



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 21 MARCH, 2011
COMMENCING AT 3.03pm
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, 21 MARCH, 2011, COMMENCING AT
3.03PM 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 Pat Hooper, Shire President, declared the meeting open at 3.03pm
- 1.2 Chief Executive Officer to read the disclaimer
Ray Hooper, Chief Executive Officer, read the disclaimer
- 1.3 Announcement of Visitors
Nil
- 1.4 Announcement of any Declared Financial Interests
Cr Scott – 9.1.6 – Impartial - Proximity

2. ATTENDANCE

- 2.1 Members
*Cr Pat Hooper, Shire President; Cr Brian Lawrance, Deputy Shire President;
Cr Roy Scott; Cr Trevor Randell; Cr Tricia Walters*
- 2.2 Staff
*Ray Hooper, CEO; Tyhscha Cochrane, Deputy CEO; Gordon Tester, Manager
Environment Health; Jacky Jurmann, Manager Planning Services;
Helen D'Arcy Walker, Executive Support Officer*
- 2.3 Apologies
Cr Tony Boyle
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 10 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

Ms Tanya Richardson
113 Newcastle Street
YORK WA 6302

PUBLIC QUESTION TIME - COUNCIL MEETING 21 FEBRUARY 2011

Further to your question submitted to the above meeting and which was taken on notice please find set out below the relevant response:

Question:

Why is the Shire of York allowing York to disappear off the tourist map?

Response:

The Shire of York is providing a Visitor Information Service through staff at the Town Hall, it has covered the severe funding short fall through previous Tourist Centre operations and financial management, it still provides full visitor services at parks, toilets and other areas and there is no intent by Council for York to 'fall off' any tourist map.

The tourism industry as a whole in York is not providing a clear direction for future activity and support by the Shire and the community at this time.

Mr S Saint
87 Avon Terrace
YORK WA 6302

PUBLIC QUESTION TIME – COUNCIL MEETING 21ST FEBRUARY 2011

Further to your questions submitted to the above meeting and which were taken on notice please find set out below the relevant response.

Question 1:

Why was I told the project would be passed in stages and some work could be carried out under delegated authority then told it would have to go before Council?

Response:

No officer advised Mr Saint that the project could be passed in stages and some work could be carried out under delegated authority without any planning or building processes being followed.

Mr Saint was advised that a single planning application encompassing all proposed uses could be presented and after approval parts could be done at different stages.

Question 2:

Why did a senior member of the Shires administration tell me I could not be issued with a building license for a commercial building when the Builders Registration Board say I could whether the building is commercial, industrial or residential?

Response:

The officer concerned would have known that a registered builder is required for all projects in excess of \$20,000. Knowing that you are not a registered builder and that your entire project was likely to be in excess of \$20,000 was why this advice was offered. It is understood that the builders registration board has arrangements where they may consider applications from non registered builders for construction in excess of \$20,000 for commercial and industrial projects where it can be demonstrated that registered builders are not available in a particular area and that the applicant can demonstrate competency and experience in what is required to construct the project.

Question 3:

Why did a planner tell me I could not remove the shed at the rear of the property until the development was approved, when the only requirement was a \$50.00 demolition license?

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 and attached to the façade of the existing shop on Lot 15 without approval. Once the cladding of the outbuilding was removed, the Shire considered the outbuilding to be of little or no heritage significance and little value to the area in general. The Shire's intention, in issuing a demolition license, was to make the unapproved removal/demolition lawful and to assist the landowner to achieve the development potential of the land.

Question 4:

Why was I told I could not build across two titles, when I own the titles?

Response:

Lots 15 and 200 are individually legally created lots and are capable of being sold independently of each other. Should a building be traversing the boundary of two lots, it is possible to construct a 60/60/60 fire rated wall along the boundary (dissecting the building) and sell each lot individually. This would create an undesirable outcome in that there would be a part of a building on one lot and the other part on the adjoining lot.

It is a standard planning condition that lots with structures traversing the boundaries are amalgamated.

Question 5:

Why did I spend one hour with two planners amending plans and signing the amendments 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. At the date of issuing the approved plans for the new application, the existing outbuilding had already been removed by the landowner.

Question 6:

Why was I told the toilet requirement for 89 Avon Terrace was 2 x female pans, 2 x gents pans, 2 x urinals, 1 x disabled facility when the City of Swan confirmed this amount of toilets would equate to employing 95 staff?

Response:

It is quite clear that the officer assessing your application has made an error when applying the requirements of the BCA in relation to the number of toilets required for your project. Council sincerely regrets any inconvenience that this may have caused you. It is understood that you have discussed this matter at length with Councils Manager of Health/Building who has now provided the correct information.

Question 7:

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 a detriment 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 landowner was also proposing to conduct motorcycle 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.

Question 8:

What right has the Shire to demand an inventory on stock for re-sale?

Response:

Again, ascertaining the type of goods that are sold from the premises assists in applying a defined land use to the property.

Different types of goods require different types of approvals. E.g. food sales may require health licenses and may be classified as, for example, a "convenience store" instead of a "shop". As stated above, the types of goods were not specified on the second application.

The scale of an operation or the amount and types of goods that are offered for sale may not fit within the definition of a "Shop" and a different land use would be required to be applied for.

On the first application, the sale of motor vehicles and associated products was required to be of a sufficient size and scale to not be a detriment to the locality in general and providing an inventory of stock would enable officers to determine the scale of the proposed operation.

Question 9:

Why then, did I have to approach the elected members when they had full knowledge of the onerous, litigious manner the administration were dealing with me?

Response:

Electors can approach elected members at any time on any matter and it is not the role of Councillors to follow up operational matters with individuals.

Question 10:

Exactly who is accountable?

Response:

All local governments are open and accountable.

Mr J Cole
PO Box 735
COMO WA 6952

**PUBLIC QUESTION TIME - 21 FEBRUARY 2011
LOT 51 PANMURE ROAD, YORK – DRAINAGE**

Further to your questions taken on notice at the Council meeting held on the 21st February, 2011 please find set out below responses which will also be published in the next Ordinary Council Meeting Agenda:

Question 1:

Will Council change the wording in the agenda item as he did not request the re-location of the culvert under Panmure Road?

Response:

Yes

Question 2:

Under what Authority did the Shire of York enter his land to undertake the drainage work particularly in view of his email to Main Roads WA re no entry?

Response:

The Shire of York undertook the drainage work funded by Main Roads WA and advised to you at numerous site meetings attended by yourself, MRWA and Shire staff and at no stage was entry to the property denied prior to work commencing.

Formal advice of the scope of works was provided to you on the 28th June, 2006 and confirmed in writing on the 22nd May, 2008 with the advice that drainage and kerbing work would be undertaken over the following 3-4 weeks.

At no stage up to the email advice to Main Roads WA did you raise any objections to the designated scope of works nor did you refuse entry to your property for the works to be undertaken.

The drainage works were significantly completed at the date of your email to MRWA.

Mrs H Saint
87 Avon Terrace
YORK WA 6302

**PUBLIC QUESTIONS TIME –
ORDINARY COUNCIL MEETING 21ST FEBRUARY, 2011**

Thank you for your questions at the above Council Meeting which were taken on notice.

Please find set out below the responses which will also be produced in the Agenda for the March Council Meeting.

Question 1:

Why was Simon Saint, owner of Saint's Diner, prosecuted for a sign in place for 4 weeks when unapproved signage for the York Mill Bakehouse has not been prosecuted?

Response:

The prosecution for unapproved signage at Saint's Diner proceeded as the owner had a previous prosecution suspended on the basis that further offences would not occur and this suspension had been breached by Mr Saint on more than one occasion resulting in the prosecution.

OFFICER RECOMMENDATION

"That Council:

Suspends legal action in relation to the signage on the building at Lot 14 Avon Terrace, York and advise the property owners accordingly."

RESOLUTION

071008

Moved: Cr Randell

Seconded: Cr Lawrance

"That Council:

Amend the Officer Recommendation to read:

"That Council:

- 1. suspends legal action in relation to the signage on the building at Lot 14 Avon Terrace, York and advise the property owners accordingly; and**
- 2. should unapproved signage be displayed on the property in future legal action will be pursued."**

Advice Note: Council has incurred legal costs in excess of \$900.00 plus staff time in relation to this matter and this is deemed an unfair imposition on other ratepayers.

Carried (6/0)

The amendment became the motion and was put.

RESOLUTION

081008

Moved: Cr Randell

Seconded: Cr Lawrance

Carried (6/0)

The York Mill Bakehouse and other unapproved signage is being investigated and appropriate action will be instigated as necessary.

Question 2:

Could you please explain why newly established businesses in Avon Terrace have not had conditions for disabled access toilets imposed or they have failed to comply but are still able to continue to trade?

Response:

The Dog's Bollocks Emporium project is considered to be a major upgrade of the original use of the premises which attracts compliance with current requirements.

A change of business proprietors in an existing premises that is not undergoing a major upgrade would not warrant the requirement for toilets complying with current standards.

Any other business undergoing a similar level of structural and use change would also be assessed for the requirements for disabled and other toilets.

3.2 Written Questions
Nil

4. PUBLIC QUESTION TIME

Mrs Heather Saint
87 Avon Terrace
York WA 6302

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 license would apply?

Response:

Taken on Notice.

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 'advise' 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:

Taken on Notice.

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:

Taken on Notice.

Question 2 (a)

A demolition license was applied for and approved on 27th August, 2010. How is it then that the date of cancellation of the original development application was 9th 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 19th 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:

Taken on Notice.

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 and subject to the building being of little or no heritage significance?

Response:

Taken on Notice.

Question 3(a):

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

Response:

Taken on Notice.

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:

Taken on Notice.

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:

Taken on Notice.

Question 3(d):

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

Response:

Taken on Notice.

Question 4(a):

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

Response:

Taken on Notice.

Question 4(b):

Could 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:

Taken on Notice.

Mr Simon Saint
87 Avon Terrace
York WA 6302

Question 1:

Why must I come to Council Meetings to get answers to Operational questions?

Response:

You have full right to go to the Department of Local Government. There is a set policy of governance.

Question 2:

Oval Complex – who is going to hold the liquor license?

Response:

Shire of York.

Question 3:

If the Shire of York holds the liquor license would this not be a conflict of interest?

Response:

No.

Question 4:

What are the anticipated running costs?

Response:

Copy of the Business Plan has been presented at Council meetings.

Question 5:

Were whole of life costs calculated.

Response:

Yes by the Architect as part of the funding application.

Question 6:

Is it in the public domain?

Response:

If it is with the Department of Sport & Recreation then it will be in the public domain.

Ms Tanya Richardson
113 Newcastle Street
York WA 6302

Question 1:

What is happening with regards to the trees in Avon Terrace?

Response:

Have been listed with Works – there are currently higher priorities due to storm damage.

Question 2:

When will the work be done?

Response:

By the end of the financial year.

5. **APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Tricia Walters

**RESOLUTION
010311**

Moved: Cr Randell

Seconded: Cr Scott

“That Council grant a leave of absence to Cr Tricia Walters for the Council Meeting scheduled for 18th April, 2011.”

CARRIED (5/0)

6. **PETITIONS / PRESENTATIONS / DEPUTATIONS**

Nil

7. **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

7.1 Minutes of the Special Council Meeting held February 14, 2011

Corrections

Confirmation

**RESOLUTION
020311**

Moved: Cr Randell

Seconded: Cr Lawrance

“That the minutes of the Special Council Meeting held February 14, 2011 be confirmed as a correct record of proceedings subject to Cr Walters being recorded as an apology.”

CARRIED: 5/0

7.2 Minutes of the Ordinary Council Meeting held February 21, 2011

Corrections

Confirmation

**RESOLUTION
030311**

Moved: Cr Lawrance

Seconded: Cr Scott

“That the minutes of the Ordinary Council Meeting held February 21, 2011 be confirmed as a correct record of proceedings subject to Item 9.2.2 being amended by the deletion of ...‘The issue of the drainage onto the property arose from the owner requiring the culvert in the approximate centre of the lot being blocked or relocated to prevent stormwater entering the property’.”

CARRIED: 5/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Cr Hooper introduced Jacky Jurmann, new Manager of Planning Services and announced Tim Jurmann, new Building Surveyor and welcomed them both to York.

Cr Hooper congratulated the CWA on their ABC interview and the introduction of the McCarthy Belles.

York Swimming Club attended a swim meet in Kambalda recently and returned with 60 medals. York Swimming Club have applied to host the 2014 State Championships.

“Night in the Park” – 500-600 people in attendance. Great night had by all.

9. OFFICER’S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS
9.1 DEVELOPMENT REPORTS
9.1.1 Request to Waive Retrospective Penalty Fee

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: AV1.13430
COUNCIL DATE: 21 March 2011
REPORT DATE: 10 March 2011
LOCATION/ADDRESS: Lot 402 (31) Avon Terrace, York
APPLICANT: Tracey King
SENIOR OFFICER: Ray Hooper, Chief Executive Officer
REPORTING OFFICER: Brooke Newman, Planning Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Site Plan, Wall Plans
Applicant's Letter
Schedule Of Works
Approval For Additions/Alterations
DOCUMENTS TABLED: Nil

Summary:

The applicant has requested Council to consider waiving the penalty fee imposed on a retrospective approval issued for the unapproved construction of a front wall on Lot 402 (31) Avon Terrace, York.

