



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 20 JUNE, 2011
COMMENCING AT 3.00pm
IN THE LESSER HALL, YORK**

SHIRE OF YORK

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RAY HOOPER
CHIEF EXECUTIVE OFFICER

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SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL
HELD ON MONDAY, 20 JUNE, 2011, COMMENCING AT
3.00PM IN THE LESSER HALL, YORK

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

1. OPENING

- 1.1 Declaration of Opening
Cr Brian Lawrance, Deputy Shire President, declared the meeting open at 3.00pm
- 1.2 Chief Executive Officer to read the disclaimer
Tyhscha Cochrane, Acting Chief Executive Officer, read the disclaimer
- 1.3 Announcement of Visitors
Nil
- 1.4 Announcement of any Declared Financial Interests
Cr Roy Scott – Item 9.2.8 – Impartial - Proximity
Cr Tony Boyle – Item 9.4.5 – Financial - Impartial
Cr Tony Boyle – Item 9.6.1 – Proximity - Financial

2. ATTENDANCE

- 2.1 Members
Cr Brian Lawrance, Deputy Shire President;
Cr Roy Scott; Cr Tony Boyle; Cr Trevor Randell; Cr Tricia Walters
- 2.2 Staff
Tyhscha Cochrane, Acting Chief Executive Officer; Gordon Tester; Manager of Health and Building Services; Jacky Jurmann, Manager Planning Services; Helen D'Arcy-Walker, Executive Support Officer
- 2.3 Apologies
Ray Hooper
- 2.4 Leave of Absence Previously Approved
Cr Pat Hooper
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 9 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice

The President
York Chamber Of Commerce
P O Box 414
YORK WA 6302

PUBLIC QUESTION TIME - COUNCIL MEETING 16TH MAY 2011

Further to the question asked by Tanya Richardson, on behalf of the York Chamber of Commerce, at the Council Meeting held on the 16th May, 2011 please find set out below the relevant response:

Question 1 (a):

Shire of York V Rosmill Pty Ltd Supreme Court Appeal – What is the actual cost to date of the appeal including all Appellant and Respondents legal costs?

Question 1 (b):

If final settlement has been agreed/awarded the amount of that settlement?

Response:

Legal costs for the Health Prosecution against Rosmill Pty Ltd is as per the attached schedule of payments which includes the final settlement costs for the Supreme Court ruling of \$9,750.00

I trust that this answers these queries.

Mrs H Saint
87 Avon Terrace
YORK WA 6302

PUBLIC QUESTION TIME

Further to the meeting held on the 16th May, 2011 please find set out below revised responses to various questions which will be published in the Agenda and Minutes of the June 2011 Council Meeting.

Council Meeting – 21st February, 2011

Question 1:

Why did a planner tell me I could not remove the shed at the rear of the property until development was approved when the only requirement was a \$50 demolition licence?

Response:

An application was received from the landowner for the existing outbuilding at the rear of Lot 15 to be removed and a new outbuilding constructed in its place. Lots 15 and 200 are located within the Central York Heritage Precinct, therefore, any development proposed to be undertaken on either lot is required to have Planning Consent applied for and issued prior to any works commencing.

The landowner cancelled the application for the removal and replacement of the existing outbuilding and the additions/alterations to the existing shop fronting Avon Terrace.

After the cancellation of the application, the cladding was removed from the existing outbuilding. Once the cladding of the outbuilding was removed, the Shire considered the outbuilding to be of little to no heritage significance and little value to the area in general. The Shire's intention, in issuing a demolition license was to assist the landowner to achieve the development potential of the land.

Question 2:

Why did I spend one hour with two planners amending plans and signing the amendment for the amendments to be blanked out?

Response:

The amendments to the original application were to prevent the new outbuilding (once the existing one was removed) from being constructed over boundaries.

The original application was cancelled by the landowner and a new application was eventually lodged which did not include any proposed changes to the outbuilding or proposing to construct a new outbuilding.

The outbuilding was not blanked out from the approved plans issued for the second application. The outbuilding (depicted as the existing outbuilding) was left on the approved plans and was detailed as 'existing timber framed shed – shed to be removed'.

The amendments were not included on the approved plans for the second proposal as the application was not proposing to construct or alter the existing outbuilding.

Question 3:

What right has the Shire to demand a business plan?

Response:

Land uses are defined under the Shire of York Town Planning Scheme No 2 and as such, a proposal is required to be classified as one of those defined uses.

The original application was for the sale of motorcycles. This is a land use that is defined as 'Motor Vehicle Sales' and is a use not listed under TPS 2. Therefore, an assessment of the proposal is required to determine whether the land use is suitable for the location. In order for this use to be issued with planning consent, particularly being located in the town centre, is that the scale of the proposal should be small enough to not be detrimental to the locality in general.

A business plan will demonstrate what scale the operation is proposed to be run at and thus determine whether it is a use appropriate for the town centre along Avon Terrace.

The land owner was also proposing to conduct motor cycle repairs from the property. Motor Vehicle Repairs is an "X" use under TPS 2 which means it is something that cannot be approved. It was envisaged that if the scale of the proposed motor vehicle repairs was small, it could be considered as an 'Ancillary Use' which would enable the landowner to undertake the activities applied for.

The original application was cancelled and a second application was lodged.

The second application was for a 'Shop'. For a proposal to be classed as a 'Shop' the scale and types of goods of the proposal must fit within the definition. If the proposal does not fit within the definition of a 'Shop', another classification is required to be applied for.

A 'Shop' is defined as: '**shop**: means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in the Scheme.'

The specific items proposed to be sold from the existing building were not detailed on the application. Therefore, the provision of a business plan would enable officers to determine what land use the landowner is applying for.

Note: It is acknowledged that a business plan, which may involve commercial confidentiality, is not required under planning as it does not relate to land/property uses which can be controlled by planning conditions.

Council Meeting – 21st March, 2011

Question 1(a):

On what basis is it acceptable for any officer to merely assume that the project would be in excess of \$20,000 and that one licence would apply?

Response:

This would be on the basis that the project as described to the Officer concerned would have a value in excess of \$20,000 if undertaken as one building application.

Question 1(b):

When questions are asked of any officer or representative of a Shire or Local Government, the answer should be based on factual information and answers and not mere 'advice' based on their supposition. Please explain why incorrect information is being given and also whether you believe this to be correct procedure under Local Government Acts and guidelines.

Response:

All Council Officers provide advice to the best of their knowledge. It is expected that if an Officer could not accurately answer an enquiry that the Officer would find out and respond at a later date/time. Notwithstanding this, it is sometimes impossible to provide certainty to an enquiry. For example, certainty could not be provided to an enquiry regarding a potential development, until such time a planning application is lodged and determined in accordance with the requirements of the relevant legislation.

Question 1(c):

Do the Council consider that this incorrect provided information adversely effects individuals and may have a damning effect on anyone wishing to develop within the Shire of York?

Response:

As indicated to you at the Ordinary Council Meeting held on 21st March, 2011 Council recognises that a Council officer made an error in calculating the number of toilets for your requirements. Council also recognises the potential for unwarranted expense and inconvenience that misinformation can cause to project owners and has now implemented measures to eliminate as far as possible any future re-occurrences of this type of incident.

Question 2(a):

A demolition license was applied for and approved on 27 August 2010. How is it then that the date of cancellation of the original development application was 9 February 2010? I have confirmation and I am also aware that the Shire has correspondence from the decision of the Heritage Adviser that, following an on-site meeting on 19 January 2010, she confirmed to you in writing that the building was of little or no heritage significance at that time and that, subject to photographs being taken for archive records, there was no objection to the demolition of the shed. Why then were we told that the building could not be demolished until a full development application was approved?

Response:

The date of the cancellation of the original application was the date that the applicant forwarded correspondence to the Shire cancelling the original application.

The demolition of a building or structure in a Heritage Precinct requires planning consent prior to the demolition taking place. However, applicants not advised.

The advice received from the Shire's Heritage Advisor is as follows:

"With regard to the proposed demolition and replacement of the rear shed, it is noted that the plans and other details of the new structure have yet to be submitted. At the site meeting with the owner on 19 February, he mentioned that it was his intention to reuse as much of the material from the existing shed (such as the corrugated iron cladding) as possible in the new structure so that the overall aesthetic and 'feel' of the shed would be retained. It is recommended that this approach be strongly encouraged. Further to this, as part of any demolition approval, the owner should be requested to undertake a photographic record of the existing shed prior to demolition. I discussed this with him during the meeting and he is aware of what is required."

It is noted that the comments state "as part of any demolition approval". This includes a planning consent.

Question 2(b):

Is planning consent required in conjunction with a demolition license for removal of a shed or, could demolition of a shed be carried out at any time with an application for a demolition license, payment of \$50.00 and subject to the building being of little or no heritage significance?

Response:

The demolition of an outbuilding within a Heritage Precinct requires planning consent however it is acknowledged that the applicant may not have been specifically notified of this requirement.

Question 3(a):

Why has it taken so long to investigate the York Mill signage?

Response:

The signage at The Mill is currently subject to a planning application, which was originally submitted in conjunction with the markets application on 27 October 2009. However, the markets application was determined excluding the signage. Since determination, Council has been working with the owner's and State government agencies with regards to the location of the signage. It is envisaged that the planning application will be placed on public exhibition in the near future. No action has been taken by Council with regards to the signage until such time the planning application has been determined.

Note: A sign audit is currently underway.

Question 3(b):

Why was signage at 87 Avon Terrace been fully discussed at Council meetings, documented in Council Minutes and in the public domain when this has not occurred with any other signage?

Response:

Following advertising of the planning application for the signage for 87 Avon Terrace, four submissions were received from the public. The current delegated authorities require planning applications to be determined by Council when a submission is received. Alternatively, if a planning application is advertised and no submissions are received, then the Chief Executive Officer is able to determine the application under delegated authority. This process is the same for all planning applications.

Question 3(c):

Was the Council acting in accordance with prosecution for unapproved signage or was it the content of the signs at which they were aggrieved?

Response:

The action taken by Council with regards to the unapproved signage was in accordance with the provisions of Section 162 of the Planning and Development Act 2005 for development commenced or carried out without approval.

Question 3(d):

Why is that one business is prosecuted and not others for the same offence?

Response:

All compliance action by Council must be undertaken in accordance with the requirements of the Planning and Development Act 2005 and the York Town Planning Scheme No. 2. Most compliance action in local government is reactive following reports from the public. Council is currently in the process of developing an Enforcement Policy to ensure that all compliance action is undertaken in a clear and fair manner. The Policy will be advertised for public comment in the Avon Gazette in the near future following approval by Council.

Note: The Shire of York acknowledges that there has not been a timely follow up on signage complaints lodged by S&H Saint.

Question 4(a):

Could you confirm that there has been no change of use (Class 6 – Retail Shop) at 89 Avon Terrace?

Response:

Under the provisions of the Town Planning Scheme No. 2 any development on a heritage listed site requires a planning application. From a planning point of view, there was no change of use as the current and previous uses are both defined as a 'shop' under the provisions of the scheme.

Question 4(b):

Council you please confirm which Planning Act, regulation or piece of legislation was used to base planning decisions in relation to the August 2010 application as a 'major upgrade' of the premises?

Response:

Council has requested an upgrade of the subject premises in accordance with Regulation 5(2) of the Building Regulations 1989.

Comment:

The Shire of York acknowledges that there have been issues of confusing advice and interpretation and onerous requests for information associated with this development.

3.2 Written Questions

Ian & Sally Hooper
Lot 299 Mt Hardy Road
YORK WA 6302

Question 1:

How did the applicant receive a copy of our letter? Our letter was emailed to Jacky Jurmann, Ray Hooper, Pat Hooper and Shire of York Councillors. How did the applicant get our detailed letter. Does this not breach confidentiality?

Response:

Submissions received during the assessment of a planning application can be provided to the applicant as part of the assessment process to enable a full assessment of the issues raised in the submission.

In this case, Council's Planning Manager provided the correspondence to the applicant following registration by Council specifically to obtain more information on dust suppression and fire safety measures. A copy of the submission and the applicant's response were also distributed to the Councillors upon receipt of each document.

Question 2:

As there were 6 submissions received, by way of objection to this proposal, why were our names the only names documented in the Ordinary Council Meeting document dated 16 May 2011?

Response:

The only place the names were mentioned was in the Applicant's response in Appendix C. There were no names in the body of the Council report.

Tim & Denise Hooper
28 Leeming Road
YORK WA 6302

Question 1:

Councillors, has there been a breach of confidentiality? Who gave Mark Haybittle our correspondence which was addressed to the Shire and Councillors, why did Mr Haybittle receive this information before Councillors had access and why has Mr Haybittle had the opportunity to respond to our letters before it went to a Shire meeting?

Response:

Submissions received during the assessment of a planning application can be provided to the applicant as part of the assessment process to enable a full assessment of the issues raised in the submission.

In this case, Council's Planning Manager provided the correspondence to the applicant following registration by Council specifically to obtain more information on dust suppression and fire safety measures. A copy of the submission and the applicant's response were also distributed to the Councillors upon receipt of each document.

Question 2:

Has the Shire or any Shire employee have a vested interest in this Proposal?

We ask this question because on the 12th April 2011 (morning) Denise Hooper asked to see the proposal, two employees at the front counter both said “**We only want it four times a year!**” When Denise questioned one of these employees the same day in the afternoon the employee said “**They did not remember saying we!**”

Response:

No. No Shire employee has a ‘vested’ interest in this proposal. All Councillors and Shire employees must declare any interests in accordance with the provisions of the *Local Government Act 1995*.

Question 3:

How can the Shire allow this proposal to go ahead when properties to the other side of Leeming Road are deemed **Future Rural Residential re: letter sent to property owners 1st December 2008 – Shire of York Town Planning Scheme No. 2 – Scheme Amendment 28 – Mt Hardey?**

Response:

The York Local Planning Strategy identifies the lots opposite as Future Rural Residential Stage 3. Scheme Amendment No. 28 does not apply to the properties opposite the subject site and is the first rezoning of one lot in the Mount Hardey area identified as Stage 1 in the Strategy. It is unlikely that the lots opposite the subject lot will be rezoned in the near future for rural residential development. It should also be noted that the recommendation in the report is for Council to approve a time limited consent for a period of one year and that the report notes that the suitability of the site in the long term is unsuitable due to possible future rural residential development. The applicant has been advised of this issue and is looking to establish his business in Western Australia and then to locate a permanent location.

Question 4:

In the eyes of Council would such an activity (being an industrial sport) in a rural area which is deemed for **Future Rural Residential** de-value the adjoining properties? If Council does not feel qualified to answer this then would it not be advisable to seek further property valuations for the benefit of those rate payers who have lived in the area (some of more than 50 years) whose properties this proposal affects?

