIED (3-2)

Those Voting for the Motion

Cr P Hooper

Cr T Boyle

Cr A Fisher

Those Voting Against the Motion

Cr B Lawrance

Cr Delich

**APPENDIX
"A"
9.5.2**

2 Lincoln Street.,
York WA
22nd May 2007

SHIRE OF YORK	
FILE: 212.11290	
OFFICER Angela	INITIALS A
30 MAY 2007	
REFERRED TO COUNCIL	
DATE 18-6-07	INITIALS E

To Whom it May Concern: To All Councillors'

I was devastated to learn today that my application for a 3rd dog registered at my address has been rejected, I was even more disgusted that the fact that I outlined in a prior letter (02/02/07) the reason why Gregory is a important member of our family, was not even presented to council. I will for your benefit repeat these reasons.

1: I have a chronic pain condition and spend many hours on my own, resting in bed or just sitting as I have to take regular pain medication. My fibromyalgia prevents me from doing on some days even the basic's, thus my stress and anxiety are at very high levels, my dogs are great relievers of such conditions.

2: When I have to be out of home, doctor's appointments, dropping off and collecting 3 children from school, shopping or just taking

COPY SENT TO:	
1.	All Cns.
2.	
3.	

time out. Gregory is a companion to GIGI my other small dog.

3: My husband's dog is of an age where he has lived most of his life (10 yrs) and has arthritis and other joint problems and is not expected to be with us for much longer.

4: My husband works away from the home on a 2/1 roster and these little dogs are my company, I feel safer as they sleep indoors, they are great guard dogs.

5: All of our animals are very well looked after and very much loved by all members of the family, asking me to remove Greg would be like asking me to remove one of my own children, as I have too many of them !!! (I have 7 children)

Council has set precedence over the last few months and has allowed other requests for more than 2 dogs at their address granted; please can you advise me in writing as to why my request is any different to others?

I am asking you to reconsider my original application.

Anna Davies and Gregory (companion dog)

A handwritten signature in black ink, appearing to read 'Anna Davies', with a stylized flourish at the end.

APPENDIX
"B"
9.5.2

Anna M Davies
2 Lincoln Street
York. 6302
02 02 07
9641 1839
0404 134 135

SHIRE OF YORK	
FILE	INITIALS
212.1129	
OFFICER	INITIALS
Angela	
02 FEB 2007	
REFERRED TO COUNCIL	
DATE	INITIALS
18.6.07	AP

To The CEO
York Shire

Dear Sir,

I am writing to apply for a permit so I may have another dog registered at my address.

The dog in question is Gregory and he is my best mate, he is 9 months old and is a Maltese-Shizu. Greg has more fluff on the outside of his head than on the inside and is a great companion for Gigi my Chihuahua. We also have a big dog Bowie who looks after the outside of the house, he is getting old and arthritic and we don't expect him to be with us for long.

The reason I accepted Greg (he was a gift) was that I have a chronic pain condition and spend a lot of time resting in bed and my condition is made more bearable with my little companions. I also have 3 school age children to care for and a husband that works away in the mines, I would be devastated if Greg had to leave us as he is part of our family, we all love him.

All our animals are vaccinated and well cared for and we treat them with respect.

Please can you consider my application?

Yours Faithfully,

Anna Davies and Family.



Gregory Ruff.

9
9.5
9.5.3

**OFFICERS REPORT
LATE REPORTS
SALE OF LOTS 2-6 & 13 AVON TERRACE**

FILE NO: AV1. 60050
COUNCIL DATE: 18 JUNE 2007
REPORT DATE: 17 JUNE 2007
LOCATION/ADDRESS: Lots 2-6 & 13 Avon Terrace York
APPLICANT: Project Developments WA Pty Ltd; or its Nominee
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Graham Stanley, Deputy CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

This report recommends the advertising of the proposed sale of Lots 2-6 Avon Terrace and Lot 13 Redmile Road York for a total consideration of \$350,000 subject to compliance with the requirements of Section 3.58 of the Local Government Act 1995.