Background:

On 17 February 2010, the Shire received an application for planning consent for Lot 402 which gave a description under the heading of "Description of Proposed Development and/or Use" as "The development will include an extension to the existing dwelling and upstairs development inside the existing roof. The rear will include a garage and studio room for future use by ageing parents."

The application for planning consent was accompanied by site plans, floor plans and a schedule of proposed works. There were no plans submitted for the front wall.

The site plans detailed the existing dwelling including the proposed additions and an additional building to be constructed at the rear of the property (ancillary accommodation/garage). The floor plans included the existing dwelling (with additions/alterations) and plans for the ancillary accommodation/garage.

The schedule of works included stages of development with the following headings:

1. Stage 1 - Front Retaining Wall
2. Stage 2 - Front of House
3. Stage 3 - Garage for Three Cars, Workshop and Studio to Lockup
4. Stage 4 - Interior of existing Dwelling
5. Stage 5 - Landscaping and Gardening
6. Stage 6 - Roof Alterations and re-cladding
7. Stage 7 - Building Extension

As the application for planning consent form only detailed "The development will include an extension to the existing dwelling and upstairs development inside the existing roof. The rear will include a garage and studio room for future use by ageing parents." it was considered by officers that only Stages 2, 3, 4 and 6 were being applied for.

Additionally, the plans accompanying the application only detailed the proposed works contained in Stages 2, 3, 4 and 6 of the schedule of works.

An approval was issued under delegated authority on 26 July 2010 (see attached). The approval that was issued did not detail that it was an approval for anything contained in Stages 1, 5 and 7 of the schedule of works.

The applicant attended the front counter some time after the issue of the planning consent for the additions/alterations and ancillary accommodation advising that the plans for the front wall are being changed. I advised the applicant that an application and plans would be required to be submitted as it is a separate development proposal to the previously approved works.

The applicant forwarded an email to staff on 1 October 2010 advising that the wall was in the process of being built.

An email was forwarded from staff to the applicant on 19 October 2010 stating that an application was required to be lodged for the construction of the front wall as the property is listed on the Shire's Municipal Inventory and is also located within a Heritage Precinct.

An application was lodged by the applicant on 26 October 2010 via email for the construction of the front wall together with a plan. The applicant failed to pay processing or advertising fees at this time and was requested to do the same via an email on 28 October 2010.

On 11 November 2010, the applicant forwarded the relevant processing and advertising fees to the Shire for the application for the construction of the front wall.

After advertising and assessment of the application for the retrospective approval for the construction of the front wall, it was resolved at the Ordinary Council meeting held on 20 December 2010 to:

"That Council issue retrospective planning approval for the completion of the commenced front wall at Lot 402 (31) Avon Terrace, York subject to the following conditions:

1. Development must substantially commence within one (1) year from the date of this decision;
2. Development must take place in accordance with the approved plans;
3. Prior to the issue of a building licence and/or prior to the re-commencement of works on the front wall at Lot 402, amended plans be received detailing all brick piers to be no higher than 1.8m from natural ground level, wrought iron work being no higher than 1.8m from natural ground level and the wall positioned on either side of the driveway be detailed as no higher than 0.75m from natural ground level with the wrought iron work to be no higher than 1.8m from natural ground level.
4. Prior to the issue of a building licence for the front fence or within 3 weeks of the date of this approval, retrospective planning fees of \$270.00 shall be paid for the unapproved commencement of construction of the front fence."

The applicant disagrees with Council's resolution as they do not believe that the penalty fee of \$270.00 for commencing works without approval was applicable as the front wall was included in the schedule of works as Stage 1 (see attached letter).

The Shire's Budget adopted each financial year applies fees and retrospective penalty fees for developments undertaken without approval. Fees are set each year under the Planning and Development Regulations 2009 and are adopted by Council as part of the budgetary process.

Consultation:

The application for the waiver of a penalty imposed by Council is not subject to advertising or consultation processes. However, consultation with the applicant has occurred throughout the process.

Statutory Environment:

Lot 402 is zoned "Residential R40" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), is approximately 1,065m² and is not located within the 1 in 100 year floodplain for the Avon River.

Clause 8.3 of TPS2 states as follows:

"8.3 Person Must Comply With Provisions Of Scheme

A person must not:

- (a) contravene or fail to comply with the provisions of the Scheme;*
- (b) use any land or commence or continue to carry out any development within the Scheme area:
 - (i) otherwise than in accordance with the Scheme;*
 - (ii) unless all approvals required by the Scheme have been granted and issued;*
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and*
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.**

Note: Section 10(4) of the Act provides that a person who —

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or*
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,*

is guilty of an offence.

Penalty: \$50 000, and a daily penalty of \$5 000."

Clause 218 of the Planning and Development Act 2005 deals specifically with contraventions of a planning scheme as follows:

"218 Contravention of planning scheme

A person who -

- (a) contravenes the provisions of a planning scheme;*
- (b) commences, continues or carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme otherwise than in accordance with the provisions of the planning scheme; or*

- (c) *commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition;*

commits an offence.”

Clause 223 of the Planning and Development Act 2005 deals specifically with penalties for offences committed pursuant to section 218 as follows:

“223 Penalty for offence

Unless otherwise provided, a person who commits an offence under this Act is liable to a penalty of \$50,000.00 and, in the case of a continuing offence, a further fine of \$5,000.00 for each day during which the offence continues.”

The Shire’s Budget provides for a monetary amount of twice the processing fee by way of penalty for developments undertaken without approval.

In this instance, it was considered appropriate to issue a penalty rather than issue a prosecution for the maximum enforceable fine under the Planning and Development Act 2005.

Policy Implications:

The creation of a Local Planning Policy for Retrospective Planning Consents would assist staff and the community in dealing with developments commenced without approval.

Financial Implications:

Penalty fees of \$270.00 have been imposed and are currently being requested by the applicant to be waived.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

The imposition of retrospective planning fees is necessary to establish planning framework to ensure that development occurs in accordance with planning legislation and Council Policy.

Key Result Area 2 - Objective 4:

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

Imposing penalty fees for development undertaken without approval, particularly to heritage properties, aims at reducing the instance of unapproved works which have the potential to degrade heritage values.

Key Result Area 2 - Objective 5:

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

Again, the imposition of penalty fees to unapproved works to all developments and, in particular, heritage listed properties is aiming at reducing conflict between development and heritage values.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

The front wall has been commenced and retrospective planning consent has been granted.

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Imposing penalty fees to unapproved development is aimed at being a deterrent and for preventing further unapproved development from taking place.

Environmental Implications:

Nil.

Comment:

The initial application for planning consent was, in the opinion of staff, specifically for the additions/renovations to the existing building and for the construction of ancillary accommodation at the rear of Lot 402.

Despite the schedule of works detailing a number of stages, the application submitted indicated that the only stages that were being applied for were Stages 2, 3, 4 and 6.

It is common practice for landowners, particularly owners of heritage listed buildings, to create a schedule of works for a variety of stages within a development and then apply for the individual stages as and when they are required to be undertaken. Often, funding is provided from the Heritage Council of WA and proposed works are often staged to meeting conditions of funding.

The application form stated that "The development will include an extension to the existing dwelling and upstairs development inside the existing roof. The rear will include a garage and studio room for future use by ageing parents." which is what was assessed by staff. Additionally, the plans submitted related only to stages 2, 3, 4 and 6.

Planning consent was issued by staff under delegated authority. The consent does not detail any approval for the front wall. Similarly, the "approved" plans that were issued to the applicant were the plans submitted for the additions/renovations to the existing dwelling and the construction plans for the ancillary accommodation/garage.

At no point did staff inform the applicant that the front wall was part of the initial planning consent.

In addition, staff informed the applicant that the construction of a front wall required a separate planning consent. The applicant then lodged the application together with plans for the front wall.

After staff noticed that the front wall had been removed and partially reconstructed, staff advised the applicant that a retrospective approval would be required and that penalty fees may be imposed.

Despite the applicant's letter dated 26 January 2011 (attached), it is staff's opinion that retrospective fees are justified for the following reasons:

1. The front wall was not part of the initial application as it was not detailed in the description section of the application for planning consent form.
2. There were no plans of the front wall attached to the initial application.
3. The planning consent issued to the applicant on 26 July 2010 did not state that the consent was issued for the removal and construction of the front wall.
4. The applicant was advised that a separate application would be required for the removal and construction of the front wall.
5. The applicant was advised that the application for the front wall was an application for retrospective planning consent as the removal and construction of the front wall was commenced without approval. Further, the applicant was advised that there could possibly be penalty fees for the commencement of unapproved works.

For the reasons detailed in this report, it is recommended that Council refuse to waive the penalty of \$270.00 which was imposed against the applicant for the unapproved commencement of the removal and construction of the front wall at Lot 402.

**RESOLUTION
040311**

Moved: Cr Randell

Seconded: Cr Lawrance

“That Council:

Advise the applicant that the application to waive the penalty for unapproved commencement of the removal and construction of the front wall at Lot 402 (31) Avon Terrace, York be refused for the following reasons:

1. ***The front wall was not part of the initial application as it was not detailed in the description section of the application for planning consent form.***
2. ***There were no plans of the front wall attached to the initial application.***
3. ***The planning consent issued to the applicant on 26 July 2010 did not state that the consent was issued for the removal and construction of the front wall.***
4. ***The applicant was advised that a separate application would be required for the removal and construction of the front wall.***
5. ***The applicant was advised that the application for the front wall was an application for retrospective planning consent as the removal and construction of the front wall was commenced without approval. Further, the applicant was advised that there could possibly be penalty fees for the commencement of unapproved works.”***

CARRIED: 5.0

Item 9.1.1 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.2 Application of The Friends of the York District Hospital and Pioneer Memorial Lodge Inc to be recognised as a Community Group

FILE NO: CS.CEV.1
COUNCIL DATE: 21 March 2011
REPORT DATE: 25 February 2011
LOCATION/ADDRESS: Avon Terrace
APPLICANT: Fiona Moylan, Secretary,
District Hospital and the Pioneer Memorial Lodge Inc
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Judith Anderson
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

It is a requirement that The Friends of the York District Hospital and the Pioneer Memorial Lodge Inc makes application to Council to be recognised as a 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 15 December 2010 Council received an application from Fiona Moylan, The Friends of the York District Hospital and the Pioneer Memorial Lodge Inc 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.

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 Implications:

Nil

Comment:

The Friends of the York District Hospital and the Pioneer Memorial Lodge are a not for profit organization that raises funds for items and equipment to assist in the care and improve the lives of those in our Community.

All funds are raised through our cake stalls, Xmas and other raffles and from the generous donations of individuals and businesses.

Current copy of Certificate of Incorporation and Public Liability Insurance of \$10,000,000 has been provided.

**RESOLUTION
050311**

Moved: Cr Scott

Seconded: Cr Walters

“That Council:

Recognise The Friends of the York District Hospital and the Pioneer Memorial Lodge Inc for the purpose of waiving fees and charges related to trading in public places and thoroughfares for fundraising activities.”

CARRIED: 5/0

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.3 Extension Of Planning Consent For The Land Use Of An Extractive Industry And Request For An Extractive Industry Licence - Lot 1 (6362) Great Southern Highway, Gilgering

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:	Gr2.1230
COUNCIL DATE:	21 March 2011
REPORT DATE:	4 March 2011
LOCATION/ADDRESS:	Lot 1 (6362) Great Southern Highway, Gilgering
APPLICANT:	Bonthorpe Pty Ltd (Receiver's & Managers Appointed)
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Jacky Jurmann, Manager of Planning Services
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A – Plans and Locality Map
DOCUMENTS TABLED:	Shire of York Extractives Industries Local Law, Application Documentation

Summary:

Council is requested to consider a further extension of planning consent for the land use of an extractive industry at Lot 1 (6362) Great Southern Highway, Gilgering.

Background:

Lot 1 is zoned 'General Agriculture' under the Shire of York Town Planning Scheme No. 2 and covers an area of 1,512.48 hectares. It is the southernmost property in the Shire of York, abutting the Shire of Beverley (see attached locality map).

At its ordinary meeting held on 17 December 2007 Council resolved to issue planning consent for the land use of an extractive industry for Lot 1. At that meeting, the following resolution was made:

"That Council

- A. *advise S J Henderson that it grants planning consent to a land use of an extractive industry for the extraction of gravel and associated uses on Lot 1 Great Southern Highway, York and an Extractive Industry will not be permitted to commence until such time that Council is satisfied that the potential impacts have been adequately addressed and will be subject to the following requirements:*
- 1. Advice from Westnet Rail regarding the requirements of upgrading if required.*
 - 2. Advice from Main Roads WA regarding the requirements of upgrading if required.*
 - 3. Advice from Department of Environment and Conservation regarding requirements for a crushing plant and relevant approvals for extraction of materials (dependant on volumes).*
 - 4. Appropriate approvals in place for the storage of fuels for business use only. No sale of fuel is to be allowed under the general agriculture zone.*
 - 5. A building licence being issues for any buildings eg workshop, caretakers residence, ancillary accommodation etc.*
- B. *advise that they are required to comply with all requirements of the Extractive Industry Local Law.*

- C. delegates to the Chief Executive Officer to approve the planning application subject to no valid objections being received during the advertising period.