Response:

The proposed use of the property for advanced driver tuition and corporate driver training is a use not defined in the York Town Planning Scheme No. 2 and is considered to be best defined as a recreation facility. The application has been assessed in accordance with the provisions of the Scheme and relevant State Policies.

The assessment of planning applications under the provisions of the *Planning and Development Act 2005* and the York Town Planning Scheme No. 2 does not require an assessment by the determining authority of the affect of a proposal, positive or negative, on property values.

Question 5:

Councillors RE: 5.5 York Town Planning No 2 (j) The proposal to be in the best interest of the greater community. Please enlighten us with the definition of the greater community?

Response:

The greater community in this context refer to the whole community (i.e. all residents of the Shire of York).

Question 6:

RE: 5.5 (u) Adequate provisions has been made for access by disabled persons (not applicable). How can this be not applicable when all other activity sites within the Shire under law have to have access of toilet facilities for the disabled?

Response:

It is proposed to provide sufficient toilet facilities for the organisers and participants. The disability legislation provides exemptions where it is unfeasible to provide facilities for disabled persons. It is considered that due to the temporary nature of the proposal, it would be unreasonable to require the provision of disabled facilities to the site.

Question 7:

Councillors do you realise this proposal is approximately 600 metres from our permanent home dwelling? Do you realise this proposal is in the vicinity of less than 800 metres of three permanent residents' home dwellings? Do you realise the lower track used by the participants is viewable from Quairading Road? Do you realise the higher track in the gravel area is viewable from our home dwelling?

Response:

The locality plan attached to the report presented to Council at its Ordinary Meeting held on 16 May 2011 shows the proximity to dwellings and local roads. The issues of noise and traffic have been considered during assessment of the planning application.

Question 8:

Who will monitor the noise levels? The EPA laws are currently being updated and it could be up to the individual Shires to monitor noise levels at cost. Is the Shire prepared to cover the cost of monitoring of these noise levels.

Response:

In the list of recommended conditions, condition 7 addresses the issue of noise and requires the applicant to provide noise monitoring if any complaints are received. Council's Environmental Health Officer has the capability of monitoring noise and assessing any reports received.

Ms Dee Robinson
208 Avon Terrace
YORK WA 6302

Following up from storm damage to my property:

Question 1:

I have been posted an incomplete copy of agenda with pages 56 and 58 missing. Does the Council consider it reasonable for me to respond without this relevant information?

Response:

Manager of Health & Building responded - two sided document suspect this was an oversight. However the agenda item could be viewed in its complete form on the Shire of York website. It was an unfortunately an error and we apologise for this.

Question 2:

Is the Council aware that a considerable amount of damage approximately \$350,000 worth has been sustained to my property directly from Shire trees on River Street, which I have been consistently asking since 2004 to be removed.

Response:

Manager of Health & Building responded - unfortunately I can not answer this question.

Question 3:

Is the Council aware that Shire staff have entered my property on three different occasions, two without any courteous prior contact, the last entry to my property and house the notice arrived in the mail after the inspection was carried out without my attendance and knowledge?

Response:

Manager of Health & Building responded - the Health Act allows entry to property should there be reason to do so without search warrants. Other legislation requires 24 hours notice. You were notified 5 days prior to inspection being carried out with no response.

Question 4:

Does the Council consider it reasonable and/or is it Shire policy for staff to quote breaches of an act in correspondence if they don't provide the appropriate information regarding the breach? (Therefore I don't know what I'm doing wrong and to correct it).

Response:

Manager of Health & Building responded - have been in contact by mail and by telephone, believe there was enough information provided previously.

Question 5:

Does the Council think it reasonable for me to be asked to take action over the storm damage when I'm still in negotiation with the insurer? (Com-insure assessor visited by property last Wednesday for further assessment).

Response:

Manager of Health & Building responded - Council is willing to be reasonable dependent on action taken and as long as there is communication. Most Insurance Companies have already contacted the Shire and I personally have not been contacted in regards to this property.

Question 6:

Is the Council aware that a meeting had been confirmed to discuss these matters with the CEO, Shire staff and myself on June 28th, 2011 in an amicable way prior to this going on the agenda for this Council meeting.

Response:

Manager of Health & Building responded - I cannot comment on behalf of Councillors

Question 7:

Will the Council now consider giving me a 12 month extension in time so that I can attend to these matters in a proper manner without the unjust stress that has been bestowed on me through this difficult time?

Response:

This is for Council to consider the recommendation during Council meeting. Cr Lawrance stated that things will become more apparent as the Agenda is progressed.

4. PUBLIC QUESTION TIME

Ms Tanya Richardson
113 Newcastle Street
YORK WA 6302

Question 1:

Can you please explain what is happening with the approved trees in Avon Terrace?

- (a) Why it has been delayed for so long when all Councillors have approved it previously?
- (b) Is June 30th still the due date
- (c) Is there a detailed plan for sustainability?

Response:

Trees going to be planted by 30th June, 2011. Some of the businesses next to nibs have offered to look after them which, is in the interest of the businesses to look after the trees outside their premises. No, there is not a detailed plan for sustainability as such.

Question 2:

The York Tourist Bureau wishes to finalise its accounts, and consequently requests:

- (a) A summary of all payments (date, amount, recipient information, relevant invoice number) made by the Shire on its behalf.
- (b) A summary of goods sold and payment received by the Shire with respect to the retail products belonging to the York Tourist Bureau.
- (c) A list of remaining retail stock.
- (d) A summary of the value of the assets transferred to the Shire from the York Tourist Bureau.
- (e) Can you please provide this information by the end of June 2011.

Response:

Received a request today from Sandra Paskett, the Shire will try and look at providing details by the 30th June, 2011. Council has requested information also in relation to the AGM.

Ms Richardson replied an AGM has been held with little information.

Question 3:

For the President – why did you allow the CEO to cancel my commercial booking at Avon Park for this weekend when I was working with the Chamber of Commerce to use this area for a free kids corner?

- (a) The resolution past in the special council meeting in April did not request Councillors to vote on the cancellation of my booking. So why was the CEO allowed to cancel a booking which is a legally binding agreement with a tax invoice issued?
- (b) Why is the other commercial operator allowed to run an event on Shire property at no cost when I have been asked to pay full fees?

Response:

I cannot answer on behalf of the Shire President, however the CEO is delegated powers from time to time so that not every single item needs to be presented to Council.

Question 4:

Why did the CEO and Shire staff assure me my booking at Avon Park was confirmed after the resolution passed at the April meeting only then to send me a refund in the mail less than a week later?

- (a) Have you Mr President condoned this sort of personal vendetta and unfair trading restrictions?
- (b) Do you Mr President ever bother to research the legal implications for the SOY when allowing the CEO to make such decisions without consulting you, or were you privy to this decision before it was sent to me?

Response:

Taken on Notice

Question 5:

Does Council have any plans to deliver the York Jazz Festival this year?

- (a) Do you understand that the YTB cannot deliver a Festival without a wash up from the Shire of its financial position?
- (b) The YTB asked me to assist but the CEO said the Shire would not assist financially if I were involved. So what is the counter plan if not me?

Response:

Taken on Notice

Mr Peter McInnes
PO Box 364
YORK WA 6302

Question 1:

Who selected the trees and where are they going?

Response:

Gardener has selected the trees and they will be planted in Avon Terrace.

Question 2:

Is the gardener suitably qualified?

Response:

Works Department and gardener are suitably qualified.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr Trevor Randell

**RESOLUTION
010611**

Moved: Cr Scott

Seconded: Cr Boyle

“That Council grant a leave of absence to Cr Trevor Randell for the Council Meeting scheduled for 18th July, 2011.”

CARRIED: 5/0

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Minutes of the Ordinary Council Meeting held May 16, 2011

Correction - Item 9.2.5 Resolution 110511 item 2 being amended to read ...
'Consider renewing corporate membership of Avon Tourism in the 2011/12 budget
and forward financial plans'

Confirmation

**RESOLUTION
020611**

Moved: Cr Scott

Seconded: Cr Boyle

"That the minutes of the Ordinary Council Meeting held May 16, 2011 be confirmed as a correct record of proceedings subject to the above corrections."

CARRIED: 5/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Cr Lawrance congratulated Mitchell Henderson for being selected for the State Junior Football team.

9. OFFICER'S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.1 Proposed Outbuildings Policy

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

FILE NO:	PS-TPS
COUNCIL DATE:	20 June 2011
REPORT DATE:	10 June 2011
LOCATION/ADDRESS:	Shire Wide
APPLICANT:	N/A
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Draft Policy
DOCUMENTS TABLED:	Nil

Summary:

Under the Shire of York's Town Planning Scheme No. 2, planning approval is required for the construction of outbuildings when the site is located in a heritage precinct or when the proposal does not meet the requirements of the Residential Design Codes (R-Codes) acceptable development criteria.

The number of planning applications for outbuildings that have minor variations to the acceptable development criteria of the R-Codes is increasing, resulting in longer processing times, the requirement for both planning and building licence applications and an increase in application fees for landowners.

Accordingly, it is proposed to adopt a Local Planning Policy to regulate the construction of outbuildings on land that is primarily used for residential purposes and to enable appropriate variations of the provisions of the R-Codes without being subjected to the requirements of a planning application.

It is also considered appropriate to include outbuildings on rural townsite and rural-residential zones as presently Council does not have a Policy and the R-Codes do not apply to provide a consistent approach and guidelines for landowners and Council Officers when assessing applications.

A Local Planning Policy has been drafted that will provide flexibility, consistency and direction for the construction of outbuildings on residential, rural townsite and rural-residential sites.

Background:

Council at its Ordinary Meeting held on 21 February 2011 resolved to advertise a draft Local Planning Policy – Outbuildings. The draft Policy was advertised and no submissions were received from the public during the submission period.

A review of the draft Policy, a review of policies of other local governments and consultation with Council's Building Section, has revealed that the policy may be too restrictive for landowners and cumbersome to administer.

Therefore, it is recommended that a simpler, more flexible Policy be adopted by Council. The new Policy will need to be re-advertised and it is recommended that the shed industry also be consulted during that process.

Consultation:

This draft Policy will be advertised in accordance with the provisions of the York Town Planning Scheme No. 2. The shed industry and the Western Australian Planning Commission will also be invited to comment.

Statutory Environment:

York Town Planning Scheme No. 2

Clause 4.2 of the York Town Planning Scheme No. 2 permits ancillary outbuildings to be constructed without first obtaining planning consent from the Shire, unless the proposal requires Council to use the exercise of discretion to vary the provisions of the R-Codes, or if the development will be located in a heritage precinct designated under the Scheme.

Clause 8.8 of the Scheme enables Council to prepare a planning policy for any matter related to the planning or development of the Scheme area.

Residential Design Codes

The R-Codes apply to all residential zone land and stipulates acceptable development criteria for outbuildings under Clause 6.10.1. If a proposed outbuilding meets the requirements of the acceptable development criteria, then the only application required is a Building Licence application.

Where a development does not comply with the acceptable development criteria, then the development can be assessed against the performance criteria. Currently a planning application is required for assessment of applications against the performance criteria.

The residential provisions of the Policy have been developed to provide landowners criteria that is considered to meet the performance criteria of the R-Codes without the need for a planning application.

Applications to vary the provisions of the Local Planning Policy will be subject to a merit-based assessed through the planning application process.

Policy Implications:

The proposed Policy will streamline the application process for outbuildings that meet the requirements of the Policy.

Financial Implications:

Costs associated with the re-advertising of the draft Policy.

Strategic Implications:

The proposed Policy is consistent with the provisions of the York Local Planning Strategy and Scheme. It is considered that the adoption of the proposed Policy will assist in achieving appropriate development of residential, rural townsite and rural-residential lots.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Applicants will not have to continue to pay for both planning and building licence application fees for outbuildings that meet the acceptable criteria.

Social Implications:

Process improvement provides a better service to residents and landowners.

Environmental Implications:

Nil

Comment:

The new draft Local Planning Policy for Outbuildings will result in Council providing a better service to landowners and residents. It will provide a consistent and more efficient assessment framework for Council Officers.

RESOLUTION

030611

Moved: Cr Scott

Seconded: Cr Randell

“That Council:

- 1. Resolve to adopt the proposed Local Planning Policy - Outbuildings for advertising purposes;***
- 2. Advertise the proposed Local Planning Policy – Outbuildings in accordance with the provisions of Clause 8.8.2 of the Shire of York Town Planning Scheme No 2 for a period of 42 days; and***
- 3. Resolve that after the expiry of the advertising period, consider a report detailing the submissions made relating to the proposed Local Planning Policy – Outbuildings prior to formally adopting the Policy.”***

CARRIED: 5/0

Item 9.1.1 – Appendices

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.2 Sea Containers Compliance

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

FILE NO:	PS-TPS
COUNCIL DATE:	20 June 2011
REPORT DATE:	9 June 2011
LOCATION/ADDRESS:	Shire Wide
APPLICANT:	N/A
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Sea Container Policy
DOCUMENTS TABLED:	Nil

Summary:

Sea containers are a cheap, secure form of storage and are increasingly being utilised by landowners in York. The sea containers are second-hand and industrial in appearance.

Increasingly, Council is receiving complaints regarding the location and appearance of sea containers in the Shire, particularly in the town centre and residential areas.

It is proposed to initiate action to regulate the location of sea containers within the Shire in accordance with Council's adopted Policy.

Background:

Council resolved at its Ordinary Meeting of 15 December 2010 to review the current Sea Container Policy as follows:

"Instruct staff to undertake a review of the Local Planning Policy – Sea Containers with the view to inserting a provision for the temporary and permanent location of sea containers within town site boundaries subject to various strict conditions."

A review has been carried out of neighbouring Shire policies (Toodyay and Northam) for controlling the location of sea containers. Neither Shire permits sea containers within town sites or residential zones.

Due to the heritage significance of the Shire, and to be consistent with neighbouring Shires, it is recommended that Council's Sea Container Policy remain unchanged and that persons wanting to locate sea containers within residential or town sites apply for planning approval on an individual basis.

There are a number of sea containers that are already located within residential zones and on town sites and some of which are subject to Council Compliance action.

To ensure that compliance action is carried out fairly and consistently, it is recommended that Council endorse a moratorium on compliance action regarding sea containers and that landowners be given a period of three (3) months to submit a planning application or to remove any unapproved sea containers.

Additionally, it is considered appropriate that landowners be given the opportunity to supply evidence that the sea container was located on the site prior to the adoption of the current policy (i.e. before 18 August 2008) and therefore could be considered similar to a 'non-conforming use'.