Background:

Lots 2 to 6 and 13 were previously the site of the old York power station and Council purchased the land with the intention of cleaning it up and having the land redeveloped for the purpose of housing. An offer to Council to purchase the land has been received from the applicant who wishes to develop housing on it.

Due to the requirements of Section 3.58 of the Local Government Act 1995 Council will be required to give public notice of the proposed disposition and consider any submissions received should it wish to accept the applicant's offer to purchase the land.

Consultation:

Public consultation will take place through the advertising and consideration of submissions process. After considering any submissions received Council must then decide whether it will proceed with the sale of the land to the applicant.

Statutory Environment:

Local Government Act 1995, Section 3.58. Disposing of Property says:

3.58. Disposing of property

(1) *In this section —*

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“property” includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

(a) *the highest bidder at public auction; or*

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

- (a) *it gives local public notice of the proposed disposition —*
- (i) describing the property concerned;*
 - (ii) giving details of the proposed disposition; and*
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

- (a) the names of all other parties concerned;*
- (b) the consideration to be received by the local government for the disposition; and*
- (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.*

(5) *This section does not apply to —*

- (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;*
- (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;*
- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
- (d) any other disposition that is excluded by regulations from the application of this section.*

Policy Implications:

Nil.

Financial Implications:

Should the sale eventually proceed it will result in income of \$350,000 and a profit on sale of assets of over \$150,000. It is suggested that the proceeds of any sale of the land be placed in a reserve fund to ensure that it is used to provide future infrastructure for the benefit of the residents and ratepayers of the Shire of York. If Council supports this proposal allowances will be made in the 2007/08 budget to account for the proceeds of the sale of the land to place the funds in reserve for a suitable purpose.

Strategic Implications:

The sale and development of the land is consistent with objective 1 of Key Result Area 2 – Economic Development and Tourism, of the Shire of York Strategic Plan, as

the eventual residential development proposed to occur on the land will increase the number of people living in York benefiting the businesses of York and ensuring greater utilisation of community infrastructure.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Potential income to be used for other development within the Shire. Potential for increased rate revenue and economic development through residential development and increased population.

Social Implications:

The potential residential development that will result from the sale of the property will lead to increased population with the associated benefits such as greater viability of clubs and community groups and critical mass for the possible development of additional community facilities.

Environmental Implications:

Sustainable building practices are encouraged within the Shire of York and any new residences constructed on the land will be required to meet the energy efficiency requirements of the Building Code of Australia.

Comment:

A valuation for the land has been received from Direct Property Valuations who are licensed valuers and property consultants. The valuation provided was \$350,000 for the whole of the land. The offer by the applicant is for this sum.

Council may decide that it wishes to accept this offer. If it does so then the requirements of sections 3.58(3) and 3.58(4), relating to the advertising of the proposed disposition and calling for and considering any public submissions received, must be complied with.

The offer to purchase the land has been made with a number of special conditions as follows:

- (a) *The Vendor agrees to permit the Buyer to carry out any land and soil assessment including geotechnical report and feature and contour surveys at any time prior to settlement.*
- (b) *The Buyer being permitted to carry out marketing of the development upon final approval of re-zoning from the WA Planning Commission and an approved development plan being in place.*
- (c) *Both the Buyer and the Seller agreeing to the use of the margin Scheme for GST purposes and the price being inclusive of any GST applicable.*