Advice Notes:

The applicants to be advised that the following matters must be addressed in any future application for an extractive industry licence under the Extractive Industry Local Law:

- (a) *A report being prepared by a qualified Traffic Engineer, at the applicants cost, to determine the impact of the proposed development on the relevant roads and submitted to Council for approval. The report is to address:*
- *Current standards of roads;*
 - *Required upgrading of roads to accommodate the vehicles associated with the extractive industry;*
 - *Current and projected traffic volumes for the roads;*
 - *The cost proportion that should be borne by the applicant for the upgrading of roads;*
 - *Potential impacts on the school bus service and the provision of bus bays; and*
 - *Liaise with Main Roads WA, if required, to determine the suitability of the intersections onto a main road to accommodate safe access and egress for the transport vehicles.*
- (b) *A noise management plan is to be prepared and submitted to Council for approval. The plan is to demonstrate that the noise levels received at any noise sensitive premises in the vicinity will not exceed the requirements of the Environmental Protection (Noise) Regulations 1997;*
- (c) *A comprehensive dust management plan is to be prepared and submitted to Council for approval. The plan is to:*
- *demonstrate the methods of dust reduction in through the use of the dust suppression agent, the procedures for the use of the product, including frequency of application, strength of application, duration of dust suppression with each application and quantity of water required for each application;*
 - *adequate information confirming the quantity of water available to be used for dust suppression and the quality of this water source. The DMP is also required to identify auxiliary water supplies if the proposed water supplies are exhausted; and*
 - *details of the salinity of the proposed water supply to be used on the site is to be confirmed and details of the environmental implications of applying this water to the land in regard to the potential to increase the salinity of the groundwater supply in the area.*
- (d) *The applicants are advised that the commercial operation of pits is subject to an extractive industry licence being obtained and subject to relevant fees and charges at the time of the application.*
- (e) *Subject to the volumes of extracted materials access through Blandstown may be restricted.”*

“That Council:

4. *Issue an extension to the previous planning consent dated 11 February 2008 for the land use of an extractive industry on Lot 1, Great Southern Highway, Gilgering subject to the following conditions:*

- 4.1. *A memorial in the form of a Section 70A Notification under the Transfer of Land Act 1893 (As Amended) notifying prospective purchasers that basic raw materials are located on Lot 1 and that an approval has been issued for the commencement of an extractive industry on Lot 1 potentially affecting the use and enjoyment of the land due*

- to dust, noise, vibration and vehicle movements generated by or associated with the operation of an extractive industry to the satisfaction of the Local Government. The notification is to be transferred to any future Certificates of Title arising from any future subdivision of Lot 1.*
- 4.2. The extractive industry to substantially commence within twelve (12) months from the date of issue of planning consent. Should the extractive industry not commence within this time, the applicant be advised that a new application will be required to be made.*
- 5. Advise the applicant that the Shire of York requires the following information to be submitted and approved prior to the issuing of an Extractive Industry Licence:*
- 5.1. A Drainage Management Plan being submitted to the satisfaction of the Department of Water and the Local Government.*
- 5.2. A fauna study being submitted to the satisfaction of the Department of Environment and Conservation and the Local Government.*
- 5.3. Evidence of public liability insurance policy being provided to the satisfaction of the Local Government.*
- 5.4. Provide certified approval from;*
Westnet
Main Roads WA
That all issues relating to property access across the rail reserve and entry/exit to Great Southern Highway have been addressed.
- 6. Delegates to the Chief Executive Officer the ability to issue an Extractive Industry Licence in accordance with the Shire of York Extractive Industries Local Law on Lot 1 (6362) Great Southern Highway, Gilgering, subject to the required information being received and approved in accordance with condition 2 above and subject to the following conditions:*
- 6.1. The extractive industry shall be carried out and fully implemented in accordance with the details incorporated within the documentation endorsed with an "Approved" stamp by the Local Government and is attached to the Extractive Industry Licence.*
- 6.2. The excavation area is limited to the area shown on the approved plans – namely Pit Nos. 1 to 5 – to a maximum depth of 7 m from ground level to the satisfaction of the Local Government.*
- 6.3. Excavation is not permitted within 20 metres of any boundary of Lot 1.*
- 6.4. The applicant shall comply with the requirements of this Extractive Industry Licence and the Shire's Extractive Industry Local Laws as attached hereto at all times.*
- 6.5. Hours of operations and movements of heavy vehicles in or out of Lot 1 shall be limited to 07.00 to 19.00 hours, Monday to Saturday, and shall be managed in accordance with the submitted Noise Management Plan.*
- 6.6. The facility is to operate in accordance with the requirements of Regulation 7 of the Environmental Protection (Noise) Regulations 1997. Should noise complaints be received it shall be the licensee's responsibility to employ a suitably qualified acoustic engineer to determine exceedances and remedies. Where the requirements of Regulation 7 of the Environmental Protection (Noise) Regulations 1997 can not be satisfied, the licensee shall seek approval for the operation, in accordance with Regulation 17, of the same.*

- 6.7. *Reversing alarms on vehicles and equipment must be managed on site to ensure they do not interfere with the amenity of nearby properties while complying with the Occupational Safety & Health Regulations 1996 and the Environmental Protection (Noise) Regulations 1997.*
- 6.8. *The Dust Management Plan approved by the Local Government must be adhered to and followed at all times. Should complaints be received in relation to dust emissions, dust monitoring equipment shall be installed and regular reports be provided, in consultation with the Local Government.*
- 6.9. *No blasting is to take place as part of the proposed extractive industry operation.*
- 6.10. *All trafficable areas shall be treated and maintained in a manner which prevents or minimises the generation of airborne dust to the satisfaction of the Local Government and in accordance with the Dust Management Plan.*
- 6.11. *Drainage management shall be in accordance with the approved Drainage Management Plan and the approved plan for the extractive industry.*
- 6.12. *Prior to any cartage taking place, a detailed technical plan showing exact internal road widths, direction of entry and exit, angles of entry and exit, any turning circles and any other relevant information of the proposed internal road infrastructure shall be submitted to the Shire of York for approval. No cartage will be permitted until the construction of the internal road infrastructure has occurred to the satisfaction of the Local Government.*
- 6.13. *The internal road infrastructure is to be maintained to the satisfaction of the Local Government during extractive operations on an ongoing basis.*
- 6.14. *A fence restricting vehicle and pedestrian access to the area identified for the operations of the quarry shall be constructed prior to the commencement of site works.*
- 6.15. *Warning signs are to be placed along each of the boundaries of the area excavated under this licence which are no more than 200 metres apart, not less than 1.8m high and not less than 1 metre and bears the words "DANGER EXCAVATIONS KEEP OUT".*
- 6.16. *A sign is to be located at the entrance to the property at all times to identify the quarry operator and a contact name and number of a responsible contact person for enquiries relating to the quarry operations.*
- 6.17. *This extractive industry licence is valid for a period of five (5) years from the date of this approval. If development is not completed within this period, a new licence must be obtained before commencing or continuing development.*
- 6.18. *The licensee shall provide, for the approval of the Local Government on an ongoing basis, a detailed Rehabilitation and Maintenance Plan of suitable indigenous planting on, and around, the quarried area, to be planted at the completion of remedial earthworks. The plan is to be provided on an annual basis.*
- 6.19. *The Rehabilitation and Maintenance Plan approved by the Local Government is to be adhered to and implemented at the conclusion of mining operations.*
- 6.20. *Remnant vegetation outside of the excavation area is to be protected from the quarry operations and transport movements at all times.*

- 6.21. *The site is to be rehabilitated using local endemic species to the satisfaction of the Local Government.*
- 6.22. *Survey pegs are to be placed on site prior to commencement of operations in order to clearly delineate the boundaries of the excavation areas in accordance with the approved plans and the terms and conditions of this licence.*
- 6.23. *The applicant shall obtain and maintain relevant clearing permits from the Department of Environment and Conservation prior to any significant land clearing taking place.*
- 6.24. *A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the Local Government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.*
- 6.25. *The licensee shall provide to the local government a copy of the policy taken out under condition 3.24, within 14 days after the issue of that policy and shall provide to the Local Government evidence of renewal within 14 days of each renewal date.*
- 6.26. *On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time.*
- 6.27. *A licensee who wishes to renew or extend a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal:*
- (i) the fee determined by the local government from time to time;*
 - (ii) a copy of the current licence;*
 - (iii) a plan showing the contours of the excavation carried out to the date of that application;*
 - (iv) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in the attached documentation report; and*
 - (v) any other things referred to in the Shire of York's Extractive Industries Local Laws.*
- 6.28. *No permit vehicles from this extractive industry are to pass onto any road under the control of the Shire of York unless the appropriate Local Government and Main Roads approvals are in place.*
- 6.29. *A rehabilitation bond is to be paid by the applicant prior to commencement of any excavation and subsequently on or before 30 June in each year to the Local Government in accordance with the endorsed Fees and Charges (currently \$4,000 per hectare) based on a staging plan outlining the sizes of the intended excavation areas to be excavated in the following financial year drafted by a licensed surveyor to the satisfaction of the Local Government.*
- 6.30. *In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site subject to this licence, the licensee in respect of that site must -*
- i) comply with all applicable provisions of that Act or those Acts; and*
 - ii) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.*

6.31. Failure to comply with any of the conditions outlined above may result in the Local Government revoking this Extractive Industry Licence or taking such other action as considered appropriate by the Shire of York as available under the existing Local Law.

Advice Notes:

- a) *The licensee shall at all times adhere to and abide by any relevant Main Roads WA legislation or requirements.*
- b) *Any damage caused to the Great Southern Highway by the extractive industry is to be repaired at the request and to the satisfaction of Main Roads WA.*
- c) *Approval being obtained by Main Roads WA for use of truck routes utilised by transportation vehicles, if required.*
- d) *The licensee shall at all times adhere to and abide by any relevant Westnet Rail legislation or requirements.*
- e) *The operation of the extractive industry is to comply with the conditions of any licence to operate issued by the Department of Environment and Conservation specifically related to the screening and crushing of materials.*
- f) *The applicant is required to comply with any works licence issued by the Department of Environment and Conservation for the construction of any new buildings on the subject site.*
- g) *A building licence is to be applied for and obtained from the Local Government for the construction of any infrastructure associated with the extractive industry activities including the placement of any temporary structure or sea container.*
- h) *With respect to condition 3.29, progressive payments of bond money are acceptable, i.e. once an area has been rehabilitated to the satisfaction of the Local Government, the bond money held in trust can be utilised to cover the rehabilitation bond for a future excavation area.*
- i) *With respect to condition 3.30, the Mines Safety and Inspection Act 1994 and the Environmental Protection Act 1986 include all subsidiary legislation made under those Acts.”*

The applicant is seeking to extend the planning consent for a further two (2) years (in a letter which was received prior to the expiry of the planning consent). There are no changes in conditions proposed and Council Officers are currently in negotiations with the applicant to enable the issue of the Extractive Industry License.

Consultation:

The application was advertised in accordance with the Shire's Extractive Industries Local Law for a period of 21 days. No submissions were received concerning the proposal.

Statutory Environment:

Shire of York Town Planning Scheme No. 2
Shire of York Extractive Industries Local Law

The land use of an extractive industry has previously been given approval under the provisions of the Shire's Town Planning Scheme No 2. That approval is required to be considered for extension under the same provisions.

The land use of an extractive industry is an “AA” use (discretionary use) under the provisions of the Scheme.

Policy Implications:

Nil.

Financial Implications:

Bonds for rehabilitation of the site in accordance with the Extractive Industries Local Law are proposed to be imposed on the project to protect the community from any future costs.

Annual license fees are payable under the Extractive Industries Local Law, which will cover the cost to Council of administration and monitoring of the development.

Should heavy haulage vehicles be proposed to travel on a Shire of York controlled road, contributions will be required from the applicant for road upgrade and maintenance.

Strategic Implications:

The extension of the planning consent does not alter the original assessment of the Shire's objectives.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Diversification of industry and potential employment opportunities may arise from the proposed extractive industry. Basic raw materials, such as gravel, clay, sand, limestone etc, are required for state and regional development.

Social Implications:

Potential impact from heavy vehicle movement of the proposed extractive industry on the Blandstown area has resulted in a number of submissions regarding the original application and the previous extension. However, no submissions were received regarding this extension application.

Environmental Implications:

A range of environmental issues, such as dust, noise, remnant vegetation, watercourses etc., have been addressed in the documentation report.

Monitoring of environmental issues will be required to be undertaken on an ongoing basis and this will largely be the responsibility of the Department of Environment and Conservation and the Department of Water.

Comment:

Council has previously granted an extension to the consent. The applicant is progressing the application and has requested the extension to enable preparation of the Drainage Management Strategy and design of the roadworks, traffic and rail safety concept plans for approval by the relevant authorities.

It is considered appropriate to grant a final extension of the consent to enable the development to occur.

**RESOLUTION
060311**

Moved: Cr Lawrance

Seconded: Cr Hooper

“That Council:

Approve the application to extend the planning consent for two (2) years from the date of the meeting, subject to the imposition of the approved conditions.”