Where an application is not received or the sea container is not removed after the expiration of the moratorium period, Council's Compliance Officer will initiate action under the provisions of the *Planning and Development Act 2005* for unapproved development.

Consultation:

Landowners will be advised of the moratorium through notices in the Avon Valley Gazette, on the Shire's website and Offices. Additionally, any sea containers reported or noticed during the moratorium period will be given individual written notice of the process.

All planning applications received to permanently locate a sea container on a site will be advertised in accordance with the provisions of the York Town Planning Scheme No. 2.

Statutory Environment:

The proposed compliance approach is consistent with the *Planning and Development Act 2005*, the York Town Planning Scheme No. 2 and the Local Planning Policy – Sea Containers.

Policy Implications:

The proposal is consistent with legislation and adopted policy.

Financial Implications:

The submission of a planning application will require the payment of the application and advertising fee in accordance with Council's adopted Fees and Charges.

Strategic Implications:

The proposed course of action ensures that a consistent approach to compliance is used with regards to regulating sea containers.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

The proposed compliance action is within Council's budget and resources.

Social Implications:

It is considered that the proposed compliance action will have a positive social impact on the community. Firstly, it is important that the heritage significance and town centre be protected from inappropriate development. Secondly, the community has the opportunity to apply for approval or removal of unapproved sea containers. This proposal will provide a fair and consistent approach for the community.

Environmental Implications:

There are no environmental implications associated with this proposal.

Comment:

The numbers of unapproved sea containers located throughout the Shire, particularly in the town centre and on residential sites are increasing. It is important that Council initiate action to regulate the location of sea containers and such regulation is fair and consistent. It is also important that the community be provided with an opportunity to gain approval or remove any unapproved sea containers. As a result of this process the number of new unapproved sea containers may also be reduced.

**RESOLUTION
040611**

Moved: Cr Randell

Seconded: Cr Boyle

“That Council:

APPROVE the following course of action:

- 1. A three (3) month moratorium on compliance action on unapproved sea containers.***
- 2. The moratorium be advertised in newspapers, Council’s website and Offices.***
- 3. During the moratorium period landowners be permitted to apply for planning approval to permanently locate the sea container on site or to remove the sea container prior to the end of the moratorium period.***
- 4. Where unapproved sea containers are detected during the moratorium period, written notice be provided to the landowner of the conditions of the moratorium.***
- 5. At the conclusion of the moratorium, Council’s Compliance Officer initiate compliance action on all unapproved sea containers within the Shire of York.”***

CARRIED: 5/0

Tyhscha Cochrane, Acting Chief Executive Officer left the room at 3.35pm.

Item 9.1.2 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.3 Application for Use of 35 Leeming Road, Mount Hardey for Advanced Driving Tuition and Corporate Driving Training Days

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

FILE NO:	LE2.2874, P.641
COUNCIL DATE:	20 June 2011
REPORT DATE:	10 June 2011
LOCATION/ADDRESS:	Lot 37 (35) Leeming Road, Mount Hardey
APPLICANT:	Extreme Driving (Mark Haybittle)
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	1 – Locality and Site Plan 2 – Initial Council Report (16 May 2011)
DOCUMENTS TABLED:	Legal Advice (Confidential) – Copy provided to all Councillors

Summary:

The planning application to use Lot 37 (35) Leeming Road, Mount Hardey is re-presented to Council for determination following the receipt of legal advice as resolved by Council at its Ordinary Meeting held on 16 May 2011.

It is recommended that the planning application be approved for a period of 12 months subject to the imposition of conditions of consent.

Background:

Council at its Ordinary Meeting held on 16 May 2011 considered a planning application to use Lot 37 (35) Leeming Road, Mount Hardey for advanced driver tuition and corporate driver training days.

The determination of the application was deferred by Council until legal advice was received on the constraints able to be placed on the landowner and the proponent if there are activities outside of the approved conditions.

Legal advice was requested by Council's from McLeod's Barristers and Solicitors in accordance with the Council resolution. The advice states that there are three ways in which constraints may be placed on the development if the conditions are not complied with:

1. By prosecuting under s.218 of the *Planning and Development Act 2005*;
2. By giving a direction under s.214 of the *Planning and Development Act 2005*;
3. By refusing to renew the approval.

A copy of the legal advice has been provided to all Councillors in confidence.

The recommended conditions of approval have also been reviewed in light of the legal advice to ensure that the conditions are able to be enforced and that Council will have the ability to prosecute.

The assessment of the planning application to use the subject property for advanced driver tuition and corporate driver training meets the objectives of the York Town Planning Scheme No. 2 and it is considered that the issues raised in the submissions can be appropriately managed by conditions of consent.

The legal advice obtained confirms that the development and conditions can be regulated by the Shire through a number of mechanisms under the provisions of the *Planning and Development Act 2005*.

It is therefore recommended that the planning application be approved subject to the amended conditions of consent.

Consultation:

The application was advertised in accordance with the provisions of the York Town Planning Scheme No. 2. Refer to the Council report of 16 May 2011 (Appendix 2).

Statutory Environment:

The application is considered consistent with the provisions of the York Town Planning Scheme No. 2. Refer to the Council report of 16 May 2011 (Appendix 2).

Policy Implications:

There are no Policy implications. Refer to the Council report of 16 May 2011 (Appendix 2).

Financial Implications:

Council has incurred the additional cost of legal advice that is not covered by the application fees.

Strategic Implications:

Refer to the Council report of 16 May 2011 (Appendix 2).

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

The proposal will result in additional tourism for York.

Social Implications:

Increased tourism will have a positive social impact for York and local business.

Environmental Implications:

Environmental impacts identified can be managed appropriately.

Comment:

The determination of this application was deferred by Council to obtain legal advice on the options for regulation of the proponent and landowner. The legal advice has confirmed that there are a number of options available to Council to regulate the activity.

The assessment of the planning application, and consideration of the issues raised in the objections, shows that the proposal is consistent with the York Town Planning Scheme No. 2.

The recommended conditions of approval have been amended in accordance with the legal advice obtained by Council.

**RESOLUTION
050611**

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

APPROVE the planning application to use Lot 37 (35) Leeming Road, Mount Hardey for advanced driver tuition and corporate driver training days (‘the Development’) for a period of twelve (12) months from the date of determination, subject to the following conditions:

- 1. Development must take place in accordance with the approved plans and supporting documentation.***
- 2. This consent will lapse twelve (12) months from the date of determination.***
- 3. An application for renewal after the initial 12 month period must be lodged in writing, a minimum of 3 months prior to the expiry date.***
- 4. This consent grants approval to undertake the Development a total of four (4) days, Saturday or Sunday, within the 12 months from the date of determination, and only between the hours of 8.00 am to 4.30 pm (‘hours of operation’).***
- 5. The Development may not be undertaken in the period 1 November to 30 April each year due to the potential fire danger.***
- 6. No vehicles are permitted to use the track outside the Days of operation with the exception of vehicles involved in the grading of the track and Leeming Road or the purpose of entry and egress by the occupants.***
- 7. Any grading of the track or Leeming Road must be carried out during daylight hours.***
- 8. The applicant must notify Council and all adjoining landowners at least 21 days before each and any of the Days of operation. The notification shall provide details of the on-site contact person.***
- 9. Toilet facilities shall be provided on site. Any required on-site sewage management systems shall be approved by Council prior to the installation and use.***
- 10. Noise levels emitted from the use shall not exceed the levels specified in the Environmental Protection (Noise) Regulations 1997 for ‘unreasonable noise’ for sensitive premises. If any complaints are received, noise monitoring shall be carried out under event conditions by a suitably qualified person at the common boundary of the residence of the complainant(s) and a report shall be submitted to Council within one month from the date of the complaint demonstrating compliance with this condition prior to conducting any further events.***
- 11. Dust suppression must be carried out when necessary to ensure that dust created from the activity does not detrimentally impact on neighbouring properties or the use of public roads.***
- 12. Fire fighting equipment must be available on site at all times during the event.***
- 13. Leeming Road shall be graded from York-Quairading Road to the entrance of the property to Council’s satisfaction following each event.***
- 14. The applicant shall submit evidence of public liability insurance for each event prior to conducting the first event.***

Notes to the approval:

- Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2:** Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.
- Note 3:** If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.
- Note 4:** Under the provisions of the York Town Planning Scheme No. 2, Council can extend a consent following receipt of a written request. Any applications for renewal will be advertised in accordance with the provisions of the Scheme.
- Note 5:** Any food preparation shall comply with the requirements of the Food Act 2008.
- Note 6:** Potable water supplied on site shall meet the requirements of the Department of Health and the Australian Drinking Water Guidelines.
- Note 7:** Council's records indicate that the shed on the property does not have Council approval. Council can issue a retrospective building approval upon application."

LOST: 5/0

Officers Recommendation lost due to adverse impact on the amenity of the area in relation to close proximity of residents and objections received were considered valid e.g. noise, dust

Tyhscha Cochrane, Acting CEO returned to the room at 3.40pm.

Item 9.1.3 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.4 York Town Planning Scheme No. 2 - Scheme Amendment No. 29 (Daliak)

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

FILE NO:	PS-TPS-24
COUNCIL DATE:	20 June 2011
REPORT DATE:	8 June 2011
LOCATION/ADDRESS:	Morris Edwards Drive, Daliak
APPLICANT:	Hames Sharley
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Scheme Amendment Map
DOCUMENTS TABLED:	Nil

Summary:

Scheme Amendment No. 29 (Daliak Precinct) to the York Town Planning Scheme No. 2 was approved by the Minister for Planning on 26 May 2011 and gazetted on 3 June 2011.

The Scheme Amendment has rezoned from 'General Agriculture' to 'Development Zone', which will enable the development of a variety of mixed use, rural residential and residential lots.

An Outline Development Plan is currently being prepared by the proponent for approval by the Shire and the Western Australian Planning Commission to ensure orderly and sustainable development of the precinct.

Background:

Council first resolved to initiate Scheme Amendment No. 29 for rezoning of the Daliak Precinct on 21 July 2008.

The Daliak Precinct consists of 22 lots and an area of 136.91 hectares. The area is bounded by Ulster Road, Morris Edwards Drive and the Great Southern Highway and is the western gateway to York Town Centre.

The Draft Outline Development Plan provides an indicative land use of residential, rural residential and mixed uses, including an open space and drainage network. Approximately 1,011 lots are proposed with varying areas to cater for low to high density development. A retirement village is also proposed as part of the development.

On 21 June 2010, Council resolved to approve the scheme amendment and the documentation was forwarded to the Western Australian Planning Commission for the Minister's final approval.

Consultation:

The Scheme Amendment has been through an extensive consultation process in accordance with the requirements for scheme amendments outlined in the Planning and Development Regulations.

All land owners within the mapped areas of Scheme Amendment No. 29 have been notified in writing of the gazettal. Additionally, an advertisement has been placed in the Avon Valley Gazette.

Statutory Environment:

The gazettal of the rezoning amends the provisions of the York Town Planning Scheme No. 2 to incorporate a ‘development zone’ specifically relating to the subject lots.

Policy Implications:

The York Town Planning Scheme No. 2 is amended by the gazettal of this scheme amendment.

Financial Implications:

Fees are applicable for scheme amendments. Developer contributions may be an appropriate cost sharing mechanism for the provision of infrastructure and community facilities associated with this development.

Strategic Implications:

This Scheme Amendment is consistent with the York Local Planning Strategy.

Voting Requirements:

Absolute Majority Required: Not applicable

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Large developments may have longer term economic implications for Council resources. Developer contribution policies are required to enable appropriate cost sharing mechanisms to be adopted. Contributions can be levied for infrastructure, such as roads and community facilities. Scheme Amendment No. 26 has been approved by the Minister and policies are currently being developed and will be presented to Council for consideration in the near future.

Social Implications:

This development will provide a greater variety of housing options to current and future residents and is likely to have positive social impacts on the York community. Construction of the development may also provide employment opportunities.

Environmental Implications:

Environmental issues associated with the development, and any larger housing developments, can be managed through research and preventative measures. Erosion and sediment controls will be required during construction. The site will have access to reticulated sewerage and water. Telecommunication and power is available. The draft Outline Development Plan has been designed taking into consideration the topography of the site, including existing creek lines and remnant vegetation. It is considered that the environmental implications of this development can be satisfactorily managed.

Comment:

This report is for information purposes.

**RESOLUTION
060611**

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

This report be noted for information purposes.”

CARRIED: 5/0

Item 9.1.4 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.5 Proposed Home Business – 68 Avon Terrace, York

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

FILE NO:	AV1.60398
COUNCIL DATE:	20 June 2011
REPORT DATE:	14 June 2011
LOCATION/ADDRESS:	Lot 9 (68) Avon Terrace, York
APPLICANT:	Maarssen Pty Ltd
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Locality and Floor Plans
DOCUMENTS TABLED:	Nil

Summary:

Council is in receipt of an application to conduct a home business at Lot 9 (68) Avon Terrace, York.

It is proposed to relocate the offices of J & R Insurance from Buckingham Road to Avon Terrace within the Town Centre precinct. However, the current residential zoning of the property does not permit offices. Therefore, it is proposed to conduct a home business as an interim measure until the site is rezoned to town centre as part of Scheme Amendment No. 43 (known as the Omnibus Amendment).

The application is being recommended for approval subject to the imposition of conditions of consent.

Background:

The subject property is located within the Town Centre boundaries identified in the York Local Planning Strategy and within the York Central Heritage Precinct. The site contains a residence that was previously used as the York Medical Centre prior to its relocation to the current site in Howick Street.

On 21 February 2011 Council resolved at its Ordinary Meeting to include the subject property into proposed Scheme Amendment No. 43 known as the 'Omnibus Amendment' to rezone the property from Residential – R40 to Town Centre to enable the property to be used for offices for J & R Insurance.

The Scheme Amendment is still waiting for approval from the Environmental Protection Authority for consent to advertise, which indicates that the approval of the scheme amendment would not be expected until late 2011.

The applicant approached Council's Manager of Planning Services to request approval to occupy the premises whilst the Scheme Amendment is being approved. This request was denied, however it was suggested that as a temporary measure that a 'home business' could be approved under the provisions of the York Town Planning Scheme No. 2, if the premises were also used as a residence. The applicant agreed and has submitted a planning application (this application) to obtain approval to use the premises for a home business.

Consultation:

Under the provisions of the York Town Planning Scheme No. 2, Clause 7.3 outlines the requirements for advertising planning applications. Clause 7.3.3 states that Council may give notice of the proposal.