- (d) *The Buyer is to provide an Outline Development Plan for the proposed amalgamated lot within three months of the acceptance of the Offer.*
- (e) *Within 12 months of the acceptance of the offer the Buyer is to lodge a formal Development Application for the proposed Amalgamated Lot and pay all associated costs.*
- (f) *If the buyer does not comply with the conditions of sale, unless the Parties otherwise agree:*
 - (i) *The Seller may terminate the Contract for Sale of Land by giving at least 14 days written notice to the Buyer (Notice of Termination); and*
 - (ii) *The Buyer agrees to transfer the Lots to the Seller free of all encumbrances at the Buyer's expense within 60 days of the service of the Notice of Termination and the Seller agrees to pay the Buyer the Purchase Price in consideration for the lots being transferred, unless the Shire agrees in its absolute discretion to allow the buyer to retain the Lots upon payment of a sum equivalent to the difference between the Purchase Price and the Market Value of the Lots at Termination.*
- (g) *If required pursuant to clause (f)(ii) above, the Market Value of the Lots will be determined at the expense of the Buyer by a valuer licensed under the Land Valuers Licensing Act 1978, to be appointed by the Seller.*

Condition (a) is to allow the applicant access to the property to conduct the necessary soil tests and surveying to enable building design to be done. Condition (b) will allow the applicant to market the development once development approval has been given. The land is currently going through a rezoning and is waiting on Ministerial approval, which is expected shortly. Condition (c) is to enable the tax benefits of the margin scheme to be accessed.

Conditions (d) to (g) are all requirements of the Shire to ensure that the land that is the subject of the sale is actually developed for housing and not held onto for resale without being developed. Settlement is proposed to take place within 90 days of the satisfaction of condition clause (e).

OFFICER RECOMMENDATION

Resolution
240607

MOVED Cr Lawrance seconded Cr Fisher

"That Council:

Accepts the offer from Project Developments WA Pty Ltd; or its Nominee to purchase Lots 2 to 6 Avon Terrace and Lot 13 Redmile Road York for the sum of \$350,000 with the special conditions of sale being;

- (a) The Vendor agrees to permit the Buyer to carry out any land and soil assessment including geotechnical report and feature and contour surveys at any time prior to settlement.**
- (b) The Buyer being permitted to carry out marketing of the development upon final approval of re-zoning from the WA Planning Commission and an approved development plan being in place.**
- (c) Both the Buyer and the Seller agreeing to the use of the margin Scheme for GST purposes and the price being inclusive of any GST applicable.**
- (d) The Buyer is to provide an Outline Development Plan for the proposed amalgamated lot within three months of the acceptance of the Offer.**
- (e) Within 12 months of the acceptance of the offer the Buyer is to lodge a formal Development Application for the proposed Amalgamated Lot and pay all associated costs.**
- (f) If the buyer does not comply with the conditions of sale, unless the Parties otherwise agree:**
 - (i) The Seller may terminate the Contract for Sale of Land by giving at least 14 days written notice to the Buyer (Notice of Termination); and**
 - (ii) The Buyer agrees to transfer the Lots to the Seller free of all encumbrances at the Buyer's expense within 60 days of the service of the Notice of Termination and the Seller agrees to pay the Buyer the Purchase Price in consideration for the lots being transferred, unless the Shire agrees in its absolute discretion to allow the buyer to retain the Lots upon payment of a sum equivalent to the difference between the Purchase Price and the Market Value of the Lots at Termination.**
- (g) If required pursuant to clause (f)(ii) above, the Market Value of the Lots will be determined at the expense of the Buyer by a valuer licensed under the Land Valuers Licensing Act 1978, to be appointed by the Seller.**

and subject to the requirements of sections 3.58(3) & (4) being complied with and Council's acceptance following consideration of public submissions.

CARRIED (5-0)

10. NEXT MEETING

Resolution
250607

MOVED Cr Fisher seconded Cr Delich

“That Council

hold the next Ordinary Meeting of the Council on 16 July 2007, commencing at 3.00pm in the Lesser Hall, York.”

CARRIED (5-0)

11. CLOSURE

There being no further business, the President closed the meeting at 4.35pm.

Certification of Minutes

The minutes were confirmed by the Council as a true and accurate record of the Council Meeting.

PRESIDENT

Date