CARRIED: 5/0

Item 9.1.3 – Appendix A – Plans & Locality Map

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.4 Variation Of Restriction On Building Materials 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:	SC1.60550
COUNCIL DATE:	21 March 2011
REPORT DATE:	10 March 2011
LOCATION/ADDRESS:	Lot 140-141 (9) Scarpia Street, York
APPLICANT:	Rosemary Stout
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Brooke Newman, Planning Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Site Plans, Floor Plans, Elevations
DOCUMENTS TABLED:	Nil

Summary:

An application is required to be considered to vary the building materials used for an extension to the existing dwelling on Lots 140 & 141 (9) Scarpia Street, York which is located in the Restriction on Building Materials area.

Background:

An application for planning consent was received to remove part of the existing dwelling (rear) on Lots 140 & 141 and construct an extension in its place which would incorporate cladding the building in hardiplank sheets.

Lots 140 and 141 are located within the Shire's Restriction on Building Materials area. This area prescribes specific building materials to be used for additions/alterations to existing buildings and for materials to be utilised for new development.

A meeting was held between the applicant, the applicant's builder and Shire staff which resulted in the applicant agreeing that the external cladding materials for the extension to the rear of the dwelling would be flat hardiflex sheets (or similar) with a suitable coloured render. This would give the appearance of rendered brick and would meet the objectives of the Policy.

Consultation:

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. The application has also been advertised in accordance with the requirements of the Shire's Restriction on Building Materials Policy. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

One (1) submission has been received which states as follows:

"Objection of building material/hardiplank sheeting. This would not be asthetically good as this material is poor quality and can easily be smashed. A better option would be either brick veneer or double brick as the colour of the house and would compliment the post Edwardian style of this house.

I have looked at the application for a variation of the Local Planning Policy - Restriction of Building Materials in 9 Scarpia Street, York and this type of addition would not be a heritage type of material as would be-fit the existing house.

To compliment the existing house a double brick or brick veneer addition would be more attractive and give a heritage look to the post Edwardian home with the bricks being as closely matched in texture and colour as to the original bricks.

The existing house as previously mentioned is post Edwardian with a leadlight front door and bull nose verandah and retains this charm of that era and to want to put hardiplank sheeting with rendering over the top of this material would not be an attractive alternative to this house at all and would spoil it completely.

Also looking at the plans, the steps could be a problem for disabled people if the property were to be sold and perhaps a ramp as would be-fit a brick extension would be better suited as a better solution.

In my opinion, the plan seems to be drawn the wrong way as I would have thought the rear bathroom would be better next to the back wall of the kitchen for plumbing purposes.

Finally, as I am still aware this area is a brick area, I object to this hardiplank material as it is an inferior product and although it looks solid it can be easily broken."

Refer to the comments section of this report for assessment of the issues raised in the objection.

Statutory Environment:

Lots 140 and 141 are zoned "Residential R10/30" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), are approximately 589m² each and are not located within the 1 in 100 year floodplain for the Avon River.

The Shire's Restriction on Building Materials Policy applies to Lots 140 and 141 as follows:

1. *"All class of buildings, except class 10 buildings, which may be erected in that portion of the district of the Shire of York bounded in the first instance by Ulster Road, Macartney Street, Grey Street, Tenth Road and Henry Road and in the second instance by Panmure Road, Steere Street, Pioneer Road, Chandos Road, Mount Street, Cemetery Road and Herbert Road as indicated by the area bordered black on the plan being the schedule hereto shall comply with the following requirements:*
 - (a) *All dwellings, extensions or renovations shall have external walls constructed of brick, stone or other like substance, whether finished in facework or render.*
 - (b) *External walls of dwellings, additions or renovations are not to be constructed wholly or partly of wood, iron, straw or fibro cement sheets.*
 - (c) *Any building being erected as a habitable dwelling shall have a minimum floor area of 110m². Such specified area to exclude carports or garages associated with the building.*
2. *The Council may consider an exemption from this policy where the applicant establishes that special or extraordinary circumstances exist or where the building material proposed has the same outwards appearance and texture of face or rendered brick work. An exemption shall be made by a resolution of the Council and will be for a particular application for a permit to build."*

Policy Implications:

The proposal is consistent with TPS2 and the Shire's Restriction on Building Materials Policy.

Financial Implications:

Planning fees have been paid and building licence fees will be required.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

Allowing a variation to the Shire’s Restriction on Building Materials policy in accordance with Clause 2 of that policy will allow the applicant to achieve development potential whilst still utilising existing planning framework.

Key Result Area 2 - Objective 5:

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

Again, allowing a variation to the Shire’s Restriction on Building Materials policy in accordance with Clause 2 will ensure that there is no conflict between development and York’s heritage, lifestyle and environment.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

Historically, Council has approved variations to the Restriction on Building Materials Policy subject to compliance with Clause 2 of that Policy.

The application currently before Council complies with Clause 2 of the Shire’s Restriction on Building Materials Policy.

Comments on Objection

It is staff’s opinion that the presentation of hardiflex sheets (or similar) with a cement render applied will have the outwards appearance of rendered brick. It would not be easily defined as hardiflex sheets and therefore complies with Clause 2 of the Shire’s Restriction on Building Materials Policy.

It is considered by staff that the application of render over hardiflex sheets is able to be “blended” with the existing fabric of the building in terms of colour thus complimenting the existing dwelling.

It is not a requirement that disabled access be constructed to a residential building and not something the Shire has jurisdiction over.

The dwelling on Lots 140 and 141 is not heritage listed and considering that the proposal complies with Clause 2 of the Shire's Restriction on Building Materials Policy, it is recommended that approval be granted for the construction of the extension to the rear of the existing dwelling on Lots 140 and 141 subject to various conditions.

**RESOLUTION
070311**

Moved: Cr Lawrance

Seconded: Cr Randell

"That Council:

Issue planning consent for a variation to the Restriction on Building Materials Policy for the construction of an extension to the rear of the existing dwelling at Lots 140 and 141 (9) Scarpia Street, York subject to the following conditions:

- 1. Development must substantially commence within two (2) years from the date of this decision;***
- 2. Development must take place in accordance with the approved plans;***
- 3. Prior to the issue of a building licence, amended plans be received and approved by the Shire which detail the building materials for the extension as being flat hardiflex (or similar) sheeting covered with cement render (or similar) including a colour scheme.***
- 4. Prior to the issue of a building licence, arrangements be made with the Western Australian Planning Commission for the amalgamation of Lots 140 and 141 to the satisfaction of the local government.***
- 5. Prior to the issue of a building licence, detailed drainage plans shall be submitted to the satisfaction of the local government;***
- 6. Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
- 7. The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government.***

Advice Note:

An application for a demolition license may be required to be applied for."

CARRIED: 5/0

Item 9.1.4 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.5 Construction Of A Mixed Use Development Consisting Of A Shop/Office, Café And Associated Car Parking At Lot 10 (66) 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:	P603
COUNCIL DATE:	21 March 2011
REPORT DATE:	10 March 2011
LOCATION/ADDRESS:	Lot 10 (66) Avon Terrace, York
APPLICANT:	D Calabrese & T Kozak-Calabrese
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Locality Plan, Architectural Plans
DOCUMENTS TABLED:	Nil

Summary:

Council is requested to consider an application to construct a mixed use development consisting of a shop/office, café and associated car parking at Lot 10 (66) Avon Terrace, York.

Two submissions were received in response to exhibition of the proposal.

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

Background:

On 26 March 2008, Town Planning Scheme Amendment No. 38 was gazetted to enable an additional use subject to planning consent being granted by the local government may be a shop, office, restaurant, multiple dwelling and a serviced apartment on the subject property.

A planning application has been received in accordance with the scheme amendment to construct a mixed use development consisting of a shop/office, café and associated car parking at Lot 10 (66) Avon Terrace, York.

The proposal involves the construction of an 85.8m² shop/office (occupants not confirmed) and a 212.6m² café, together with 19 off-street car parking spaces, including one disabled space. The original plans submitted also incorporated tourist accommodation, which has been deleted by the applicant during the application process.

The building is proposed to be constructed of a combination of rendered and metal cladding with colourbond roofing and will be required to be amended to incorporate elements from the Shire of York's Local Planning Policy - Heritage Precincts and Places ("Heritage Policy").

Consultation:

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

The application was also forwarded to the Heritage Council and Department of Water.

Two submissions were received in response to the exhibition, together with comments from both government agencies.

The content of the submissions are discussed later in this report.

Statutory Environment:

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- a) *The aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area.*

York Town Planning Scheme No. 2

The property is zoned R-40 Residential. However, Scheme Amendment No. 38 has been gazetted to enable an additional use for a shop, office, restaurant, multiple dwelling and service apartment subject to meeting the requirements of Clause 4.9 of the Town Planning Scheme.

Clause 4.9 outlines the requirements for the 'Town Centre Zone' and has been assessed as follows:

4.9.1 – Objectives

The proposal is consistent with the objectives of the zone, particularly as it will provide additional retail/commercial space of a high standard that will contribute to the amenity of the town centre.

4.9.2 – Site requirements

Building setbacks – Site located in York Central Heritage Precinct. Refer to section (f) of this report.

4.9.3 – Development requirements

- Single storey development proposed – complies.
- Design guidelines – Refer to section (f) of this report.
 - Colour and texture of external building materials – Refer to section (f) of this report.
 - Bulk and scale – the proposed size of the building and scale with reference to the lot size and locality is considered appropriate.
 - Architectural style – Refer to section (f) of this report.
 - Function of the building – the proposed use is considered appropriate for the Town Centre.
 - Relationship to surrounding development and impact on any item of heritage significance – Refer to section (f) of this report.
 - Other characteristics – the proposed is consistent with the Scheme Amendment to enable additional uses on site.
- Landscaping – it is proposed to use 'cottage-type' planting. A detailed landscaping plan will be required prior to the issue of a Building Licence.
- Layout of carparking – the layout of the carparking will enable traffic circulation, manoeuvring and unloading and loading of vehicles.

Car parking requirements are outlined in Section 4.5 and Schedule 4 of the TPS. The plan indicates 18 spaces are proposed on site, which meets the car parking requirements in the schedule. One car parking space will be required to be disabled accessible.

Clause 5.1 sets out the controls for Heritage Precincts and Places of Cultural Significance. The site is located in the York Central Heritage Precinct and therefore the provisions of this Clause have been assessed as follows:

5.1.4 – Applications for Development Control

- Assessment to have regard to any heritage policy – Refer to section (f) of this report.
- Consultation with Heritage Council – The Heritage Council have been consulted throughout the assessment of the proposal and have provided the following comments on the final proposal:
 - “The development aligns with some of York’s more modest commercial facilities.
 - The verandah of the building impacts the appearance of the street and the precinct as a whole. The applicant should be encouraged to consider revising the verandah detailing to compliment the materiality of other verandahs on the street.”

It is recommended that the façade be re-designed to meet the requirements of Council's Heritage Precincts and Places Policy. Refer to section (f) for further assessment.

5.3 – Control of Advertisements

No signage has been indicated on the submitted plans. It is recommended that the applicant amend the plans to indicate the footprint of any proposed signage on both buildings prior to issue of the Building Licence. Alternatively, a separate planning application will be required for any signage that is not exempt under Schedule 8 of the TPS.

5.4 – Avon River Flood Fringe

- The application was referred to the Department of Water as the site is located in the Avon River Flood Fringe. The DOW has stated that “Lower proposed floor levels for commercial properties are considered acceptable if development is in accordance with relevant amendments to Town Planning Scheme No. 2.” The TPS requires that non habitable development within a heritage precinct of 300mm above the centre of the road may be approved. However, as the site is only partially identified (rear portion) in the flood fringe, it is considered appropriate that the development site on the area outside the flood mapping is constructed at road level. Additionally, a notification pursuant to Section 70A of the Transfer of Land Act 1893 (as amended) will be required.

b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought.

Nil.

c) Any approved statement of planning policy of the Commission.

Nil.

d) Any approved environmental protection policy under the Environmental Protection Act 1986.

Nil.

e) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State.

Nil.

f) Any Planning Policy adopted by the local government under clause 8.8, any policy for a designated heritage precinct adopted under clause 5.1.3, and any other plan or guideline adopted by the local government under the Scheme.

Shire of York Local Planning Policy – Heritage Precincts and Places

The site is located in the York Central Heritage Precinct and therefore Section 4 of the Policy relating to Commercial Development has been considered during assessment of the proposal as follows:

- *Scale and size* – the single storey development is considered in context with the surrounding buildings.

- *Form* – the simple design of the building is considered sympathetic to the surrounding development and the town centre. However, the front façade and verandah will require review to comply with the Policy. It is considered that Council can approved the concept and amended plans can be submitted and approved prior to issue of the Building Licence.
- *Siting* – it is proposed to setback the building 3m to enable alfresco dining to the café and a covered area to the shop/office. Although the Policy enables zero setback, the proposed 3m setback is considered appropriate as there are no other buildings immediately adjacent that are located on a zero setback. The premises will be directly accessible from the footpath. Car parking is proposed at the rear of the buildings.
- *Materials and colours* – the colours indicated by the applicant are consistent with the Policy and will be required to be indicated on the amended plans prior to the issue of the Building Licence.
- *Detailing* – as indicated previously, it is proposed to require that the applicant amend the façade of the building to ensure compliance with the Policy and that the new building is more complementary to the York Central Precinct.
- *Setting* – access to the proposed buildings is available directly from the public footpath (and will also be required to meet the requirements for disabled access).