It is considered in this case, due to the extensive consultation required as part of the Scheme Amendment process and that the proposal is consistent with the provisions of the Scheme, that the advertising requirements be waived.

Statutory Environment:

York Town Planning Scheme No. 2

The site is currently zoned Residential (R40) and it is proposed to use the property for a home business. Home businesses are permitted in a residential zone with planning consent from Council.

A home business is defined as a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling that does not employ more than 2 people that are not member’s of the occupier’s household and does not occupy more than 50m².

It is proposed to conduct a home business by converting 3 rooms into offices for use by the occupier of the residence and two employees. The kitchen/dining and one bedroom will remain unchanged. Therefore the proposal meets the requirements of a home business.

The Scheme requires home business approvals to be renewed annually by written application to continue to use the property as a home business. Council’s Compliance Officer carries out inspections of home businesses and home occupation prior to the issue of a renewal to ensure conditions of approval are being met.

It is proposed to display an advertising sign associated with the use consistent with the character and amenity of the site and locality.

As indicated in the ‘Background’ section of this report, the site is also subject to a proposed rezoning through Scheme Amendment No. 43 to enable the property to be used wholly as offices, which is not permissible under the current residential zoning.

Policy Implications:

York Local Planning Strategy

The site is located in the expanded Town Centre boundaries identified in the Local Planning Strategy (Amendment No. 1) and adjoins Lot 801 Avon Terrace that is zoned Town Centre.

Therefore, it is considered that the proposed home business is consistent with the Strategy and expansion of the boundary of the town centre.

Local Planning Policy – Heritage Precincts and Places

The site is located in the Central York Heritage Precinct under the provisions of the Policy, but is not heritage listed.

The proposed home business does not involve any alterations to the building and therefore, there are no impacts from a heritage point of view that require further assessment.

Financial Implications:

The appropriate application fee has been paid by the applicant.

Strategic Implications:

The proposal is consistent with the York Local Planning Strategy and Town Planning Scheme No. 2.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

The relocation of this business is in the interest of the local economy and provision of services and employment in York.

Social Implications:

There are no negative social implications associated with this proposal.

Environmental Implications:

There are no environmental implications associated with this proposal.

Comment:

The proposed home business will not detrimentally impact on the amenity or heritage importance of the area and is consistent with the zone objectives for both the residential and town centre zones.

It is recommended that the use of the property for a home business is approved by Council subject to the recommended conditions of consent.

**RESOLUTION
070611**

Moved: Cr Randell

Seconded: Cr Boyle

“That Council:

APPROVE the use of Lot 9 (68) Avon Terrace, York for a home business subject to the following conditions of consent:

- 1. The development must take place in accordance with the approved plans.***
- 2. The development must be substantially commenced within two (2) years from the date of determination.***
- 3. This consent is valid for 12 months from the date of determination and must be renewed annually by application in writing.***
- 4. The home business must be operated by the occupier of the dwelling and no more than 2 employees not members of the household are permitted to operate from the premises in conjunction with the home business.***
- 5. Any additional advertising signage not approved under this application is subject to a separate planning application and approval by Council.***

Notes to Consent:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period specified in the approval, after the date of determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination, there is a right of appeal under the Planning and Development Act 2005. An appeal must be lodged within 28 days of the date of determination.

Note 4: An application for a renewal of a home business approval must be made in writing prior to the lapsing of the current approval. The operator of a home business is responsible for ensuring that an approval is current at all times.”

CARRIED: 5/0

Note:

Councillors requested staff to look at changes to timeframe of licence issued through Scheme Amendment.

Item 9.1.5 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.6 Proposed Sewer And Easement – Lot 210 Georgiana Street York

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

FILE NO: GE2.30000/GI/.3002
COUNCIL DATE: 20 June 2011
REPORT DATE: 13 June 2011
LOCATION/ADDRESS: Lot 210 Georgiana Street, York
APPLICANT: MJB – Payne Consultants
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: G Tester, MHB
DISCLOSURE OF INTEREST: Nil
APPENDICES: Plan of Proposed Sewer Easement
DOCUMENTS TABLED: Nil

Summary:

In order to provide a sewer connection for the proposed Respite Centre intended to be situated on Lot 617 Gilford Street York, the engineering consultants for this project request Councils approval for the provision of a sewer easement commencing from Georgiana Street, running along the southern boundary of Lot 210 which is currently owned by the Shire of York.

Background:

Council has received correspondence from MJB Payne Consultants on 9 June 2011 regarding a proposed sewer easement on Lot 210 Georgiana Street.

The consultants have been engaged by the Department of Housing through Parry & White Architects to design a sewer extension to serve Lot 617 Gilford Street, the site of the proposed Respite Centre.

Consultation:

Nil

Statutory Environment:

Country Towns Sewerage By – Laws 1952

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

The long term plan of the Water Corporation is to construct a sewer in Gilford Street and the area to the West. This has to be achieved by extending a new sewer from the existing sewer in Georgiana Street as the latter is the only sewer in the vicinity which is deep enough to allow the westward extension.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

The waste water discharge from the Public swimming pool is positioned where it will pass through the proposed easement to where it discharges into the drainage ditch situated on Lot H19.

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

The elimination of onsite effluent disposal systems on clay soil sites is to be encouraged.

Comment:

The current proposal is to construct a 225mm diameter sewer commencing from Georgiana Street and running along the southern boundary of Lot 210 Georgiana Street currently owned by the Shire of York.

This proposal has merit as it has the potential to encourage further development on Lot 210 while also providing the opportunity to sewer properties in Gilford Street at some future date.

The easement would be in favour of the Water Corporation who would be subject to a deed of grant easement over the proposed sewer. Subject to a detailed design the easement width would be 2.5m wide along the Southern Boundary of Lot 210.

Any future development of Lot 210 Georgiana Street should not be greatly impeded by the placement of the sewer easement.

RESOLUTON

080611

Moved: Cr Randell

Seconded: Cr Boyle

“That Council:

Advise MJB Payne Consultants that Council has no objection to the Water Corporation being granted a sewer easement on the southern boundary of Lot 210 Georgiana Street for the purpose of providing a sewer connection to the proposed respite centre on Lot 617 Gilford Street subject to removal of trees to be at no cost to the Council.”

CARRIED: 5/0

Note:

Email received from Consultants regarding trees. Minor change to resolution prior to Council consideration.

Item 9.1.6 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.7 Building, Health, Accumulation of Disused Materials and Request to Reside in Caravan Report – Lot 39, 208 Avon Terrace

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

FILE NO: AV1.6560
COUNCIL DATE: 20 June 2011
REPORT DATE: 14 June 2011
LOCATION/ADDRESS: Lot 208 Avon Terrace
OWNER: Denise Robinson
SENIOR OFFICER: R Hooper
REPORTING OFFICER: G Tester, MHB
DISCLOSURE OF INTEREST: Nil
APPENDICES: Dangerous Building Certificate
Site Plan, Flood Plan
DOCUMENTS TABLED: Photographs

Summary:

This report is provided for Councils consideration to issue Notices to the owner of Lot 39, 208 Avon Terrace under various legislation requiring works to be undertaken to achieve compliance with such legislation within a designated time frame.

Council is also requested to consider Ms Robinson's request to reside in a Caravan.

Background:

Lot 39, 208 Avon Terrace owned by Ms Denise Robinson is zoned R2.5 and is 4047 square metres in area.

The brick walled metal roofed house is listed in Councils Municipal inventory and was originally constructed in 1850.

Approximately 50% of this Lot is subject to flooding.

On 21 February 2011, Ms Robinson's property (Lot 39, 208 Avon Terrace York) was the subject of a routine storm damage assessment along with many other storm damaged properties in the Shire of York.

Following the inspection, Ms Robinson was contacted in writing and advised of Councils concerns in relation to the amount of disused building materials and the roughly built outbuildings constructed from second hand materials, filled with second hand building materials that are positioned at the rear and side of Lot 39, 208 Avon Terrace.

On 25 March 2011, Ms Robinson advised in writing that she is staying on the property in a Caravan for security purposes and advising that she has had installed an electrical point to service the caravan without first seeking written permission from Council to reside in the caravan

On 26 March 2011 Ms Robinson met with Council Officers and discussed a development proposal for her property.

The following matters were discussed.

- A proposed community art / gardening education facility did not strictly conform with Councils land use zoning indicator in Town Planning Scheme No.2
- Ms Robinson was advised that she should make an application to Council for planning approval for her proposed development.
- On street car parking in this area would be unacceptable.
- The size of the development was considered too large for the block.
- That Ms Robinson would cease altering her existing boundary fences until such time as she had obtained planning approval for her proposed development.
- Ms Robinson was advised that she would not be granted approval to reside in the caravan situated upon her property.
- Ms Robinson advised that she was awaiting a determination from her insurer as to whether or not her house would be repaired or demolished.
- Ms Robinson was advised that the proposed aerobic treatment unit (Fuji Clean) was a domestic model not suitable for public and domestic use.
- Ms Robinson indicated that several unauthorised buildings (sheds) would be removed from her property and replaced with a new shed for private use at the rear of the property.
- Ms Robinson was advised that any proposed commercial buildings will require to be setback 3000mm from the boundary or be fitted with boundary firewalls in accordance with the provisions of the Building Code of Australia.
- Ms Robinson advised that her yard would be cleaned up to Councils requirements if the development proposal was approved.

Following this meeting Ms Robinson was requested in writing to vacate the caravan by 11 May 2011 and advised that if a development application was not received within 60 days an inspection of Ms Robinson's property would be undertaken that may result in formal notices being issued against this property requiring various works to be undertaken.

On 3 May Council received a complaint that Smoke was being emitted from Ms Robinsons storm damaged house.

A subsequent investigation revealed that Ms Robinson had installed roof sheeting and a metal flue pipe in a damaged section of the house roof and had lit the stove beneath it.

During the investigation it was noted that Ms Robinson was continuing to reside in the caravan at the rear of the property that is infested with mosquitoes with an outside toilet situated adjacent to the caravan providing an ideal breeding ground for mosquitoes due to the defective educt vent pipe at the rear of the toilet.

Following this inspection further correspondence was issued to Ms Robinson advising her to vacate the dwelling and the caravan within (7) seven days and advising that failure to do so would result in the matter being referred to Council for their consideration.

On 17 May 2011, Ms Robinson replied in writing indicating that she would not vacate in seven days as it was a punitive and unreasonable request.

Consultation:

Nil

Statutory Environment:

Health Act 1911
Health Local Laws 2001
Local Government Act 1995
Local Government (Miscellaneous Provisions) Act 1960
Local Laws Relating to Fencing

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: 9 June 2011 at 9.00am

On 3 June 2011, Ms Robinson was advised in writing that Council Officers intended to enter her property on 9 June 2011 at 9am.

Following an inspection of Ms Robinsons Property several areas of concern were noted as indicated below.

1. The house was noted to be in dangerous condition due to roof storm damage, collapsed carport roof, severe cracking of masonry walls and floor slab and pre existing long term lack of maintenance especially in timber verandah supports.
2. The laundry, bathroom and kitchen require maintenance in order to comply with the provisions of Councils Health Local Laws and the Building Code of Australia. Broken and defective windows were also noted.
3. There is no electrical supply to the house. There is however an electrical extension cord from the outdoor caravan supply powering electrical appliances within the house.
4. There is evidence of Ms Robinson using both the caravan and the house for the purposes of camping.
5. Unauthorised sheds constructed of second materials have been constructed towards the rear of the block and are filled with disused building materials.
6. Several car bodies and potentially unregistered vehicles are being stored on the property.
7. Unreasonable amounts of disused materials are being stored at the rear of the property.
8. Recently constructed fences composed of second hand materials are noted to be positioned on the side boundary. The fences have not been constructed in a sound manner and feature reflective materials facing the roadway.
9. External toilet educt vent pipe is defective and without mosquito proof cowl.

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

Nil

Social Implications:

Nil

Environmental Implications:

There are poor environmental conditions currently existing on this property due to the hoarding of disused building materials and in regards to the likelihood of vermin harbourage and the amount of disused materials being stored on parts of the property subject to flooding. This also has the potential to negatively influence both the immediate environment and the greater environment if these matters remain unaddressed.

Comment:

The matters outlined in this report have existed for a considerable period of time and in the past have been the subject of complaints to Council.

The caravan park currently has vacancies and it always undesirable to have persons occupying caravans in residential areas as it has the potential to create health nuisances and devalue surrounding properties.

In this situation the ablution laundry and kitchen facilities located within the damaged house are still being accessed without adequate lighting being available in what is considered to be a dangerous building.

The living conditions on this site are well below an acceptable standard with the rear half of the site resembling a salvage yard with car bodies scattered about.

The house requires repair or removal as does the effluent disposal system serving the premises.

The fencing constructed of second hand reflective materials is poorly constructed and has the potential to devalue adjoining properties and is likely to become airborne in strong wind conditions. Several areas of boundary fencing are damaged and require repair.

The disused building materials and unauthorised poorly constructed sheds are all situated in a portion of the lot that is subject to flooding. In a flood or storm event the potential for pollution of the environment and the subsequent safety hazard from this material is considered to be an unacceptable risk to persons and property.

In order to remedy these matters it is recommended that Council issue notices to the landowner requiring various works to be undertaken within (90) ninety days of the date of issue such notices.

In regards to the unauthorised occupation of the caravan it is recommended that Council issue an infringement notice to the occupier of the caravan.

**RESOLUTION
090611**

Moved: Cr Boyle

Seconded: Cr Scott

“That Council:

- (A) *Issue the following notices to Ms Denise Robinson owner of Lot 39, 208 Avon Terrace in regards to required works on this property and the continued unauthorised occupation of a caravan on this property.***
- 1. *Notice declaring the house dangerous and requiring various works under Section 403 of the Local Government (Miscellaneous Provisions Act) 1960.***
 - 2. *Notice requiring maintenance of the house under Councils Health Local Laws 2001.***
 - 3. *Notice declaring the sheds at the rear of the property dilapidated buildings under section 408 of the Local Government (Miscellaneous Provisions Act) 1960 requiring that the sheds be taken down.***
 - 4. *Notice under Schedule 3.1 of the Local Government Act requiring that disused material as specified is removed from the land.***
 - 5. *Notice under Shire of York Local Laws Relating to Fencing requiring the owner to maintain all fencing in good condition so as to prevent it from becoming dangerous, dilapidated or unsightly.***
 - 6. *Infringement Notice under the Caravan Parks and Camping Grounds Regulations 1997 for camping without written permission.***
- (B) *Council authorises staff to make a complaint to the Local Magistrates Court if any person continues to inhabit this residence while it is subject to a Dangerous Building Notice under section 403 of the Local Government (Miscellaneous Provisions) Act 1960.***

Advice Note:

The owner of Lot 39, 208 Avon Terrace will be advised of her rights of appeal where applicable.”

AMENDMENT

Moved: Cr Walters

Seconded: Cr Randell

“That Council:

- (A) *Issue the following notices to Ms Denise Robinson owner of Lot 39, 208 Avon Terrace in regards to required works on this property and the occupation of a caravan on this property.***
- 1. *Notice declaring the house dangerous and requiring various works under Section 403 of the Local Government (Miscellaneous Provisions Act) 1960.***
 - 2. *Notice requiring maintenance of the house under Councils Health Local Laws 2001.***

3. **Notice declaring the sheds at the rear of the property dilapidated buildings under section 408 of the Local Government (Miscellaneous Provisions Act) 1960 requiring that the sheds be taken down.**
4. **Notice under Schedule 3.1 of the Local Government Act requiring that disused material as specified is removed from the land.**
5. **Notice under Shire of York Local Laws Relating to Fencing requiring the owner to maintain all fencing in good condition so as to prevent it from becoming dangerous, dilapidated or unsightly.**
6. **Defer for 21 days or the next Council meeting Infringement Notice under the Caravan Parks and Camping Grounds Regulations 1997 for camping without written permission pending satisfactory progress including a provision of an application for planning approval and a building licence for the necessary repairs for the house, including a structural engineers report.**

(B) Council authorises staff to make a complaint to the Local Magistrates Court if any person continues to inhabit this residence while it is subject to a Dangerous Building Notice under section 403 of the Local Government (Miscellaneous Provisions) Act 1960.

C) Council authorise staff to liaise with Council Solicitors on this matter.

Advice Note:

The owner of Lot 39, 208 Avon Terrace will be advised of her rights of appeal where applicable.”

CARRIED: 5/0

**RESOLUTION
100611**

The amendment became the motion.

CARRIED: 5/0

Item 9.1.7 – Appendices

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Fire Control Officers – Minutes of 5th May 2011

FILE NO:	RS.BFC.1
COUNCIL DATE:	20 June 2011
REPORT DATE:	13 June 2011
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Fire Control Officers' Meeting
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A - Minutes
DOCUMENTS TABLED:	Nil

Summary:

That Council endorses the recommendations/action lists from the Fire Control Officers meeting held on the 5th May 2011.

Background:

Not applicable.

Consultation:

Fire Control Officers;
Mark Bowen – FESA;
Council Staff; and
Councillors.

Statutory Environment:

Bush Fire Act 1954.

Policy Implications:

Not applicable.

Financial Implications:

Expenditure has been identified through the Minutes and expenditure will occur within budget allocations.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Decisions by a well informed group will give the community confidence.

Environmental Implications:

Environmental implications to be dealt with by a strategic approach to issues raised.

Comment:

That the Minutes of the Fire Control Officers' meeting and its recommendations be received and acted upon.

RESOLUTION

110611

Moved: Cr Scott

Seconded: Cr Randell

“That Council:

Endorse the recommendations/action list, as detailed in the Minutes labelled “Appendix A” of the Fire Control Officers’ Meeting held on the 5th May 2011.”

CARRIED: 5/0

Item 9.2.1 – Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.2 Proposal to Make Parking and Parking Facilities Amendment Local Law 2011

FILE NO:	LE.LLW
COUNCIL DATE:	20 June 2011
REPORT DATE:	23 May 2011
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Darren Long – DL Consulting
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Parking and Parking Facilities Amendment Local Law 2011
DOCUMENTS TABLED:	Parking and Parking Facilities Local Law

Summary:

The purpose of this report is to:

- (1) consider the submissions (if any) received on the proposed Shire of York Parking and Parking Facilities Amendment Local Law 2011 and determine if any drafting amendment(s) are required to the Amendment local law as a result of the submissions received;
- (2) give notice of the purpose and effect of the Shire of York Parking and Parking Facilities Amendment Local Law 2011;
- (3) make the Shire of York Parking and Parking Facilities Amendment Local Law 2011, incorporating all amendments;
- (4) authorise the local law's gazettal in the *Government Gazette*;
- (5) give local public notice, (after gazettal), of the date the Shire of York Parking and Parking Facilities Local Law 2011 will come into effect; and
- (6) authorise the affixing of the Common Seal to the local law.

Background:

At its Ordinary meeting of 16 August 2010 Council resolved to commence the process to make a Shire of York Parking and Parking Facilities Amendment local law.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

An advertisement was placed in the West Australian on 24 November 2010, with the submission period for public comment closing on Wednesday 19 January 2011 and the Avon Valley Gazette on the 4th December 2010, which circulates locally.

Consultation:

As required by section 3.12 the Local Government Act 1995, an advertisement was placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days), closing on 19 January 2011.

Statutory Environment:

Local Government Act 1995

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

Road Traffic Act 1974

Road Traffic Code 2000

Policy Implications:

The adoption of relevant policies, if required, should be undertaken after the final adoption of the local law.

Financial Implications:

Advertising costs associated with placement of the amendment local law in the Government Gazette and giving local notice of the date the local law takes effect.

Strategic Implications:

Resource Management.

Voting Requirements:

Absolute Majority Required: YES

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

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

Environmental Implications:

Not applicable.

Comment:

Council advertised, both locally and state-wide, for public comment on the draft Parking and Parking Facilities Amendment Local Law 2010. At the close of the submission period, one public submission had been received. A summary of this submission is detailed in the following table.

Submission/Applicant Name	Comment	Officer/Consultant Comment	Recommended Action
Submission 1 Mr D Paton	<p>Clause 3.2(3) – Restrictions on parking in particular areas</p> <p>At present there is some designated parking for motorcycles outside Saint's Cafe and some parking bays for these vehicles further along Avon Terrace. I have never heard complaints from visitors or local York people about these motorcycles taking up space in ordinary car parking bays, in fact many people admire the polished gems that people ride to York. If the Shire of York is going to penalise these riders with parking fines when they come to York it will have six guaranteed results-</p> <p>(1) They will not ride to York anymore.</p> <p>(2) They will trash York's reputation.</p> <p>(3) It will have a detrimental effect on Saint's Cafe.</p> <p>(4) It will destroy York's reputation as a destination for visitors.</p> <p>(5) They will lose York many of thousands of dollars income over a year's period.</p> <p>(6) If certain elements of motorcycle groups decide that the laws are not fair to them they could possibly bring riots and mayhem to York with no chance of the local police having any control over the consequences.</p>	<p>(1) The requirement for motorcycles to only park in bays marked "M/C" was contained within the original local law gazetted by the Council on 22 February 2000. No new provisions are being introduced, merely reworded to make the provisions more easily understood.</p> <p>(2) The provisions relating to motorcycle parking are standard provisions contained in model local laws used within the local government industry.</p> <p>(3) There have been no issues associated with the requirements of this clause since its introduction in February 2000.</p> <p>(4) The proposed amendment to clause 3.2(3) is endeavouring to make it more easily understood, rather than introducing new requirements.</p>	It is recommended that Council reject the submission.

One submission from the Department of Local Government was received on 19 January 2011. The comments from the Department of Local Government, set out in the table below, have been incorporated into the final draft of the amendment local law.

Department Comment	Officer/Consultant Comment	Action Taken
It is recommended that as your laws will not be gazetted until 2011 – that the year in the title of the proposed law be changed to “2011”.	Noted and agreed.	Year in title and citation has been amended to 2011.
Clause 2 – Commencement To be consistent with current drafting standards please replace the word “fourteen” with the numeral “14”.	Noted and agreed.	In clause 2, the word “fourteen” has been replaced with the numeral “14”.
Clause 3 – Principal Local Law The reference to the title of the principal local law should be italicised. Delete the words “as follows” and replace with a fullstop in last sentence.	Noted and agreed.	In clause 3, title of principal local law has been italicised and the words “as follows” in last sentence have been replaced with a fullstop.
Clause 4.1 appears to be more of a note rather than part of the law. Recommend this subclause be deleted.	Noted and agreed.	Subclause (1) deleted.
Clause 6 – To prevent inconsistency with relevant legislation please amend the identified defined terms to have the meaning given to them in the Code.	Noted and agreed.	Clause 5 in amendment local law has been redrafted to amend the terms “bicycle, carriageway, centre, footpath, motorcycle, no parking area, parking area, special purpose vehicle and vehicle” to reflect their definition in the Code.
Clause 6 – The term “symbol” needs to be amended to reflect the current Australian Standard.	Noted and agreed.	Clause 5 in amendment local law has been redrafted to amend term “symbol” to reference AS1742.11-1999.
In accordance with previous alterations, it is presumed that the Shire does not have any parking stations. As such please amend the heading of Part 2 and the contents of clause 2.1 to remove all references to parking stations.	Noted and agreed.	Clauses 7 and 8 have been inserted in amendment local law to amend Part 2 heading and amend clause 2.1 to remove references to parking stations. In addition clause 6 of amendment local law has been inserted to remove references to parking stations in clause 1.4.
Clauses 8 and 9 – Needs to be reformatted to reflect contemporary drafting standards.	Noted and agreed.	Clauses 9 and 10 in amendment local law have been redrafted to reflect new drafting standards.
Clause 10(2) - Needs to be reformatted to reflect contemporary drafting standards.	Noted and agreed.	Clause 11(2) amended accordingly.
Clause 11 – delete “a Person” and insert “Unless otherwise permitted by a sign, a person”	Noted and agreed.	Clause 12 has been amended to reflect wording.
A new amendment is required to clause 3.7(2) of principal local law to make this subclause subject to any written law relating to intersections.	Noted.	A new subclause(1) in clause 13 has been inserted into the amendment local law to accommodate this change.

Clause 3.7(3) of principal local law is inconsistent with the Road Traffic Code 2000.	Noted	A new subclause (7) has been inserted in Clause 13 to amend the principal local law to comply with the Code. New subclauses (8) and (9) have also been inserted to amend subclauses 3.7(4) and (5) of the principal local law.
Clause 14 needs to be amended so that the reference to 'part' is in capitals.	Noted.	Clause 17 of the amendment local law has been altered to reflect this change.
Clause 16(2) needs to be amended so that wording is consistent with clause 5.	Noted	The renumbering of all clauses and subclauses has been moved to clause 28 of the amendment local law and has been redrafted to reflect the changes suggested.
Clause 5.2 in principal local law needs to be deleted as it is an averment clause.	Noted	New clause 19 in amendment local law deletes clause 5.2.
Clauses 16 and 17 should be headed Schedule 1 and Schedule 2 respectively	Disagree	The terms First Schedule and Second Schedule are the terms used in the principal local law and as such need to reflect these terms. The amendments in clauses 21 and 22 reflect the change in term use by amending the headings to Schedule 1 and Schedule 2.
Prescribed offences in Schedule 2 do not match up with clauses And require amendment.	Noted	Clause 22 in amendment local law has been altered so that the prescribed offences match the relevant clauses.

In addition to the above changes, a number of minor formatting and setting out errors have been corrected in the amendment local law.

The attached amendment local law incorporating all identified drafting changes is not considered significantly different than the proposed local law that was advertised for public comment, permitting Council to proceed with adopting the local law.

The purpose of the Parking and Parking Facilities Amendment Local Law 2011 is to amend the Shire of York Parking and Parking Facilities local law to include additional provisions that reflect current legislative requirements, and to review the modified penalties.

The effect of the Parking and Parking Facilities Amendment Local Law 2011 is to ensure that the local law is consistent with other legislation.

OFFICER RECOMMENDATION

“That Council:

- 1. Reject the submission from Mr D Paton on the proposed changes to the Parking and Parking Facilities local law;***
- 2. Notes the submission from the Department of Local Government in relation to the proposed Shire of York Parking and Parking Facilities Amendment Local Law 2010;***
- 3. Council resolves to make the Shire of York Parking and Parking Facilities Amendment Local Law 2011, as per the Attachment, incorporating amendments outlined by the Department of Local Government, in accordance with section 3.12 of the Local Government Act 1995;***
 - (a) the purpose of which is to amend the Shire of York Parking and Parking Facilities local law to include additional provisions that reflect current legislative requirements, and review modified penalties; and***
 - (b) the effect is to ensure that the local law is consistent with other legislation;***
- 4. Publish the Shire of York Parking and Parking Facilities Amendment Local Law 2011, as per (3) above, in the Government Gazette and provide copies of the local law to the Minister for Local Government;***
- 5. Forward a copy of the gazetted local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review; and***
- 6. Authorise the affixing of the Common Seal of the Shire of York to the Shire of York Parking and Parking Facilities Amendment Local Law 2011.”***

RESOLUTION

120611

Moved: Cr Scott

Seconded: Cr Walters

“That Council:

Defer this matter until further notice.”

CARRIED: 5/0

Item 9.2.2 – Appendices

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 Youth Report for June 2011

FILE NO: CS.LCS.6
COUNCIL DATE: 20 June, 2011
REPORT DATE: 13 June, 2011
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: Lyn Kay, YDO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

The following is a summary of the activities undertaken by the Youth Development Officer since the last report submitted in April 2011.

School Holiday Programme:

On the 26th April, 13 Youth from Beverley and York went to Cockburn Ice Arena, down to Ciccerellos for 'Fish & Chips' and then to the beach for a swim. Fantastic day enjoyed by all!

All costs were met by the youth attending.

On the 2nd May, 15 youth from Beverley and York went to Dash Paintballing in Gidgegannup followed by a sausage sizzle. Another fun filled day with the bus driver Ted and myself following them to each course carrying all the discarded jumpers, bags, phones, etc. All costs were met by the youth attending.

Discussions with the owner have commenced with regards to organising an overnight stay with the youth having team building games-compasses, orienteering etc. and then followed by DVD's on competition Paintballing-Australia wide. The next day will be paintballing on the different courses available.

Youth Centre:

Final plans- 'Suitable for Construction' will be sent to the Shed Company for quoting and Engineer purposes.

At this stage we are in the process of:

- 1 Installing entrance gates off Bird Street
- 2 Installation of sewer connections to both Scout Hall and proposed Youth Centre
- 3 All existing septic tanks and leach drains to be decommissioned
- 4 Installation of sand pad currently being organised

The Hang Out Centre is going well with youth coming and going between football training and is averaging 15-20.

Active After School Program:

We are in Term 2 with 43 children from Years 1, 2 & 3 attending and with the help of Judy Davies the children are learning basic skills for Floorball.

Lots of fun and fresh fruit!