Section 5 relates to signage within the heritage precincts. No signage has been indicated on the submitted plans. It is recommended that the applicant amend the plans to indicate the footprint of any proposed signage on both buildings prior to issue of the Building Licence. Alternatively, a separate planning application will be required for any signage that is not exempt under Schedule 8 of the TPS.

g) *In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve.*

Not applicable.

h) *The conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List under clause 5.1.2, and the effect of the proposal on the character or appearance of a heritage precinct.*

Not applicable.

i) *The compatibility or a use or development with its setting.*

The proposed development and uses are considered to be compatible with the surrounding development and greater town centre area.

j) *Any social issues that have an effect on the amenity of the locality.*

It is unlikely that the proposal will result in any adverse social issues for the locality, and is more likely to have a positive impact through the creation of employment during construction and occupation phases of the development.

k) *The cultural significance of any place or area affected by the development.*

The proposal can meet the requirements of Shire's Heritage Precinct and Places Policy and therefore is unlikely to affect the cultural significance of the area.

l) *The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment.*

Sediment, erosion and dust controls will be required during construction. Overall the development will not impact on the natural environment if these mitigation measures are employed.

m) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire or any other risk.

The site is partially identified within the flood fringe, however where the development is occurring is above the flood area. Therefore it is considered that the flood risk does not impact on site suitability and the issue of flooding can be addressed through floor level requirements.

n) The preservation of the amenity of the locality.

The amenity of the locality will not be adversely affected by the development.

o) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

The proposal is in context with the setting with regards to height, bulk, scale and siting of the building. Amended plans will be required to ensure that the appearance meets the provisions of the Shire's Heritage Policy.

p) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.

The location and layout of the carparking will provide adequate provision for access to and egress from the site, manoeuvring, loading and unloading.

q) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

Avon Terrace has sufficient capacity to cater for the traffic generated from the development. Access to and egress from can be done safely in a forward manner.

r) Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal.

The site is accessible by existing public transport services.

s) Whether public utility services are available and adequate for the proposal.

Water, sewer, telecommunications and electrical services are available to the site.

t) Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities).

Access to the site is available for pedestrians and cyclists, including toilet facilities.

u) Whether adequate provision has been made for access by disabled persons.

The proposal can meet the requirements of the BCA and Australian Standard for disabled access. A condition of consent will be required to ensure access is proposed prior to issue of the Building Licence.

v) Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.

A detailed landscaping plan will be required prior to issue of the Building Licence. The design of the development can cater for adequate landscaping.

w) Whether the proposal is likely to cause soil erosion and degradation.

Soil erosion may be an issue during construction. Preventative controls will be required.

x) The potential loss of any community service or benefit resulting from the planning consent.

The development will not result in the loss of any community service or benefit.

y) Any relevant submissions received on the application.

The application was public exhibited in accordance with the requirements of the TPS and two (2) submissions were received regarding the proposal. However, one submission was supporting the proposal and raising concerns over the length of the application process, which has been as a result of the negotiations between the applicant and Council to achieve the best outcome.

The main submission raised the following issues:

1. The proposed development is modern and industrial in appearance, with a frontage contradictory to the heritage streetscape; and
2. The structural appearance of the proposal would be critically aesthetically displeasing and would severely detract from the heritage nature of the streetscape and entry to York.

The Heritage Office has raised no objections to the approval of the development, however, has requested Council to encourage the applicant to revise the verandah detailing to complement the materiality of other verandahs on the street. This assessment supports this recommendation and it is recommended that prior to the approval of the Building Licence that the applicant amend the plans to meet the requirements of Council's Heritage Policy, particularly with regards to the front façade.

z) The potential impacts of noise, dust, light, risk, and other pollutants on surrounding land uses.

The occupation of the development is unlikely to result in adverse impacts on neighbouring properties. It is recommended that hours of operation be imposed on the premises.

aa) The comments or submissions received from any authority consulted under clause 7.4.

Department of Water

The DOW has indicated that the site is located in the flood fringe and has recommended that any non-habitable floor levels meet the requirements of the TPS. Refer to earlier comments in section (a) of this report.

Heritage Council

The following comments were made by the Heritage Council:

- "The development aligns with some of York's more modest commercial facilities.
- The verandah of the building impacts the appearance of the street and the precinct as a whole. The applicant should be encouraged to consider revising the verandah detailing to compliment the materiality of other verandahs on the street."

It is recommended that the façade be re-designed to meet the requirements of Council's Heritage Precincts and Places Policy. Refer to section (f) for further assessment.

bb) Any other planning consideration the local government considers relevant.

Nil

Policy Implications:

Shire of York Town Planning Scheme No 2
Local Planning Policy - Heritage Precincts and Places

Financial Implications:

Planning fees have been paid and building licence fees will be required.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

The proposal is consistent with the additional use requirements of the Scheme Amendment No. 38 and the objectives of the Town Centre Zone.

Key Result Area 2 - Objective 1:

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

The proposed development will result in increased employment and new business opportunities in York.

Key Result Area 2 - Objective 2:

“To increase tourism to achieve business viability and growth.”

New shops and cafes will provide tourists with additional destinations within York that will complement existing businesses. The proposal may also assist with the activation of the southern end of the town centre.

Key Result Area 2 - Objective 3:

“To increase the net disposable income of the York community and investigate ways of increasing spending within the Shire.”

New shops will result in an increase in spending within the Shire by visitors and locals.

Key Result Area 2 - Objective 4:

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

Encouraging infill commercial development within the town centre precinct in accordance with the Heritage Policy is a strong basis for future economic development.

Key Result Area 2 - Objective 5:

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

The proposal can comply with the Heritage Policy and will complement the existing development within the town centre.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Increased commercial premises in York will stimulate the economy of the Shire of York by providing an alternative shopping experience for the local community and possibly, for the communities of surrounding towns.

Social Implications:

The creation of additional commercial premises will provide employment during the construction and occupation phases of the development. No adverse social implications have been identified in this assessment.

Environmental Implications:

It is unlikely that any adverse environmental impacts will result from the construction and occupation of the proposed development. It is recommended that sediment and erosion controls and stormwater management are required as part of any approval.

Comment:

The proposal meets the objectives of the York Town Planning Scheme No. 2 and will be positive socially and economically for the Shire, which is shown in this assessment. It is therefore recommended that Council approve the application.

**RESOLUTION
080311**

Moved: Cr Scott

Seconded: Cr Randell

“That Council:

APPROVE the application to construct a mixed use development consisting of a shop/office, café and associated parking at Lot 10 (66) Avon Terrace, York, subject to the following conditions:

- 1. Development must take place in accordance with the approved plans, including any amended plans that are required as part of this consent.***
- 2. Development must substantially commence within two (2) years from the date of this determination.***
- 3. Prior to the issue of a building licence, amended plans shall be submitted to Council for approval depicting a redesign of the façade demonstrating compliance with the provisions of the Shire of York’s Planning Policy – Heritage Precincts and Places. The plans shall include a schedule of the proposed colours and materials.***
- 4. Prior to the issue of a building licence, detailed landscaping plans shall be submitted to Council for approval.***
- 5. Prior to the issue of a building licence, details of any proposed advertising signage shall be submitted to Council for approval. It should be noted that any advertising signage not approved under this application will be subject to a separate planning application unless the signage is considered ‘exempt development’ under the York Town Planning Scheme No. 2.***
- 6. Prior to the issue of a building license, detailed drainage plans shall be submitted to the satisfaction of the local government.***
- 7. Disabled access shall be provided to the building in accordance with the requirements of the Building Code of Australia and Australian Standard AS 1428.***
- 8. The building shall be constructed at least the same level as the centre of the road in accordance with Clause 5.4 of the York Town Planning Scheme No. 2.***
- 9. Prior to occupation, a notification being placed on the Certificate of Title pursuant Section 70A of the Transfer of Land Act advising that the land is subject to inundation during a flood event.***
- 10. The design of off-street car parking areas being in accordance with Australian Standard 2890.1 and A2890.2. Car parking areas shall be constructed and maintained to the satisfaction of Council and shall include adequate provision for customers, staff parking, and for manoeuvring, loading and unloading of vehicles. The car parking and crossovers shall be constructed prior to occupation.***
- 11. The hours of operation for unloading and loading and waste removal, are limited to 7am to 6pm.***

12. This consent gives approval to use Unit 1 as a shop/office (commercial) and Unit 2 as a café/restaurant. Any other uses will require separate planning approval.

13. The fitout of any food premises must comply with the Shire's Food Construction Standards.

14. The premises shall be connected to the town sewerage and water scheme."

CARRIED: 5/0

Item 9.1.5 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.6 Retrospective Approval For The Construction Of Disabled Toilet Facilities At A Heritage Listed Property

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:	AV1.5845
COUNCIL DATE:	21 March 2011
REPORT DATE:	10 March 2011
LOCATION/ADDRESS:	Lot 51 (154) Avon Terrace, York
APPLICANT:	Peter Bailey of Creative Constructions on behalf of the Landowner (Country Women's Association)
SENIOR OFFICER:	J Jurmann, MPS
REPORTING OFFICER:	B Newman, Planning Officer
DISCLOSURE OF INTEREST:	Cr Scott - Proximity
APPENDICES:	Site Plans, Floor Plans, Elevations
DOCUMENTS TABLED:	Nil

Summary:

An application for retrospective approval for the construction of disabled toilet facilities (commenced without approval) on a Heritage Listed Property at Lot 51 (154) Avon Terrace, York (CWA Hall) is required to be considered by Council.

Background:

An application for the construction of a disabled toilet facility was received from Mr Peter Bailey of Creative Constructions on behalf of the Country Women's Association on 16 December 2010.

Lot 51 is listed on the Shire's Municipal Heritage Inventory and is also located within the Shire of York Central Heritage Precinct. As such, an application for planning consent is required to be applied for and issued by the Shire prior to an application for a building license being made and prior to any works commencing on site.

Development Proposal

The development proposed under the application received by the Shire is for the construction of a disabled toilet facility.

The additional facility was proposed to be identical in physical construction to the existing toilet facility with the internal design to be suitable for disabled access. The additional facility was proposed to be constructed abutting the existing toilet facility.

Considering the landuse of the existing buildings (CWA Hall and ablution facilities utilised for CWA events) the size, location, intent of the building and physical structure of the additional facility, the development is considered to be acceptable for Lot 51.

Unapproved Commencement of Development

On 18 January 2011, staff became aware through a submission that the works had substantially commenced in relation to the construction of the disabled toilet facility at Lot 51.

A site inspection was carried out by Shire staff. During the site inspection, it was noted that the construction of the disabled toilet facility was nearing completion. Workers were requested to call the applicant, Mr Peter Bailey.

Mr Bailey attended the site, at which time, a discussion was held between Shire staff and Mr Bailey. Mr Bailey was asked if he was aware that Lot 51 was listed on the Shire's Municipal Heritage Inventory and that it was in a Heritage Precinct. Mr Bailey replied that he was aware of that. Mr Bailey was also asked whether he was aware that it was illegal to commence works on Lot 51 without approval. Mr Bailey replied that he was aware that it is illegal to commence work at Lot 51 without first obtaining a planning consent then a building license.

At the time of the site inspection, a stop work order was issued and all present were requested to leave the property.

A representative of the owner of the property (Country Women's Association) was contacted and advised that a stop work order had been issued for the works which had been commenced without approval.

Consultation:

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Four (4) submissions have been received (see attached Schedule of Submissions).

Statutory Environment:

Lot 51 is zoned "Public Purposes" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), is approximately 503m² and is not located within the 1 in 100 year floodplain for the Avon River.

Lot 51 is registered on the Shire's Municipal Heritage Inventory and is located within a Heritage Precinct. Under TPS2, any development proposed to be undertaken to a listed property or a property in a Heritage Precinct is required to apply for a planning consent.

Clause 8.3 of TPS2 states as follows:

"8.3 Person Must Comply With Provisions Of Scheme

A person must not:

- (a) contravene or fail to comply with the provisions of the Scheme;*
- (b) use any land or commence or continue to carry out any development within the Scheme area:
 - (i) otherwise than in accordance with the Scheme;*
 - (ii) unless all approvals required by the Scheme have been granted and issued;*
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and*
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use."**

Clause 218 of the Planning and Development Act 2005 deals specifically with contraventions of a planning scheme as follows:

“218 Contravention of planning scheme

A person who -

- (d) contravenes the provisions of a planning scheme;*
- (e) commences, continues or carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme otherwise than in accordance with the provisions of the planning scheme; or*
- (f) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition;*

commits an offence.”

Clause 223 of the Planning and Development Act 2005 deals specifically with penalties for offences committed pursuant to section 218 as follows:

“223 Penalty for offence

Unless otherwise provided, a person who commits an offence under this Act is liable to a penalty of \$50,000.00 and, in the case of a continuing offence, a further fine of \$5,000.00 for each day during which the offence continues.”

Policy Implications:

The creation of a Local Planning Policy for Retrospective Planning Consents would assist staff and the community in dealing with developments commenced without approval.