Graffiti Art Project:

Along with Artists Darren Hutchens and Dan Duggan, 12 youth met at the Pavilion on Friday 20th May to work on designs for the Police Station wall. Sergeant Steve Evans also attended and suggested the design-Youth in York!

All the youth practiced using the special spray cans on 12 panels which were completed on Saturday 21st May and will be hung in the Youth Centre building when finished.

Along with the Artists, they then put the design on the wall which was finalised on Sunday 22nd May.

We had a lot of Community members stop and talk to all involved and comment on how colourful and wonderful it looked, a long but very enjoyable weekend by all who attended.

Wheelchair Basketball:

Youth Officer organised with the York District High School to have 2 representatives from Wheelchair Sports to come and work with Years 8, 9 & 10 students on their education program Wheel LIFE with the main focus on the fact that people in wheelchairs are no different, they just do things in different ways.

Karaoke Disco:

The next Disco will be on 1st July at the Town Hall.

We will be selling cool drinks, lollies and hot dogs with an entrance fee of \$2.50 and any profits will be going to the Youth Centre.

Banners in the Terrace:

Connor Smith from York District High School was voted by all Shire Staff, Councillors for the best design and Youth Officer presented him with a donated \$50 gift voucher at the School Assembly.

The top 6 artists will be meeting on the 25th June to paint the banner which will be on display in St. Georges Terrace from Sunday 31st July until Saturday 13th August.

Youth Officer has attended several Workshops and Forums in the Wheatbelt with regards to Youth which is important for networking with different agencies and obtaining knowledge of what is available with regards to funding and help with issues addressing the Youth.

Background:

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

Consultation:

Youth
School
Police
Health
Councillors
Council Staff
Community Members

Statutory Environment:

Nil

Policy Implications:

Not Applicable

Financial Implications:

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

Strategic Implications:

Key Result Area 4 - Youth - Objectives:

1. *To facilitate an increase in the employment and education opportunities for the young people of the Shire.*
2. *To enhance recreational and cultural opportunities for young people.*
3. *To involve young people in decision-making and in taking a responsible role in our community.*
4. *To develop strategic alliances with other organisations working with young people.*

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

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

Environmental Implications:

Not applicable

Comment:

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

RESOLUTION

130611

Moved: Cr Boyle

Seconded: Cr Randell

"That Council:

Receives this report and acknowledges and endorses the activities and initiatives of the Youth Development Officer."

CARRIED: 5/0

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.4 Plan for the Future

FILE NO: FI.FRP.1
COUNCIL DATE: 20 June 2011
REPORT DATE: 13 June 2011
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Plan for the Future

Summary:

Council is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of in accordance with Section 5.56 of the Local Government Act 1995 and 19C of the Local Government (Administration) Regulations.

A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.

Background:

This is the third time a Plan for the Future for the Shire of York has been prepared.

Consultation:

The Draft Shire of York Plan for the Future 2011/12 to 2014/15 will be advertised to seek public comment for a period of 14 days.

Statutory Environment:

Local Government Act 1995 Section 5.56 and Local Government (Administration) Regulations 1996. Regulations 19C and 19D.

“5.56. Planning for the future

- (1) A local government is to plan for the future of the district.*
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.”*

“19C. Planning for the future — s. 5.56

- (1) In this regulation and regulation 19D —
plan for the future means a plan made under section 5.56.*
- (2) A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) A local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*

- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

- (6) *If a plan, or modified plan, is adopted by the council then the plan or modified plan is to apply to the district for the period of time specified in the plan.*
- (7) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.*
- (8) *A plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.*
- (9) *A local government is to ensure that a plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.”*

Policy Implications:

Not applicable.

Financial Implications:

The adoption of the Plan for the Future in itself does not have any financial implications to the Shire however it does outline Council’s intentions for the coming 4 years. Implementation of the plan involves significant expenditures and revenues and the four year financial plan shows balanced budgets. Adoption of the plan does not commit Council to any expenditure as this is done through the budget process.

Strategic Implications:

The Plan for the Future outlines the strategic direction in which the Council is heading for the next four years however the plan is required to be reviewed at least every two years.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

The Plan for the Future provides the electors of York an outline on the future intentions of Council and provides a guideline to staff when framing future budgets.

Environmental Implications:

Not applicable.

Comment:

That Council proceed to advertising.

**RESOLUTION
140611**

Moved: Cr Randell

Seconded: Cr Boyle

“That Council:

- 1. resolves to advertise the Plan for the Future 2011/12 – 2014/15 as tabled for a period of 14 days; and***
- 2. advises that copies of the Plan for the Future are available for inspection at the Shire Office or available on the Council’s website.”***

CARRIED: 5/0

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.5 Constitutional Recognition

FILE NO: OR.IGR.5
COUNCIL DATE: 20 June 2011
REPORT DATE: 13 June 2011
LOCATION/ADDRESS: N/A
APPLICANT: ALGA
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: R Hooper, CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: ALGA Correspondence
DOCUMENTS TABLED: Nil

Summary:

The President of the Australian Local Government Association requests Council's formal support for Constitutional Recognition in the Australian Constitution.

Background:

Local Government has lobbied for over 30 years to achieve recognition in the Australian Constitution rather than the current status of being creatures of the States. While previous referendums on this issue have been defeated the maturity of Local Government as a tier of Government, direct funding opportunities, acceptance and recognition of change and the current political climate would indicate a far higher chance of success.

Consultation:

This matter has been extensively canvassed and discussed at State, National and Regional meetings and Forums.

Statutory Environment:

Not Applicable

Policy Implications:

Nil

Financial Implications:

Nil at this stage. Potentially of high benefit through direct funding from the Commonwealth.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil at present

Social Implications:

The community generally recognises Local Government as a primary service provider and it may be supportive of change to the Constitution.

Environmental Implications:

Nil

Comment:

Local Government will change dramatically into the future e.g. forced or voluntary amalgamations, infrastructure funding decisions, transport, telecommunications, health care, etc and constitutional recognition will at least place Local Government in the arena of Government and decision making rather than being simply a service provided.

RESOLUTION

150611

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

Declares its support for financial recognition of Local Government in the Australian Constitution so that the Federal Government has the power to fund Local Government directly and also for inclusion of Local Government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.”

CARRIED: 5/0

Item 9.2.5 – Appendices

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.6 SEARTG – Financial Plan

FILE NO: OR.RDT.5.2
COUNCIL DATE: 20 June 2011
REPORT DATE: 14 June 2011
LOCATION/ADDRESS: South East Avon Regional Transition Group
APPLICANT: SEARTG
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Long Term Financial Planning Grant Agreement
DOCUMENTS TABLED: Framework and Guidelines Long Term Financial Planning

Summary:

To endorse the Long Term Financial Planning Grant Agreement for the Regional Transition Group.

Background:

The State Government have provided the framework and guidelines for what is to be considered in Long Term Financial Planning.

The Shire of York signed an Agreement on behalf of the Shires of Beverley, Tammin, Cunderdin and Quairading and forwarded it to the Department of Local Government to source funding for a long term financial plan to be completed for each member Council.

Consultation:

Shires of York, Beverley, Quairading, Cunderdin and Tammin

Statutory Environment:

Minister Castrilli advised through the Framework and Guidelines for the Long Term Financial Planning that it is his intention to amend the Local Government Act 1995 and regulations to promote integrated planning and ensure that long term financial planning, asset management planning and workforce planning become standard business practices for all local governments.

Policy Implications:

Not applicable.

Financial Implications:

\$125,000 has been requested by the Department with \$3,000 inkind support eg. officers/councillor time and \$500 per member Council for refreshments and consumables.

Strategic Implications:

Not applicable

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

These will be developed and quantified in the plan.

Social Implications:

The local government managing its services and assets in a sustainable way will be of a favourable benefit to the community.

Environmental Implications:

Not applicable at this stage.

Comment:

That Council endorse the actions of the Chief Executive Officer and the Shire President signing the grant agreement for the purpose of enhancing the long term financial planning capacity of member local governments.

The purpose of the grant is to engage specialist consultants (from an Approved Panel List) to assist in the development of ten year rolling financial plans that can be incorporated in to the other Corporate Business Plans that are underway.

RESOLUTION

160611

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

- 1. endorse the Long Term Financial Planning Grant Agreement and advise the South East Avon Regional Transition Group members; and***
- 2. notes that if successful in obtaining the grant that the Shire of York acts as the host for banking requirements and management of the grant.”***

CARRIED: 5/0

Item 9.2.6 – Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.7 Proposal to Make Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011

FILE NO:	LE.LLW
COUNCIL DATE:	20 June 2011
REPORT DATE:	15 June 2011
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Darren Long – DL Consulting
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011
DOCUMENTS TABLED:	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2011

Summary:

The purpose of this report is to:

- (1) consider the submissions (if any) received on the proposed Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011 and determine if any drafting amendment(s) are required to the Amendment local law as a result of the submissions received;
- (2) give notice of the purpose and effect of the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011;
- (3) make the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011, incorporating all amendments;
- (4) authorise the local law's gazettal in the *Government Gazette*;
- (5) give local public notice, (after gazettal), of the date the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011 will come into effect; and
- (6) authorise the affixing of the Common Seal to the local law.

Background:

At its ordinary meeting held on the 20th September 2010 Council resolved to commence the process to make a Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment local law.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

An advertisement was placed in the West Australian on 24 November 2010, with the submission period for public comment closing on Wednesday 19 January 2011.

Consultation:

As required by section 3.12 the Local Government Act 1995, an advertisement was placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days), closing on 19 January 2011.

Statutory Environment:

Local Government Act 1995

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

Liquor Control Act 1988

Planning and Development Act 2005

Road Traffic Act 1974

Road Traffic Code 2000

Trade Measurement Administration Act 2006

Policy Implications:

There are no proposed policy implications at this stage.

Financial Implications:

Advertising costs associated with placement of the amendment local law in the Government Gazette and giving local notice of the date the local law takes effect.

Strategic Implications:

Resource Management.

Voting Requirements:

Absolute Majority Required: YES

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

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

Environmental Implications:

Not applicable.

Comment:

Council advertised, both locally and state-wide, for public comment on the proposed Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010. At the close of the submission period, no public submissions had been received.

A submission was received from the Department of Local Government on 19 January 2011. The comments from the Department of Local Government, set out in the table below, have been incorporated into the final draft of the amendment local law.

Department Comment	Officer/Consultant Comment	Action Taken
It is recommended that as your laws will not be gazetted until 2011 – that the year in the title of the proposed law be changed to “2011”.	Noted and agreed.	Year in title and citation has been amended to 2011.
In the preamble please delete the title of the proposed local law and substitute the words “following local law”. Title is already cited in clause 1.	Noted and agreed.	Preamble has been amended as advised.
Clause 2 – Commencement To be consistent with current drafting standards please replace the word “fourteen” with the numeral “14”.	Noted and agreed.	In clause 2, the word “fourteen” has been replaced with the numeral “14”.
Clause 3 – Principal Local Law Delete the words “as follows” and replace with a fullstop in last sentence.	Noted and agreed.	In clause 3, the words “as follows” in last sentence have been replaced with a fullstop.
Clause 4(1) appears to be more of a note rather than part of the law. Recommend this subclause be deleted.	Noted and agreed.	Subclause (1) deleted.
Clauses 4(2), (3), (4) and (5) need to be reformatted.	Noted and agreed.	Clause 4 has been redrafted to meet contemporary drafting standards by ‘deleting’ relevant words and substituting new text below the deletion.
Table of contents should be a separate clause and not part of the preliminary in clause 4.	Noted.	Amendments to the Table of Contents has been shifted to the end of the amendment local law.
Clause 6 – Amendment clauses should have the first sentence with what is to be deleted in quotation marks and the insertion to be on the following line. Please amend accordingly.	Noted and agreed.	Clause 5 in amendment local law has been redrafted to depict what is being amended in quotation marks and the newly substituted text on the following line.
Clause 6 – The proposed insertion of the definition “charitable organisation” is not required as it is in clause 6.7 of the principal local law	Noted	Proposed insertion of “charitable organisation” has been deleted from clause 5 in redrafted amendment local law.
Clause 2.1(a) of Principal local law needs to be replaced with recommended wording from Joint Standing Committee	Noted	Clause 6(1) of the amendment local law amends paragraph (a) in line with the recommended wording from the Joint Standing Committee.
Clause 7 – The word “subclause” should be changed to paragraph.	Noted and agreed.	Clause 6(2) in the amendment local law has been redrafted to refer to “paragraph” instead of subclause.
Clause 5.16(b) of the Principal local law is to be deleted	Noted	Clause 13 of the amendment local law has been inserted to delete paragraph (b) and ensure that paragraph (a) is not a separate paragraph but flows on directly after the first sentence.
Clause 17 – Replace all references to	Noted and agreed.	Clause 17 of the amendment

the <i>Health Act 1911</i> with the <i>Food Act 2008</i> .		local law inserts new clauses 6.7 to 6.13 into the Principal local law, of which clauses 6.9(b) and (c), and 6.10(a) have been updated to refer to the <i>Food Act 2008</i> .
Clause 21 – Schedule 1 – The following items need to be updated to reflect the correct clause reference in the penalty table Item 51 – refers to 7.5, should be 7.6 Item 52 – refers to 7.9, should be 7.10	Noted and agreed.	Clause 23 in the amendment local law, which replaces Schedule 1, amends items 51 and 52 to the correct clause references.
Clause 21 – Schedule 1 – Heading needs to be reformatted to reflect contemporary drafting standards	Noted and agreed.	Clause 23 Schedule heading has been amended to reflect the required drafting standards
Clause 21 – Schedule 1 – Items 36, 37, 38 and 39 penalty amounts need to be amended so that they do not exceed the limit prescribed in the Act	Noted and agreed.	Clause 23 – Schedule 1 has been amended at items 36, 37, 38 and 39 to \$500.

In addition to the above changes, Part 8 of the local law has been amended to reflect the new terminology in the Local Government Act 1995, where “Objections and Appeals” and now referred to as “Objections and Review”. In addition drafting corrections have been effected to amend the redesignation of clauses throughout the principal local law at the end of the amendment local law.

The attached amendment local law incorporating all identified drafting changes is not considered significantly different than the proposed local law that was advertised for public comment, permitting Council to proceed with adopting the local law.

The purpose of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011 is to ensure compliance with current terminology, to achieve consistency in local law provisions amongst the South East Avon Regional Organisation of Councils and review modified penalties.

The effect of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011 is that all persons wishing to conduct an activity on a thoroughfare or trade in a thoroughfare or public place are to comply with the provisions of this local law.