Financial Implications:

Planning application fees have been paid and building license fees will be required.

Retrospective planning consent penalty fees will be applicable. Additional building certificate fees may also be applicable.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

The imposition of retrospective planning fees is necessary to establish planning framework to ensure that development occurs in an orderly and appropriate fashion.

Key Result Area 2 - Objective 4:

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

Imposing penalty fees for development undertaken without approval, particularly to heritage properties, aims at reducing the instance of unapproved works which have the potential to degrade heritage values.

Key Result Area 2 - Objective 5:

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

Again, the imposition of penalty fees to unapproved works to all developments and, in particular, heritage listed properties is aiming at reducing conflict between development and heritage values.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

The development has substantially commenced (near completion) without approval.

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

The protection of Heritage Listed properties and properties within Heritage Precincts is in the interest of the community as a whole.

Environmental Implications:

Nil.

Comment:

Development Proposal

The proposed disabled toilet facility is considered to be appropriate development for the following reasons:

1. The structure, placing and visual aspect of the building appears to be compliant with the Shire’s Local Planning Strategy for Heritage Precincts and Places.
2. The Heritage Council of WA and the Heritage Advisor are supportive of the development.
3. No objection to the physical structure has been received.

As outlined above, it is recommended that retrospective planning consent be issued for the construction of the disabled toilet facility at Lot 51 subject to various conditions.

Commencement of Development without Approval

The construction without approval of the disabled toilet facility was undertaken by a person who is working in the building industry and is aware of the requirement for planning consent and building licenses being applied for and issued by the local government prior to commencement of work.

When asked during a site inspection whether Mr Bailey was aware that a planning consent and building license was required prior to work commencing, the response given to Shire staff was “yes”.

The landowner advised Shire staff that Mr Bailey had advised that approval had been given for works to commence.

In light of the above, it is recommended that Council issue retrospective planning consent for the construction of the disabled toilet facility at Lot 51 subject to various conditions.

It is also recommended that penalty proceedings be enforced against the applicant, Mr Peter Bailey, by way of \$270.00 penalty being the applicable fee imposed under the Shire's budget for the commencement of works without planning consent.

Cr Scott declared an Interest Affecting Impartiality to this item and left the room at 3.30pm.

**RESOLUTION
090311**

Moved: Cr Lawrance

Seconded: Cr Randell

“That Council:

- 1. issue retrospective planning approval for the completion of the commenced disabled toilet facility at Lot 51 (154) Avon Terrace, York subject to the following conditions:***
 - (a) Development must substantially commence within two (2) years from the date of this decision;***
 - (b) Development must take place in accordance with the approved plans;***
 - (c) Prior to the issue of a building license for the disabled toilet facility, detailed drainage plans shall be submitted to the satisfaction of the local government.***
 - (d) Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
 - (e) The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government;***
 - (f) The outbuilding is not to be used for human habitation, commercial or industrial purposes;***
 - (g) The development hereby permitted being in accordance with the Shire of York Local Planning Policy for Heritage Places and Precincts and the requirements of the Heritage Council of Western Australia.***
 - (h) Prior to the issue of a building licence for the disabled toilet facility or within 3 weeks of the date of this approval, retrospective planning consent fees of \$270.00 shall be paid by the applicant for the unapproved commencement of construction of the disabled toilet facility on Lot 51.***
- 2. advise the applicant, Mr Peter Bailey of Creative Constructions, that the commencement of development works without first obtaining planning consent is a prosecutable offence under the provisions of the Planning and Development Act 2005.***

- 3. further advise the applicant, Mr Peter Bailey of Creative Constructions that should a similar incident occur in the future or should works be undertaken by him or his company or any subsequent company to which Mr Peter Bailey is affiliated with without an approval being first sought and issued by the local government, prosecution proceedings may be undertaken against him.”**

CARIED: 4/0

Cr Scott returned to the room at 3.32pm.

Item 9.1.6 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.7 Oversize Outbuilding - Lot 12 (2) Eighth Road, 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: EI1.11925
COUNCIL DATE: 21 March 2011
REPORT DATE: 11 March 2011
LOCATION/ADDRESS: Lot 12 (2) Eighth Road, York
APPLICANT: Alex Airey
SENIOR OFFICER: J Jurmann, MPS
REPORTING OFFICER: B Newman, Planning Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Site Plan, Floor Plans
DOCUMENTS TABLED: Nil

Summary:

An application for an oversize outbuilding for Lot 12 (2) Eighth Road, York is required to be considered by Council.

Background:

An application for the construction of an oversize outbuilding with the dimensions of 6m x 12m (72m²) has been received by the Shire.

Lot 12 is a part of a strata development adjacent to the York Caravan Park and is zoned "Special Use 5" under the Shire of York Town Planning Scheme No 2 with the following applicable:

"Caravan Park, Single House, Grouped Dwelling:

1. ...
2. *All development on the site shall be subject to an application to the local authority for approval to commence development.*
3. *Use of the parent lot 573 solely for residential purposes will not be permitted. The land should incorporate a mix of tourism (caravan park) and residential uses, with residential use only permitted in the general location of existing strata lots 2-13.*
4. ...
5. ...
6. *Retention of drainage on-site will be a condition of approval of any future subdivision or development on the site.*
7. ..."

As Lot 12 is utilised for residential purposes, the provisions of the Residential Design Codes ("R Codes") have been applied.

The following outlines the position in relation to the variation to the R Codes (oversize outbuilding):

	Performance Criteria	Acceptable Development Criteria	Inconsistency
Oversize and Over Height Outbuilding	P1 Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties		The outbuilding is not considered to be visually detrimental to the surrounding residents and is not considered to have a negative impact to the streetscape and the local amenity in general.
		<i>A1 Outbuildings that:</i> <i>(i) are not attached to a dwelling;</i>	The outbuilding would not be attached to the dwelling.
		<i>(ii) are non-habitable;</i>	The outbuilding is not proposed to be habitable.
		<i>(iii) collectively do not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is the lesser;</i>	Requested Floor Area = 72m ² (Acceptable Floor Area = 60m ²) - Discretion Requested = 12m ²
		<i>(iv) do not exceed a wall height of 2.4m;</i>	The outbuilding complies with this requirement.
		<i>(v) do not exceed a ridge height of 4.2m. are not within the primary street setback area;</i>	The outbuilding complies with this requirement.
		<i>(vi) do not reduce the amount of open space required in table 1; and</i>	The proposed outbuilding will not reduce the required open space.

	Performance Criteria	Acceptable Development Criteria	Inconsistency
		<i>(vii) comply with the siting and design requirements for the dwelling but do not need to meet rear setback requirements of table 1.</i>	The outbuilding is not proposed to be constructed within the required setbacks.

The proposed outbuilding exceeds the requirements of the R Codes in terms of the maximum floor area by 12m². However, the outbuilding does not exceed the R Codes in terms of the wall and ridge heights.

The variation requested of 12m² will be discussed in the comments section of this report.

Consultation:

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Three (3) submissions have been received (see attached Schedule of Submissions).

Statutory Environment:

Lot 12 is zoned “Special Use 5” under the provisions of the Shire of York Town Planning Scheme No 2 (“TPS2”), is approximately 1,000m² and is not located within the 1 in 100 year floodplain for the Avon River.

“Special Use 5” under TPS2 states as follows:

“Lot 573 Eight Road Caravan Park, Single House, Grouped Dwelling

- 1. Applications for subdivision or development that would increase the number of residential lots or dwellings will not be supported. Any future subdivision should be to a density of R10.*
- 2. All development on the site shall be subject to an application to the local authority for approval to commence development.*
- 3. Use of the parent lot 573 solely for residential purposes will not be permitted. The land should incorporate a mix of tourism (caravan park) and residential uses, with residential use only permitted in the general location of existing strata lots 2-13.*
- 4. As a condition of future subdivision or development on the site, notifications pursuant to section 70A of the Transfer of Land Act 1893 (as amended), or a similar legal instrument, are to be registered on the Certificates of Title of all lots to advise that amenity may be affected by noise and vibration from the rail line, with all costs related to the notification to be borne by the owner/applicant.*
- 5. All development on the site should incorporate suitable noise abatement measures to the satisfaction of Council.*
- 6. Retention of drainage on-site will be a condition of approval of any future subdivision or development on the site.*
- 7. Protection of the existing watercourse in the north eastern corner of the property will be a condition of approval of any future subdivision or development”*

Clauses 2, 3 and 6 are applicable to this application.

Policy Implications:

This application is seeking a variation to the R Codes for an oversize outbuilding which exceeds the maximum floor area by 12m². This is consistent with the Shire's draft Local Planning Policy - Outbuildings currently being advertised for public comment.

Financial Implications:

Planning fees have been paid and building licence fees will be required.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

Allowing the construction of an oversize outbuilding (exceeding the maximum floor area by 12m²) will enable the Shire to meet community needs and assist the landowner in achieving the maximum development potential of Lot 12.

Key Result Area 2 - Objective 4:

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

The construction of an oversize outbuilding (exceeding the maximum floor area by 12m²) would enable the landowner to utilise the building for lifestyle choices.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

A site inspection has been carried out. Construction of the outbuilding has not commenced as yet. However, it was noted that a concrete slab, which does not require prior approval, has been constructed.

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

Nil.

Social Implications:

Nil.

Environmental Implications:

Nil.

Comment:

The applicant has lodged an application for the construction of an oversize outbuilding (exceeding the maximum floor area under the R Codes by 12m²) on Lot 12.

The applicant has advised that the outbuilding will be used for general storage purposes.

Submissions

The submissions received in relation to this application, in part, relate to the Strata Titles Act 1985 (as amended). Compliance with this Act is not a planning consideration and should be addressed via the Strata Management Company.

Lot 12 is zoned "Special Use 5" which describes the acceptable uses for Lots 2 - 13 as being residential. An outbuilding associated with the residential use on Lot 12 is also considered to be acceptable development.

At approximately 1,000m², it is considered that Lot 12 is of sufficient size to accommodate an outbuilding of the size proposed.

Therefore, in light of the above, it is recommended that approval be granted for the construction of an outbuilding on Lot 12 which exceeds the maximum floor area allowable under the R Codes by 12m² subject to various conditions.

**RESOLUTION
100311**

Moved: Cr Lawrance

Seconded: Cr Scott

"That Council:

- 1. *Issue planning consent for an oversize outbuilding on Lot 12 (2) Eighth Road, York with the dimensions of 6m x 12m (72m²) with a wall height of 2.4m and a ridge height of 3.204m subject to the following conditions:***
 - (a) Development must substantially commence within two (2) years from the date of this decision;***
 - (b) The outbuilding have a maximum floor area of 72m², a maximum wall height of 2.4m and a maximum ridge height of 3.204m.***
 - (c) Prior to commencement of the development, detailed drainage plans shall be submitted to the satisfaction of the local government;***
 - (d) Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
 - (e) The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government;***
 - (f) The outbuilding is not to be used for human habitation, commercial or industrial purposes including motor vehicle repairs;***
 - (g) The finish of the outbuilding is to be non-reflective factory applied painted steel to the satisfaction of the local government. A colour scheme is required to be submitted and approved by the local government prior to commencement of the development;***
 - (h) Prior to commencement of the development, detailed plans for additional screening to the boundaries of Lot 12 be submitted and approved by the local government. Additional screening can be by way of fencing, landscaping or other method as approved by the local government.***

2. ***Advise the applicant that the development will be required to comply with the Strata Titles Act 1985, Strata Plan 18228 and the Strata Management Company applicable to Lots 1 - 13 (2) Eighth Road, York and provide written approval of the Strata Management Company for comment to the development prior to construction commencing.***

CARRIED: 5/0

Item 9.1.7 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.8 Relocation Of Temporary Sales Signage At Balladong Country Estate, Lot 3 Balladong 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:	Ba2.31590, P445
COUNCIL DATE:	21 March 2011
REPORT DATE:	11 March 2011
LOCATION/ADDRESS:	Lot 3 (45) Balladong Street, York
APPLICANT:	Balladong Country Estate
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Jacky Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Site & Signage Plan
DOCUMENTS TABLED:	Nil

Summary:

A temporary advertising sign was erected by the owner of Lot 3 (45) Balladong Street, York on the road and cemetery land in Balladong Street. Consequent to the erection of the signage concerns were raised by members of the public regarding the potential impact on the historic signage. Consequently, the proponent's were requested to relocate the signage. This application considers an alternative location in Balladong Street adjacent to the development.

Background:

Council at it's ordinary meeting held on 19th April 2010 approved the construction of an aged care facility at Lot 3 (45) Balladong Street, York to be known as 'Balladong Country Estate'.

The approval included the erection of temporary project signage located on the cemetery and road reserve. A requirement of this approval was that the signage was relocated on or within the boundary of the development following completion of the earthworks.

Following erection of the sign, representations were received from the community raising concerns of potential impacts on the Pioneer Cemetery.

This application proposes relocation of the sign to the Balladong Street frontage between the proposed entrance and existing road traffic signage.

Consultation:

The erection of the sign has been previously approved by Council. This application is for the relocation of the sign in accordance with Council direction and community wishes.

Consultation has occurred with the developer to locate the most appropriate position for the sign without impact on pedestrians or traffic safety. The proposed location will not impact on traffic or pedestrian safety and will be required to be designed to meet wind loading.

Statutory Environment:

York Town Planning Scheme No. 2

The temporary advertising sign has been previously approved as ancillary development to the aged care facility development. The applicable clauses of the Scheme have been assessed as follows:

Clause 5.3 – Control of Advertisements

This clause requires Council to consider such issues as character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

The temporary nature of the signage will ensure that the impact of the signage on the locality is also of a temporary nature. Notwithstanding this, the signage will not impact detrimentally on pedestrian or traffic safety, or on the amenity of adjacent areas.

Clause 7.9 – Temporary Planning Consent

This clause enables Council to issue a time limited consent. It is recommended that Council grant a consent for a period of two (2) year² from the date of determination.

Schedule 8 – Exempted Advertisements

The signage exceeds 10m² and therefore does not meet the requirements to be classified exempt.

Policy Implications:

The proposed signage is consistent with the York Town Planning Scheme No. 2.

Financial Implications:

There have been discussions of Council removing the signage from its current location. It is considered a more positive outcome financially for the proponent to relocate the signage and therefore incur the associated costs.

Strategic Implications:

Key Result Area 1 – Objective 1:

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

The relocation of the signage is in response to community concerns. The outcome is considered positive for the community needs.

Key Result Area 2 - Objective 1:

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

The development of the aged care facility will have a positive impact on the community through the provision of housing for older residents and employment within the facility.

Key Result Area 2 - Objective 2:

“To increase tourism to achieve business viability and growth.”

Not applicable.

Key Result Area 2 - Objective 3:

“To increase the net disposable income of the York community and investigate ways of increasing spending within the Shire.”

The aged care development will result in an increase in resident numbers and therefore spending within the York community. Employment will also be created within the facility.

Key Result Area 2 - Objective 4:

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

Not applicable.

Key Result Area 2 - Objective 5:

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

The signage will not detrimentally impact on any heritage item or the environment.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

There have been discussions of Council removing the signage from its current location. It is considered a more positive outcome financially for the proponent to relocate the signage and therefore incur the associated costs.

Social Implications:

The relocation of the sign will have positive social implications as it will result in concerns about impacts on the Pioneer Cemetery being abated.

Environmental Implications:

There are no environmental implications associated with the relocation of the signage.

Comment:

The negotiated relocation of the signage is considered a positive outcome and will enable the developer to continue to promote the aged care facility during the construction phase of the development.

It is considered appropriate to approve a temporary planning consent as outlined in this report.

**RESOLUTION
110311**

Moved: Cr Lawrance

Seconded: Cr Randell

“That Council:

Issue a time limited planning consent for the erection of a temporary advertising sign on the Balladong Street frontage of Lot 3 (45) Balladong Street, York for a period of two (2) years from the date of determination subject to the following conditions of consent:

- 1. The development be carried out in accordance with the consent and the approved plans.***
- 2. This consent will lapse two (2) years from the date of determination. Upon such time the sign must be removed and the footpath/road reserve area be made good.***
- 3. A Building Licence shall be obtained from Council prior to the re-erection of the sign.***
- 4. The current location of the sign within the Pioneer Cemetery must be made good following removal of the sign.”***

CARRIED: 5/0

Item 9.1.8 - Appendices

9.2 Administration Reports

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.1 Sees Road – Close Portion and Proposed Change of Purpose to Closed Road Reserve

FILE NO:	Se 3
COUNCIL DATE:	21 March 2011
REPORT DATE:	14 March 2011
LOCATION/ADDRESS:	Sees Road
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A – Maps
DOCUMENTS TABLED:	Nil

Summary:

To enable a request by the Malebelling Bush Fire Brigade to erect a fire shed it would be appropriate to close the portion of Sees Road that is not constructed as shown on Appendix A. While undertaking this process it would be timely to request the Minister for Lands to change the purpose from Unallocated Crown Land to Community Purposes.

Background:

The construction of the fire shed has been one of constant discussion and investigation. The Malebelling Bush Fire Brigade currently have no suitable fire station in which to house their truck.

The same arrangement could not be entered into, as was the case for the Talbot Brigade that is located on private property. A suitable parcel of land has been identified by the Malebelling Bush Fire Brigade unfortunately this land is neither freehold land or land vested with the Shire of York.

Consultation:

Department for Regional Development and Lands.
S McQuistan – CDO Cunderdin Shire.
FESA.

In relation to the road closure consultation will be carried out and Government Departments notified of Council's intent for a period of 35 days.

Statutory Environment:

Land Administration Act.

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

"Closure of roads

58.

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolved to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating its district*

of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) -*
- (a) *by order grant the request;*
 - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - (c) *refuse the request.*
- (5) *If the Minister grants a result under subsection (4) -*
- (a) *the road concerned is closed on and from the day on which the relevant order is registered;*
 - (b) *any rights suspended under section 55 (3) (a) cease to be so suspended; and*
 - (c) *the Minister must cause notice of the registration of the relevant order to be published in a newspaper circulating in the district of the relevant local government.*
- (6) *When a road is closed under this section, the land comprising the former road -*
- (a) *becomes unallocated Crown land; or*
 - (b) *if a lease continues to subsist in that land by virtue of section 57 (2), remains Crown land.”*

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

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

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

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

Policy Implications:

Nil.

Financial Implications:

Council has approval for the capital expenditure to fund the expense of a fire shed.

The road closure and the process to change the purpose of the land will incur administration costs associated with staff time and advertising, which are not eligible under the ESL.

Strategic Implications:

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

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

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes – Works

Triple bottom Line Assessment:

Economic Implications:

If the Minister agrees to the closure, the road reserve becomes Crown land.

Social Implications:

The road closure would not appear to impact on future developments within this area, however an advertising period will flush out any concerns.

Environmental Implications:

Nil.

Comment:

To enable a fire shed to be erected in the preferred location as indicated by the Malebelling Bush Fire Brigade a portion of Sees Road needs to be formally closed.

Once this process is completed, it is automatically reverted to Unallocated Crown Land.

Council would need to resolve to have the care, control and management of the parcel of land be handed to the Shire for the purpose of a community fire shed.

**RESOLUTION
120311**

Moved: Cr Randell

Seconded: Cr Lawrance

“That Council:

- 1. accede to the proposed road closure of a portion of the road reserve known as Sees Road, as shown on the attached map labelled “Appendix A”, for the purpose of facilitating public advertising in accordance with Section 58 of the Land Administration Act 1997 (as amended).***
- 2. in the event that no adverse submissions are received during the advertising period, delegate authority to the Chief Executive Officer to finalise the road closure.***
- 3. requests the Minister for Lands to vest the designated land with the Shire of York for the purposes of Community Facilities – Fire Shed with the Shire of York to have the care, control and management of the parcel of land.***

Advice Note:

Consideration be given to the Shire of York Town Planning Scheme once decisions have been made in relation to the change of purpose.

Consideration needs to be given to the realignment of Sees Road and the costs associated with making this intersection safe.”

CARRIED: 5/0

Item 9.2.1 – Appendix A – Maps

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Shire of York Events Policy

FILE NO:	OR.CMA.4
COUNCIL DATE:	21 March 2011
REPORT DATE:	11 March 2011
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Gordon Tester, Manager Environmental Health
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Proposed Events Policy
DOCUMENTS TABLED:	Nil

Summary:

A revised Shire of York Events Policy is attached for Councils consideration for approval to advertise the proposed policy amendment for public consultation prior to considering amending the current events policy No. 13.1.

Background:

Councils current Event Policy was most recently reviewed in August 2009 and is indicated below.

Events for York - Origin/Authority - Council Meeting - 21 October 1996

Objective

To ensure that York retains its status as an events centre In the Avon Valley

Policy Statement:

That the Council supports the concept of York being included in events and is prepared to provide assistance in the following areas:

1. Facility provision:
 - (A) Funding Support
 - (B) Promotion
2. Assist with liaison subject to staff availability.
3. Resources:
 - Rubbish Bins
 - Cleaning Of Amenities Buildings
 - Signage
 - Road Closures
 - Access To Council Owned/Controlled Land
 - Road Grading (At The Discretion Of The Chief Executive Officer)

It is considered that this policy requires amendment to adequately reflect current legislative requirements and risk management issues associated with events held in York as indicated in the appendices attached to this report.

Consultation:

It is recommended that this policy be advertised for public consultation over a 28 day period with the advertisement appearing twice in a local paper circulating in the local district prior to Council considering the adoption of this policy.

Statutory Environment:

Health Act 1911, Health (Public Building Regulations) 1992, Local Government Act 1995

Policy Implications:

The proposed amendments as indicated in the attached appendices will provide a framework that will streamline the events application process and clearly indicate to event promoters what is required by Council to hold safe and enjoyable events in the Shire of York.

Financial Implications:

At present there is no specific application fee for events applications apart from stall holder licences, however it is common practice by most local authorities to charge a fee for the event application assessment.

As a considerable amount of work is involved by staff in assessing events applications it is suggested that a fee of \$120.00 be adopted in Councils fees and charges.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable.

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Members of the community may perceive this amended policy to be an unnecessary regulatory burden until such time as the benefits of a well planned event become apparent.

Environmental Implications:

Nil

Comment:

It is recommended that Council advertise the amended events policy to seek public submissions prior to considering the adoption of the policy.

**RESOLUTION
130311**

Moved: Cr Scott

Seconded: Cr Randell

“That Council:

Advertise the proposed amendments to the Shire of York Events Policy No 13.1 for the purpose of public consultation prior to considering the adoption of the amendments.

Advise Note:

Advertising period to be 28 days from the date of publication.”

CARRIED: 5/0

Item 9.2.2 – Appendix A – Proposed Events Policy

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 Town Hall Working Party

FILE NO: CCP.1
COUNCIL DATE: 21 March 2011
REPORT DATE: 14 March 2011
LOCATION/ADDRESS: Not Applicable
APPLICANT: Not Applicable
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A - List of Items to be Actioned
DOCUMENTS TABLED: Nil

Summary:

That Council receives the information provided by the Town Hall Working Party for the purpose of the Town Hall Centenary.

Background:

Carol Littlefair has provided some indicative costings to undertake works in preparation of the Town Hall Centenary.

Council increased the Regional Heritage Advisor's hours to enable participation in the York Town Hall Working Party. While Ms Bizzaca is no longer working for the Heritage Council of WA in the capacity of Regional Heritage Advisor it is deemed that due to her knowledge of the project that Council continues using her expertise to assist with organising the celebrations.

Consultation:

Town Hall Working Party.

Statutory Environment:

Local Government Act 1995:

6.8. Expenditure from municipal fund not included in annual budget

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
- (a) *is incurred in a financial year before the adoption of the annual budget by the local government;*
 - (b) *is authorised in advance by resolution*;* or
 - (c) *is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

- (1a) *In subsection (1) —*

additional purpose *means a purpose for which no expenditure estimate is included in the local government's annual budget.*

- (2) *Where expenditure has been incurred by a local government —*

- (a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
- (b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

[Section 6.8 amended by No. 1 of 1998 s. 19.]

Policy Implications:

Not applicable.

Financial Implications:

It is envisaged at this time that there will only be administration resources needed to ensure that the Centenary is well planned and it is proposed that both Sam Good and Kris Bizzaca be used for this purpose.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: Yes (Items not budgeted for 2010/11 Budget)

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

Not applicable at this time.

Social Implications:

The building is an iconic heritage building that attracts many visitors to the town and it is predicted that the 2011 centenary event will attract increased visitors and patronage.

Environmental Implications:

Consideration of the built environment is given through the development and works undertaken.

Comment:

RESOLUTION

140311

Moved: Cr Scott

Seconded: Cr Lawrance

“That Council:

- 1. approve the List of Items to be Actioned – February 2011; and***
- 2. make funds available to implement those actions required for the 2010/11 Financial Year from the surplus recorded at the Mid Year Review.”***

CARRIED: 4/1

Cr Walters was recorded as voting against the motion.

Item 9.2.3 – Appendix A – List of Items to be Actioned

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.4 Compliance Audit Return 2010

FILE NO: FI.FRP.5
COUNCIL DATE: 21 February 2011
REPORT DATE: 11 February 2011
LOCATION/ADDRESS: Not Applicable
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Compliance Return
DOCUMENTS TABLED: Nil

Summary:

The Local Government Act (1995) requires all Western Australian Local Authorities to complete a Compliance Audit Return distributed by the Department of Local Government in December of each year, in relation to activities undertaken by the local authority in the preceding calendar year.

Background:

In 2000, participation in the program was made compulsory for all local authorities. In 2007 the return for 2006 was required to be completed on-line. Changes have recently been made to the structure of some of the questions, to provide more clarity.

Consultation:

Internally – staff.

Statutory Environment:

Local Government Act 1995 (as amended).

Local Government (Audit Regulations), 1995 (as amended), Clauses 14 and 15.

14. Compliance audit return to be prepared

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3) *A compliance audit return is to be —*
 - (a) *presented to the council at a meeting of the council;*
 - (b) *adopted by the council; and*
 - (c) *recorded in the minutes of the meeting at which it is adopted.*

15. Completion of compliance audit

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
 - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
 - (b) *any additional information explaining or qualifying the compliance audit,**is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*

- (2) *In this regulation —*
certified in relation to a compliance audit return means signed by —
 (a) *the mayor or president; and*
 (b) *the CEO.*

Associated legislation as detailed in Appendix A (Column titled:Reference).