**RESOLUTION
170611**

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

- 1. notes the submission from the Department of Local Government in relation to the proposed Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2010;**
- 2. Council resolves to make the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011, as per the Attachment, incorporating amendments outlined by the Department of Local Government, in accordance with section 3.12 of the Local Government Act 1995;**
 - (a) the purpose of which is to amend the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places local law to ensure compliance with current terminology, to achieve consistency in local law provisions amongst the South East Avon Regional Organisation of Councils and review modified penalties; and**
 - (b) the effect is that all persons wishing to conduct an activity on a thoroughfare or trade in a thoroughfare or public place are to comply with the provisions of this local law;**
- 3. Publish the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011, as per (2) above, in the Government Gazette and provide copies of the local law to the Minister for Local Government;**
- 4. Forward a copy of the gazetted local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review; and**
- 5. Authorise the affixing of the Common Seal of the Shire of York to the Shire of York Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2011.”**

CARRIED: 5/0

Item 9.2.7 – Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.8 Application to be Recognised –McCarthy Belles CWA

FILE NO: CS.CEV.1CCP
COUNCIL DATE: 20 June 2011
REPORT DATE: 15 June 2011
LOCATION/ADDRESS: Public Places And Thoroughfares
APPLICANT: McCarthy Belles CWA
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Judith Anderson
DISCLOSURE OF INTEREST: Cr Scott
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

It is a requirement that McCarthy Belles CWA makes application to Council to be a recognised Community Group in order to qualify to have fees and charges waived when conducting not for profit fund raising activities in public places and thoroughfares.

Background:

On 23 May 2011 Council received an application from Rachel Martin seeking Council recognition of McCarthy Bells as a community group for the purpose of having Council fees and charges waived when conducting not for profit fund raising activities in public places and thoroughfares.

Consultation:

Nil

Statutory Environment:

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

Policy Implications:

Nil

Financial Implications:

Council's fees waived.

Strategic Implications:

This will encourage community groups to undertake fund raising activities in public places and thoroughfares.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

It is of benefit to enhance relationships between Council and Community Groups by waiving fees and charges for fundraising purposes of community benefit.

Environmental Implication:

Nil

Comment:

McCarthy Belles CWA, is a Not for Profit community group. Our aim within the York community is to provide a place for friendships to form and grow, while involving ourselves in opportunities to raise funds for our local and wider community and help where needed. As a part of the CWA of Australia, We will uphold there values and constitution.

Current copies of Certificates of Incorporation and Public Liability Insurance of \$20,000,000 have been provided.

Cr Scott declared an Interest Affecting Impartiality to this item and left the room at 4.10pm.

RECOMMENDATION

180611

Moved: Cr Randell

Seconded: Cr Boyle

“That Council:

Recognise McCarthy Belles CWA as a Community Group for the purpose of waiving fees and charges related to trading in public places and thoroughfares and the use of Council facilities for fundraising activities.”

CARRIED: 4/0

Cr Scott returned to the room at 4.11pm.

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.9 Application to be Recognised -York District High School P&C Association Inc

FILE NO: CS.CEV.1CCP
COUNCIL DATE: 20 June 2011
REPORT DATE: 15 June 2011
LOCATION/ADDRESS: 2 Trews Rd, York WA 6302
APPLICANT: York District High School P&C Association Inc,
Fundraising Committee
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Judith Anderson
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

It is a requirement that York District High School Parents and Citizens Association Inc (YDHS P&C) , Fundraising Committee to be recognized Community Group in order to qualify to have fees and charges waived when conducting not for profit fund raising activities in public places and thoroughfares and at the York Town Hall.

Background:

On 24 May 2011 Council received an application from Rachel Martin, Convener, Fundraising Committee, YDHS P&C seeking Council recognition as a community group for the purpose of having Council fees and charges waived when conducting not for profit fund raising activities in public places and thoroughfares and the York Town Hall.

Consultation:

Nil

Statutory Environment:

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

Policy Implications:

Nil

Financial Implications:

Council's fees waived.

Strategic Implications:

This will encourage community groups to undertake fund raising activities in public places and thoroughfares.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

It is of benefit to enhance relationships between Council and York District High School P&C Association Inc

Environmental Implications:

Nil

Comment:

The York District High School is an integral part of the York community. The YDHS P&C is a not-for profit organisation supporting the school for the benefit of all students.

The objectives of the YDHS P&C are to promote the interests of the school through:

- 1) co-operation between parents, teachers, students and members of the community;
- 2) assisting in the provision of resources and facilities and amenities for the school;
- 3) fostering community interest in educational matters.

The YDHS P&C also donates funds to the York District High School for additional resources, facilities and amenities.

RECOMMENDATION

190611

Moved: Cr Randell

Seconded: Cr Scott

“That Council:

Recognise the York District High School P&C Association Inc for the purpose of waiving fees and charges related to trading in public places and thoroughfares and the use of Council facilities for fundraising activities.”

CARRIED: 5/0

9.3 Works Reports

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Monthly Financial Reports – May 2011

FILE NO:	FI.FRP
COUNCIL DATE:	20 June 2011
REPORT DATE:	12 June 2011
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Yes – Appendix A as detailed in Summary
DOCUMENTS TABLED:	No

Summary:

The Financial Report for the period ending 31 May 2011 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 31 May 2011
- Bank Account Reconciliations
- Cheque drawings on the Municipal Account
- EFT drawings on the Municipal Account
- Cheque drawings on the Trust Account
- Payroll Direct Debits Summary
- Corporate Credit Card Summary
- Fuel Card Summary

Consultation:

Dominic Carbone

Statutory Environment:

Local Government Act 1995 (As Amended).

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

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 May 2011;

Sundry Creditors as per General Ledger	\$ 212,128.64
Sundry Debtors as per General Ledger	\$ 378,821.39
Unpaid rates and services current year (paid in advance inc. ESL)	\$ 346,639.74
Unpaid rates and services previous years (inc. ESL)	\$ 256,067.65

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

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

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

The new format in which the report is now presented was discussed at a Forward Planning Meeting with Councilors.

**RECOMMENDATION
200611**

Moved: Cr Scott

Seconded: Cr Boyle

“That Council:

Receive the Monthly Financial Report for May and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 May 2011:

	<u>VOUCHER</u>	<u>AMOUNT</u>
<i>MUNICIPAL FUND</i>		
<i>Cheque Payments</i>	<i>29452-29509</i>	<i>\$ 183,656.05</i>
<i>Electronic Funds Payments</i>	<i>8027-8121</i>	<i>\$ 1,089,437.46</i>
<i>Direct Debits Payroll</i>		<i>\$ 133,468.39</i>
<i>Bank Fees</i>		<i>\$ 784.58</i>
<i>Corporate Cards</i>		<i>\$ 6,014.58</i>
<i>Shell Cards</i>		<i>\$ 288.78</i>
<i>TOTAL</i>		<i>\$ 1,413,356.26</i>
<i>TRUST FUND</i>		
<i>Cheque Payments</i>	<i>3818-826</i>	<i>\$ 1,490.00</i>
<i>Direct Debits Licensing</i>		<i>\$ 128,601.10</i>
<i>TOTAL</i>		<i>\$ 130,091.10</i>
<i>TOTAL DISBURSEMENTS</i>		<i>\$ 1,543,447.36”</i>

CARRIED: 5/0

Note to this item

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

Item 9.4.1 – Appendices

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.2 Sponsorships and Donations

FILE NO:	FI.DON
COUNCIL DATE:	20 June 2011
REPORT DATE:	15 June 2011
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Various
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Schedule of Non-Recurrent Funding Schedule of Recurrent Contributions
DOCUMENTS TABLED:	Nil

Summary:

Each year Council makes a number of contributions by way of donations to various community groups that operate within the York Shire. Some contributions are for ongoing programs that the Shire contributes to each year and others are for "one-off" projects, which are known as non-recurrent projects. This report makes recommendations to Council for inclusion in the 2011/12 Budget. Note: any decisions made are recommendations to the budget only and Council has the ability to change those recommendations when adopting the budget.

Background:

As part of Council's Annual Budget process, submissions for financial assistance with projects that benefit the community are called for from local community groups and organisations. Those applying provide details about their organisation and the project they are seeking funding for including a budget and quotations for the project and details of any other funding sources. Council also provides funding for other projects on an on-going or recurrent basis. Organisations receiving this type of funding are not required to submit applications however all groups receiving either recurrent or non-recurrent funding are required to provide an acquittal report to Council outlining how the funds were spent and providing copies of receipts where appropriate.

Consultation:

Council staff, Councillors and various applicants.

Council wrote to the majority of Community Groups and requested further advice that they had tried other funding avenues.

This resulted in one change to the original proposals by the York Men's Shed, which resulted in a saving of approximately \$3500.

Other changes have been incorporated such as the changing of the request from the York Golf Club regarding upgrading of road to the refurbishment of the kitchen.

Statutory Environment:

Local Government Act 1995.

Policy Implications:

Not applicable.

Financial Implications:

If Council accepts the recommendation as it stands, the total expenditure for all funding will be \$74,870.00.

The recurrent contributions changed from 2010/11 to 2011/12 by \$16,491.00 being primarily due to the inclusion of the in-kind support and financial support of staging the York Agricultural Show, increases for the York Society and the York Children’s Christmas Party. Funding was provided for the York Agricultural Show last year, however it was not included through the donations and sponsorship process.

Rent assistance is included in the recurrent funding for the York Friendship Club, York Toy Library and the York Playgroup.

Recognition of York achievers, the last time recognition was provided was in 2007. Council has the opportunity to recognise young Mitchell Henderson for the National Schools Championship – WA Schools AFL Boys 15 years.

The total amount of sponsorships/donations equates to approximately 2.3% of 2010/11 rate revenue.

Strategic Implications:

Council’s support of local community organisations is of strategic importance to the District, as without this support these groups, who in many respects are the backbone of the community, become unviable from a financial perspective.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Local community organisations are a vital component of the local economy, as in many cases they provide the lifestyle type activities that attract individuals, families and businesses to a community, improving the overall diversification and market size of the local economy.

Social Implications:

Local community organisations provide the social framework of any community and without this type of financial support from the Council; many are not able to function effectively.

Environmental Implications:

Not applicable.

Comment:

The recommendations are put forward for Council’s consideration.

Council’s contribution to projects of \$10,000 or more should be limited to a maximum of one third of the cash component of the project.

The following assessments were made in relation to the Sponsorships and Donations:

The York Society Inc verbally requested additional money for the New Residents Packs, as this has remained the same for many years – recommended an increase of \$100.00.

Due to increased costs a recommendation is put forward to increase the recurrent funding for the York Children's Christmas Street Party by \$1,500.00.

A request from the York Playgroup to build a pergola or erect shade sails by way of in-kind support. This was subject to much discussion with Councillors, as it was not deemed appropriate if in the short term Council could possibly sell the Old Fire Station and assist with the relocation of the Playgroup Group to potentially the Recreation Grounds. It was therefore requested that the pergola be a movable structure to cater for future decisions. The expense to construct a 14 x 4m pergola and then to remove and relocate at a different location was \$12,500. It is intended that Council allocate an amount of \$3,100 in-kind support.

Supporting community playgroups is part of the Western Australia Local Government Association's strategy and it has recently provided a new online resource to Local Governments, which is aimed at raising further awareness of how Playgroups operate.

It is deemed appropriate to recognise the group as an approved group.

The York Junior Netball Club provided a response to Council's correspondence of the 11th May 2011 regarding other funding and this very proactive group and has shown that the only funding required from Council this year is \$900.00 and other funding sources are \$4900.00.

The York Swimming Club requested funding of \$2,500 to assist the club with the running of the same event in March 2012. The funds would be used to hire the electronic timing system, purchase more portable shade and assist with the general costs for medals, certificates and pool hire etc. Council donated this year \$45.00 and the use of 110 chairs being approximately \$170 in value. It is unknown at this time whether other funding bodies have been approached. It is recommended that Council donate towards the chairs and the difference of the entry fee collected and the rental of the pool up to \$100.00.

It is not recommended to increase money to the York Youth Care Council other than the recurrent funding of \$3,000.

The First Scout Group and the Venturer Unit. Verbal advice was received back from Mr Phil Furey advising that there was no available funding for the York First Scout Group through Lotterywest or Federal Funding for individual Scout Groups that these external funding sources were completed from the overseeing body (Perth Office). In regards to the Venturer Unit approaches have been made to Rotary, Apex, Bendigo Bank. The group undertakes various fundraising activities. It is recommended that the Council contribute 50% of each request.

The Wildflower Society – Avon Branch requested a shed to be erected at the Grey Street Bushland Gardens after discussions regarding the insurance, ownership of the shed were held with Councillors and it is considered more appropriate for Council to purchase and erect a suitable shed on its own property subject to an agreement to use being put in place.

The York Golf Club put in a request to upgrade the entry road to the Club facilities and this was not deemed appropriate and very costly for a select group. A request was made to the Club to change its request for sponsorship and this was submitted requesting refurbishment to the kitchen facilities, which is supported.

**RESOLUTION
210611**

Moved: Cr Boyle

Seconded: Cr Walters

“That Council:

- 1. approves the recommendations in the attached “Schedule of Non-Recurrent Funding Submissions” totalling \$25,279.00 for inclusion in the 2011/2012 draft Municipal Budget; and***
- 2. approves the “Schedule of Recurrent Funding Contributions” totalling \$49,591.00 for inclusion in the 2011/2012 draft Municipal Budget.”***

AMENDEMENT

Moved: Cr Boyle

Seconded: Cr Scott

“That Council:

- 1. approves the recommendations in the attached “Schedule of Non-Recurrent Funding Submissions” totalling \$25,279.00 for inclusion in the 2011/2012 draft Municipal Budget; and***
- 2. approves the “Schedule of Recurrent Funding Contributions” totalling \$49,591.00 for inclusion in the 2011/2012 draft Municipal Budget.***
- 3. Community groups to forward acquittal of monies to Council to show where money has been spent.”***

CARRIED: 5/0

**RESOLUTION
220611**

The amendment became the motion.

CARRIED: 5/0

Item 9.4.2 – Appendices

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.3 York Chamber of Commerce & Industry – Free Use of Lesser Hall

FILE NO:	CS.CCS.6
COUNCIL DATE:	20 June 2011
REPORT DATE:	13 June 2011
LOCATION/ADDRESS:	Lesser Hall – Town Hall
APPLICANT:	York Chamber of Commerce & Industry
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

This report deals with a request from the York Chamber of Commerce & Industry for recognition as an approved group to enable use of the Lesser Hall at a reduced rate for its members meetings.

Background:

Council received the request on the 25th May 2011:

“The York Chamber of Commerce would like to apply to be an approved group to use the Lesser Hall at a reduced rate for its members meetings. We would appreciate your support in this matter.”

Consultation:

Mr T Hunter; and
Mr S Saint.

Statutory Environment:

Local Government Act 1995 Section 6.12 states:

“Power to defer, grant discounts, waive or write off debts

- (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) *wave 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:

Not applicable.

Financial Implications:

Foregoing potential future income.

As the group was not a recognised approved group the Chamber paid the relevant hire fees prior to using the Lesser hall and as part of this report a request to refund the fees is to be considered.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Potential to forego income.

Social Implications:

Being seen to support a local community organisation that represents the views of its members and business retailers of the Shire of York.

Environmental Implications:

Not applicable.

Comment:

Council currently provides a concessional annual rate of \$275 to approved local community organisations for the use of the Lesser Hall, which is up to 12 bookings per financial year. From time to time local organisations apply to council for free use of the facility where the use is deemed to be of a community benefit.

They seek a reduced hire rate to use the lesser hall for the purpose of conducting their meetings. Assuming that they only require the hall on 12 occasions per year the current fee of \$275 works out at approximately \$23 per meeting. Any additional meetings after the initial 12 shall be at a rate of \$10.00 or as per the adopted fees and charges.

A condition is to be added that where the Shire has a potential full fee paying hirer that seeks to hire the hall on any occasion that it is booked for a York Chamber of Commerce & Industry Meeting that the Chamber agrees to shift its meeting to another date or venue or pay the full hire fee for the Lesser Hall (currently \$275 per day). This situation is unlikely to occur very often.

**RESOLUTION
230611**

Moved: Cr Randell

Seconded: Cr Scott

“That Council:

- 1. recognises the York Chamber of Commerce & Industry as an approved group for the remainder of the 2010/11 financial year and 2011/12 financial year.***
- 2. provides a reduced rate to use the Lesser Hall for the purpose of conducting its members meetings subject to the following conditions:***
 - (i) 12 meetings per financial year in accordance with the Fees and Charges and additional uses be at the rate identified in the Fees and Charges;***
 - (ii) The Chamber agrees to shift its meeting to a different date or venue or otherwise pay the full hire charge on any occasion where an alternative fee paying hirer seeks to hire the lesser hall; and***
 - (iii) The Association agrees to pay a key bond as per Council’s facility hire arrangements and pick up the key during office hours immediately prior the meeting and return it during office hours on the first working day following the meeting and agrees to abide by Council’s standard conditions of hire apart from the requirement to provide a facility bond.***
- 3. grants free use of the Lesser Hall on this one occasion in the 2010/11 financial year and refunds the hire fee that was paid prior to the Council meeting for use of the Lesser Hall.***
- 4. advise the Chamber that if further use is required for the 2010/11 financial year that this would be at a rate of \$66.00.”***

CARRIED: 4/1

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.4 Community Emergency Services Manager

FILE NO: RS.FES.4
COUNCIL DATE: 20 June 2011
REPORT DATE: 13 June 2011
LOCATION/ADDRESS: Not applicable.
APPLICANT: Shire of York & Shire of Beverley
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Memorandum of Understanding
CESM Business Plan
Financial Breakdown - York & Beverley
DOCUMENTS TABLED: Nil

Summary:

To consider the provision of a shared Community Emergency Services Manager (CESM) with the Shire of Beverley and applicable funding arrangements with Fire & Emergency Services Authority of WA (FESA).

Background:

FESA currently facilitate a program to provide full time Fire and Emergency Management Staff at the Local Government level in the position of CESM. The position involves management of Council's statutory requirements under the *Bush Fires Act 1954* and *Emergency Management Act 2005*.

There are currently 20 CESM positions across the State ranging from the Great Southern, South West, Metropolitan and Mid-West regions. Within our region (Midlands-Goldfields District) there are currently 2 CESM positions, one in place at the Shire of Northam and one shared position between the Shires of Toodyay and Goomalling. These positions are employed on a 3 yearly contract basis.

Consultation:

Representatives from the Shires of Beverley, Cunderdin, Quairading, Tammin and York met with FESA staff on the 11th April 2011 to further discuss the possibility of a CESM position across the SEARTG Shires, with the following outcomes –

- One (1) CESM is proposed for Cunderdin, Quairading & Tammin
- One (1) CESM is proposed for Beverley and York
- The funding allocation required from York as the documentation states now for the shared position would be \$19,044.30 (annually)

Subject to all parties agreeing to a Memorandum of Understanding, advertising of the position to commence as soon as practical.

Statutory Environment:

Council has multiple obligations under the Emergency Management Act 2005 and the Bush Fires Act 1954. This position seeks to employ a permanent staff member to manage and fulfil these statutory requirements.

Policy Implications:

Not applicable.

Financial Implications:

As mentioned above, the current proposed figure required to support this position is up \$20,000.00 per annum. Upon formal agreement this can be included in the 2011/2012 Draft Budget.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

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

Not applicable.

Social Implications:

The role includes specific projects and the development of practices that will provide the community with confidence.

Environmental Implications:

Environmental implications to be dealt with by a strategic approach to issues raised. Many of the issues that face Beverley and York are similar eg. Avon River and Forrest.

Comment:

Some of the key components of this role include undertaking the following duties:

- Develop practices for fire management on Local Government bush land
- Develop practices for fire management on UCL/UMR
- Education programs for the community and schools
- Strategic advice on subdivision planning
- BFB Training
- Provide support for Bush Fire Ready Groups
- Establish Emergency Coordination Centres
- Support Bush Fire Advisory Committee, DOAC, Brigade meetings and AGM's
- Conduct emergency field / table top exercises
- Support LEMC
- Support DEMC
- Support Recovery operations
- Respond to emergency incidents in Beverley and York also neighbouring Local Governments
- Peer support to volunteers
- Coordinate and manage special projects as required
- Maintain Shire Emergency contact directory
- Review Risk to Resource model annually
- ESL administration (operating and capital)
- Establish fleet maintenance program
- Maintain incident records
- Attend FESA regional meetings

A full explanation of the roles and responsibilities of this position are attached (CESM Business Plan).

**RESOLUTION
240611**

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

- a) authorise the Chief Executive Officer to negotiate and sign a Memorandum of Understanding for the provision of a Community Emergency Services Manager; and***
- b) agrees to allocate up to \$20,000.00 in the 2011/12, 2012/13 & 2013/14 Budgets to support the position of Community Emergency Services Manager.”***

CARRIED: 5/0

Item 9.4.4 – Appendices

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.5 Payment of Money Held by the York Tourist Bureau Inc.

FILE NO: CS.LCS.8
COUNCIL DATE: 20 June 2011
REPORT DATE: 15 June 2011
LOCATION/ADDRESS: N/A
APPLICANT: York Spring Garden Festival
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, A/DCEO
DISCLOSURE OF INTEREST: Cr Boyle
APPENDICES: Nil
DOCUMENTS TABLED: Audited Statements

Summary:

Council made a commitment to Community Groups that it would not leave them in a shortfall position as a result of the operations of the York Visitor Centre. A recent audit and financial analysis of the accounting processes of the York Visitor Centre has identified that monies that were supposed to be held in trust were not and therefore Council is requested to endorse action of the Council in allowing a payment in accordance with the Audited Statements to release funds to the York Spring Garden Festival.

Background:

The Shire of York took over the management and responsibility of the York Visitor Centre for the operational components of an Information Service due to its financial position.

The Council resolved the following at its Ordinary Council meeting held on the 19th April 2010:

"1. That Council:

Subject to York Visitor Centre members agreement, offer to undertake the following:

- (A) Assume responsibility for operating visitor information services from the York Town Hall under the total control, management and operations of the Shire of York from the 1st May 2010 as an interim measure with a formal take over of information services from the 1st July 2010.*
- (B) Meet the identified financial shortfall of up to \$85,000 through the 2009/10 budget to cover the designated current debts of the York Visitor Centre Inc and to recover these funds during reduced tourism funding over the next two financial years.*

Advice Note:

An interim takeover would allow for the finalisation of the audit process and the financial year transaction and the determination of service and employment contracts and other requirements.

CARRIED (4/0)

"2. That Council:

Subject to the above resolution, develop a sustainable visitor information service structure from the 1st July 2010 based on the following:

- (1) The York Visitor Centre Constitution objectives be amended to allow for the provisions of information services by the Shire of York;*
- (2) The York Visitor Centre being responsible for the termination of existing staff, contracts and service agreements associated with Visitor Information services effective as of the close of business on the 30th June 2010;*
- (3) An agreement being negotiated and finalised for the transfer of assets (if applicable) between the information and marketing functions by the 30th June 2010;*
- (4) The York Visitor Centre identifying all current and accrued debts under the current operations by the 10th June 2010 to enable all financial commitments to be met;*
- (5) The York Visitor Centre preparing a member endorsed business plan for future operations of this corporate entity and submitting it to Council on or before the 31st May 2010;*
- (6) The Shire of York having sole responsibility for the operations and management of a visitor information service;*
- (7) Any future funding to the York Visitor Centre Inc being subject to member endorsed annual business plans and operations programmes and the provisions of:
(a) Quarterly financial statements,
(b) Annual audited financial statements by the 30th September each year.
Note: no provision will be made or allowed outside of the budgeted annual payments.*
- (8) The Shire of York will provide visitor information services at the industry and community level and it will not provide services to individual YVC Members except on a full cost for service payment system.*
- (9) As an interim measure the York Tourist Bureau request the Shire of York to manage the affairs of the York Visitor Centre on its behalf until 30 June 2010 in accordance with clause 4.7 of the Bureau's constitution.*
- (10) Subject to the Shire agreeing to 12.1 above the Shire is to manage the Centre without interference from the Bureau's Committee and or its members, but shall report monthly on the operations of the Centre to the Bureau. The Committee shall not commit to any expenditure without the approval of the Shire.*
- (11) Subject to 12.1 and 12.2 above the Shire of York shall undertake to meet all the obligations of the centre detailed in this report and make additional cash contributions if and when required.*
- (12) The York Tourist Bureau and the Shire of York agree that from the 1 July 2010 the operations of the York Visitor Centre shall transfer to the Shire to be operated as it thinks fit and to form part of the Shire's operations.*
- (13) The York Tourist Bureau and the Shire of York agree that from 1 July 2010 all the assets of the Bureau are to be transferred to the Shire.*
- (14) The York Tourist Bureau continue to operate and do such things to attain the objects detailed in its constitution for which it was established with the exception of 3.2. (To provide a tourist information centre in the town of York to be known as the "York Visitor Centre" to assist visitors)*
- (15) The Shire of York to agree to make a cash contribution of not more than \$5,000 to the York Tourist Bureau to allow the bureau to function until membership subscriptions are due.*
- (16) The Shire of York and the York Tourist Bureau to seek legal advice and enter into an agreement and make amendments to the constitution if required to execute 12.1 to 12.6 above.*
- (17) The York Tourist Bureau to report the shortfall of funds together with this report to its insurers in the first instance to ascertain whether the insurance company will respond to the claim.*

CARRIED (4/0)

The Officer Recommendations were amended to provide options to recoup funds through future budget allocations and to incorporate the recommendations included in the Financial Management Report.”

Consultation:

Councillors
York Spring Garden Festival
Dominic Carbone and Associates

Statutory Environment:

Local Government Financial Regulations

Policy Implications:

Not applicable.

Financial Implications:

The sum of \$12,715.34 was released to the nominated bank account and the amount was based upon the audited statements, which were prepared by Mr D Carbone.

These funds were supposedly held in trust by the York Tourist Bureau Inc, however this was not the case and as such Council is paying on their behalf as Council made a guarantee that it would assist community groups such as the Spring Garden Festival when bailing out the York Tourist Bureau Inc.

Council made a payment of \$3,000 on the 24th September 2010.

Council also held funds of \$265.00 in trust, which was returned on the 6th October 2010.

It would appear that there is a discrepancy between financial information held by the York Visitor Centre and the Spring Garden Festival and an amount of \$1,339.23 being the difference needs further investigation.

Strategic Implications:

Key Result Area 2: Economic Development and Tourism

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Tourism is an integral part of the York and regional economy and there may be severe economic impacts if the local government does not meet the shortfall and put in place a sustainable operating process for information services.

Social Implications:

The community has large scale interests in tourism, events, marketing etc. and many residents are employed in the tourism industry.

Environmental Implications:

Not applicable.

Comment:

This report provides a true and correct record and is in accordance with the Local Government Act and Financial Regulations.

Cr Boyle declared an Interest Affecting Impartiality to this item and left the room at 4.25pm.

**RESOLUTION
250611**

Moved: Cr Randell

Seconded: Cr Scott

“That Council:

In accordance with Section 6.8 of the Local Government Act 1995 endorse the transfer of funds to the York Spring Garden Festival for the amount of \$12,715.34 from General Ledger Account No. 132148.”

LOST: 3/1

Absolute majority was not achieved therefore above Resolution was lost.

Cr Boyle returned to the room at 4.32pm.

Cr Walters left the room at 4.33pm.

9.5 Late Reports

9.6 Confidential Reports

9.6.1 State Administrative Tribunal Appeal – Laurelville, 18-20 Panmure Road, York

**RESOLUTION
260611**

Moved: Cr Boyle

Seconded: Cr Randell

“That Council:

Go ‘Into Committee’ to consider the Confidential Report at 4.34pm.”

CARRIED: 4/0

Cr Boyle declared an Interest Affecting Impartiality to this item and left the room at 4.34pm.

Cr Walters returned to the room at 4.35pm

**RESOLUTION
270611**

Moved: Cr Randell

Seconded: Cr Scott

“That Council:

- 1. Approve the expenditure for the continued employment of McLeods Barristers and Solicitors in the State Administrative Tribunal Matter DR 159/2011;***
- 2. Authorise Council Officers to continue the action to resolve the matter State Administrative Tribunal Matter DR 159/2011, including attendance at further mediation and hearing dates;***
- 3. That a further report be received by Council at the conclusion of the matter.”***

CARRIED: 4/0

**RESOLUTION
280611**

Moved: Cr Randell

Seconded: Cr Scott

“That Council:

Come ‘Out of Committee’ at 4.48pm.”

CARRIED: 4/0

Cr Boyle returned to the room at 4.49pm

10. NEXT MEETING

**RESOLUTION
290611**

Moved: Cr Boyle

Seconded: Cr Scott

“That Council:

hold the next Ordinary Meeting of the Council on July 18, 2011 at 3.00pm in the Lesser Hall, York.”

CARRIED: 5/0

11. CLOSURE

Cr Lawrance thanked everyone for their attendance and declared the meeting closed at 4.50pm.