Policy Implications:

Not applicable.

Financial Implications:

Administration time in preparing the Compliance Audit Return.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Comment:

The following case of non-compliance with the Local Government Act and regulations were found to have occurred:

Disclosure of Interest					
No	Reference	Question	Response	Comments	Respondent
5	S5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly designated employees within three months of their start day.	No	These were completed by the 31 August 2010. Engineer, Planner, Manager Environmental Health and Building Services, Building Surveyor and Environmental Health Officer.	Tyhscha Cochrane

Staff positions and roles have changed significantly in 2010 and staff undertaking the role dealing with the disclosure of interests has been made aware of the necessity to meet the requirements of the relevant legislation.

**RESOLUTION
150311**

Moved: Cr Lawrance

Seconded: Cr Scott

“That Council:

- 1. that it adopts the York Compliance Audit Return, as presented and attached labelled ‘Appendix A’ for the period 1st January 2010 to 31st December 2010; and***
- 2. authorises the Chief Executive Officer and Shire President to sign and submit the York Compliance Audit Return to the Department for Local Government.***

Advice Note from the Department of Local Government:

After the Compliance Audit Return has been presented to council, a certified copy of the return along with the relevant section of the minutes and any additional information explaining or qualifying the compliance audit is to be submitted to the Director General of the Department of Local Government.”

CARRIED:5/0

Item 9.2.4 – Appendix A – Compliance Return

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.5 Draft Road Programmes 2011/12 - 2015/16

FILE NO: FI.BUD1112; FI.FAG.8.1; FI.FRP.1
COUNCIL DATE: 21 March 2011
REPORT DATE: 11 March 2011
LOCATION/ADDRESS: Shire of York
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: R Hooper, CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Draft Road Programmes 2011/12 – 2015/16
DOCUMENTS TABLED: Nil

Summary:

The draft road works programme for the next five (5) financial years is presented for the consideration of Council for inclusion in the 2011/12 Municipal Budget, Forward Capital Plans and the Plan for the Future.

Background:

The road programme is a continuation of the 1 & 10 year programmes instigated in 2005/06 to provide a forward plan for road upgrading to meet the current and projected transport needs including road safety and environmental management.

Consultation:

Rural Producers & Transport Operators
Regional Road Group

Statutory Environment:

Part of the annual budget process.

Policy Implications:

Not applicable.

Financial Implications:

The capacity to undertake the designated works has been included in previously adopted Forward Capital Plans.

Strategic Implications:

Key Result Area 7 – Community Services – Strategies & Action Plans:
Strategy 7.2

Enhance the Council's longer term planning and provision for infrastructure and assets.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

Efficient transport linkages are vital to the local and regional economics.

Social Implications:

A safe and effective transport network is a community requirement and expectation particularly in rural and regional areas.

Environmental Implications:

All environmental management requirements will be included in specific works.

Comment:

The draft road programmes are indicative allocations to provide for road upgrading and general maintenance as a core component of asset preservation.

The road programme is inclusive of specific use funds such as regional roads and blackspot project which undergo a competitive multi criteria analysis to qualify for funding.

Every effort has been made to leverage grant funds to minimise the cost burden on the community.

The draft road programmes are guidelines for inclusion in future budgets and expenditures are not guaranteed until included in annual budgets after all legislated procedures are followed.

**RESOLUTION
160311**

Moved: Cr Lawrance

Seconded: Cr Scott

“That Council:

Adopt the draft Road Programmes for the 2011/12 – 2015/16 period as per the appended information as indicative allocations for future budgets”.

CARRIED: 4/1

Cr Walters was recorded as voting against the motion.

Item 9.2.5 – Appendix A – Draft Road Programmes 2011/12 – 2015/16

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.6 Environmental Report

FILE NO: OR.RDT.4.9
COUNCIL DATE: 21 March 2011
REPORT DATE: 11 March 2011
LOCATION/ADDRESS: SEAVROC
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: R Hooper, CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Environmental Report
DOCUMENTS TABLED: Nil

Summary:

The Regional Environmental Project Officer has provided an activities report for February 2011.

Background:

The Shires of York, Beverley, Brookton, Quairading and Cunderdin contribute to the employment of a regional officer under the SEAVROC banner to provide environmental expertise and co-ordination across a range of services.

Consultation:

SEAVROC

Statutory Environment:

Nil

Policy Implications:

Not applicable.

Financial Implications:

All costs are covered in the 2010/11 budget allocation.

Strategic Implications:

Key Result Area 6 - The Environment

- *To promote and ensure ecologically sustainable development.*
- *To encourage and support community involvement in environmental protection.*
- *To assist landowners, conservation and catchment groups to undertake sustainable land management practices and projects.*
- *To work with the community and other stakeholders to protect the Shire's natural resources and redress degradation and other environmental issues.*
- *To improve the health of the Avon River.*

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil at this stage.

Social Implications:

External co-ordination of environmental projects provides economies of scale and local and regional benefit e.g. Red Card for Red Fox programmes.

Environmental Implications:

Nil from this report.

Comment:

Jen Vincent provides a highly professional liaison conduit on a range of environmental issues such as clearing of native vegetation which would be beyond the resources of individual local governments.

RESOLUTION

170311

Moved: Cr Randell

Seconded: Cr Lawrance

“That Council:

Receive the February 2011 report from the Environmental Projects Officer”.

CARRIED: 5/0

Item 9.2.6 – Appendix A – Environmental Report

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.7 Youth Report – March 2011

FILE NO:	CS.LCS.6
COUNCIL DATE:	21 March 2011
REPORT DATE:	15 March 2011
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	L 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 February 2011.

Youth Health Forum - York 2011:

The Forum will be held on the 7th April 2011. Cost of the Forum is \$14,400. Funding confirmed to date is \$9,600. Funding for the shortfall of \$5,000 is being sought. Shortfall occurred due to an unsuccessful grant application.

Youth Centre:

Building requirements distributed to potential manufacturers and suppliers, quotes due to be received week beginning 21 March 2011.

The weekly 'Hang Out' program commenced 10 March, 2011 from 3.00pm to 6.00pm. This is an interim arrangement until the Youth Centre is built. The program was well received by 12 attendees who thoroughly enjoyed the use of sports equipment and play stations, which were donated by very thoughtful community members.

Other donations received for the Youth Centre include 6 desks. These are being held at the Shire Depot until the building is completed.

Approaches have been made to SGIO, Lotterywest and Department for Communities in relationship to potential funding for half court basketball and skate park equipment for the Youth Centre. Initial discussions are encouraging.

Active After School Program:

Commenced in February with enrolment of 35 participants. Program has been very well received and plans are progressing to extend the program to more participants if suitable additional supervision is confirmed.

Graffiti Art Project:

The dates for the first stage have been confirmed for the mural at the Police Station. Graffiti Artist Darren Hutchens will lead the project over 3 days, 20th, 21st and 22nd May. Stage 2 will be the relocatable boards, which will be displayed in the car park at the school. These will eventually be relocated to the Youth Centre. This stage will occur in June, with a confirmed date to be advised.

Recent activities:

Beverley concert - 26 February. 13 youth from York attended. The youth were given a tour of the Beverley Youth Centre before attending the concert.

Stockade Concert - 5 March, Church of Christ, organised by AVYN 2011.

180 youth from the Wheatbelt, Bunbury and Bassendean. Fantastic day, lots of games at Peace Park followed by a BBQ back at the tennis courts at the back of the Church of Christ and then entertained by 2 live bands from Perth 2pm - 10pm.

13 Beverley and 20 York youth were involved.

Youth Development Officer volunteered to supervise the Bouncy Castle at the Living in York concert, providing a great opportunity to meet children and parents in our community.

Upcoming activities:

'I Swam in a Drought!' – 20 March 2011 York Swimming Pool. This is a Department of Agriculture and Food initiative run in conjunction with participating Shires as part of the Dry Season Assistance Package for communities impacted by the unprecedented dry season in 2011/2011.

Shire of York Staff and Youth will be organising a sausage sizzle and T-Shirts will be sold, as a fundraiser to go into the Youth Activities and back into a similar cause that the I Swam in a Drought was conducted for. Part of the funding agreement includes \$200 that will be presented to 8 representatives of the York Swimming Club for various achievements.

Disco – 15 April 2011 York Town Hall. This is the term 1 disco for York children from Kindergarten through to High School. Entrance fee of \$2 applies to cover costs. Sales of hot dogs, lollies, drinks available, with all profits going to the Youth Centre. Discos have been arranged for each term in 2011.

Wheelchair Basketball – arrangements have commenced for wheelchair basketball workshops to be run at both York and Beverley schools. Details to be advised.

Youth Development Officer attended a Wheatbelt Interagency Breakfast in Northam for Commonwealth Respite and Carelink Centre. Through networking at the breakfast merchandise relating to Young Careers was obtained for 200 forum participants.

Youth Development Officer also attended in Narrogin a Forum with Des Headland (former Dockers, Brisbane Lions AFL footballer) which was presented by Department of Sport & Recreation.

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:

Education, Police, Health, Council Staff and Youth.

Statutory Environment:

Nil.

Policy Implications:

Nil.

Financial Implications:

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

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Not applicable

Comment:

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

RESOLUTION

180311

Moved: Cr Scott

Seconded: Cr Randell

"That Council receives this report and acknowledges and endorses the activities and initiatives of the Youth Development Officer."

CARRIED: 5/0

9.3 Works Reports

9.4 Financial Reports

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.1 Transfer from Reserve – Centennial Unit

FILE NO: CCP.16.6
COUNCIL DATE: 21 March 2011
REPORT DATE: 10 March 2011
LOCATION/ADDRESS: Unit 6, 40 Macartney Street, York
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: T Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

That Council endorse the actions of the Shire President for the additional expenditure at Unit 6 – Centennial Gardens to replace the air-conditioning unit.

Background:

The Manager of Environmental Health and Building Services has assessed that the air-conditioning unit is a result of fair wear and tear (approximately 6 years old). The Council is responsible through the tenancy lease to repair as this is not through any fault of the tenant.

Consultation:

Tenant and Central Districts Air-Conditioning.

Statutory Environment:

Section 6.8 of the Local Government Act 1995 states that *“A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure-
...is authorised in advance by the mayor or president in an emergency...”*

The expenditure is then to be reported to the next ordinary council meeting of the council.

Policy Implications:

Not applicable.

Financial Implications:

A quote was received to repair or to replace. Financially the best option due to the age of the unit is to replace the system.

Funds of \$111,127.64 are held in Reserves for use on the Centennial Units. An amount of \$1,928.00 is payable for the replacement of the unit. Due to the elderly nature of the occupant it was deemed an emergency and works were required as soon as possible.

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

No economic implications arise from this report for the tenant.

Social Implications:

This has resulted in a better outcome for the tenant.

Environmental Implications:

Not applicable.

Comment:

This report gives a correct record and is in accordance with the Local Government Act.

RESOLUTION

190311

Moved: Cr Lawrance

Seconded: Cr Scott

“That Council in accordance with Section 6.8 of the Local Government Act 1995 endorse the transfer of funds to the amount of \$3,500.00 from Reserve 22 – Centennial Garden Reserve for air conditioning systems at Unit 3 and Unit 6, Macartney Street, York.”

CARRIED: 5/0

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.2 Monthly Financial Reports – February 2011

FILE NO: FI.FRP
COUNCIL DATE: 21 March 2011
REPORT DATE: 3 March 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 28 February 2011 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the Period Ended 28 February 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 28 February 2011;

Sundry Creditors as per General Ledger	\$	24,962.94
Sundry Debtors as per General Ledger	\$	380,247.35
Unpaid rates and services current year (paid in advance inc. ESL)	\$	599,050.52
Unpaid rates and services previous years (inc. ESL)	\$	247,720.61

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 Councillors.

**RESOLUTION
200311**

Moved: Cr Scott

Seconded: Cr Lawrance

“That Council:

Receive the Monthly Financial Report for February and ratify payments drawn from the Municipal and Trust accounts for the period ending 28 February 2011:

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	29326-29353	\$ 58,204.21
<i>Electronic Funds Payments</i>	7221-7794	\$ 335,186.63
<i>Direct Debits Payroll</i>		\$ 147,638.61
<i>Bank Fees</i>		\$ 498.42
<i>Corporate Cards</i>		\$ 391.43
<i>Shell Cards</i>		\$ 185.23
TOTAL		\$ 542,104.53
TRUST FUND		
<i>Cheque Payments</i>	3787-3790	\$ 2,000.00
<i>Direct Debits Licensing</i>		\$ 133,630.85
TOTAL		\$ 135,630.85
TOTAL DISBURSEMENTS		\$ 677,735.38”

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 9.4.2 – Appendix A – Monthly Financials

9.5 Late Reports

9.6 Confidential Reports

10. NEXT MEETING

RESOLUTION
210311

Moved: Cr Lawrance

Seconded: Cr Randell

“That Council:

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

CARRIED: 5/0

11. CLOSURE

Cr Hooper thanked all for their attendance and declared the meeting closed at 4.04pm.