



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 26 MARCH, 2012
COMMENCING AT 3.00pm
IN COUNCIL CHAMBERS,
YORK TOWN 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, 26 MARCH 2012, COMMENCING AT 3.00PM IN COUNCIL CHAMBERS, YORK TOWN 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 Tony Boyle, Shire President, declared the meeting open at 3.00pm
- 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 Tony Boyle – Item 9.1.2 – Financial
Cr Brian Lawrance – Item 9.1.2 – Financial
Cr Mark Duperouzel – Item 9.1.2 – Financial*

Cr Boyle read in its entirety a letter received from the Department of Local Government advising that in accordance with authority delegated by the Minister for Local Government, the Director General has approved the Shire's application under Section 5.69 of the Local Government Act 1995 to allow Councillors B Lawrance, AS Boyle and M Duperouzel to participate in the discussion and decision making procedures relating the Council's review of the current Local Planning Policy for Sea Containers.

2. ATTENDANCE

- 2.1 Members
*Cr Tony Boyle, Shire President; Cr Roy Scott;
Cr Brian Lawrance; Cr Pat Hooper; Cr Denese Smythe; Cr Mark Duperouzel*
- 2.2 Staff
Ray Hooper, Chief Executive Officer; Gordon Tester, Manager of Health and Building Services; Jacky Jurmann, Manager Planning Services; Gail Maziuk, Finance Officer/Project Co-ordinator; Glen I Jones – Manager Works & Projects; Matthew Sharpe, Community Ranger; Jodie Taylor, Casual Ranger; Kristy Robinson – Planning Assistant; Helen D'Arcy-Walker, Executive Support Officer

- 2.3 Apologies
Nil
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 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

Mr Simon Saint
87 Avon Terrace
YORK WA 6302

QUESTIONS TAKEN ON NOTICE - COUNCIL MEETING 20TH FEBRUARY 2012

Further to the February Council Meeting please find set out below responses to the questions taken on notice.

Question 1:

The Forrest Oval Precinct Sport & Recreation Facilities Master Plan final report was published in November 2008, where in that report is there any mention of a convention/function centre?

Response:

No specific designation of a convention/function centre.

Question 2:

When, where and why was the decision made to incorporate a convention centre into what was originally only going to be a sport and recreation facility?

Response:

Council has always been of the opinion that the recreation facility would be used as a function facility to attract business to York for training seminars, conventions and similar events the same as recreation centres are used for exactly these same uses in rural areas.

4. PUBLIC QUESTION TIME

- 4.1 Public Question Time

Before Public Question Time commenced Cr Scott requested that an amendment be made to the following in the Public Question Time procedures on page 7:

“The person asking the question shall state their name and address.”

To read:

“The person asking the question shall stand and state their name and address.”

**RESOLUTION
010312**

Moved: Cr Scott

Seconded: Cr Lawrance

“That Council:

Amend the procedure for Public Question Time at Council meetings from ‘the person asking the question shall state their name and address’ to “the person asking the question shall stand and state their name and address.”

CARRIED: 6/0

Ms Tanya Richardson
Avon Events & Marketing
113 Newcastle Street
York WA 6302

Question 1 (a)

Reference to Item 9.5.1 York Events on Council Agenda Monday, 20th February, 2012

I ask through the Chair why Cr Hooper declared an interest in this matter.

Response

Cr Hooper did not answer.

Shire President, Cr Tony Boyle, stated he did not have the authority to require Cr Hooper to respond.

Question 1 (b)

Does Cr Hooper have personal impartiality/conflict against other people in which he will refuse to vote or just me?

Response

Cr Hooper did not answer.

Shire President, Cr Tony Boyle, stated he did not have the authority to require Cr Hooper to respond.

Cr Scott stated that questions are not required to be answered.

Mr Simon Saint
87 Avon Terrace
York WA 6302

Question 1

What possible reason can there be to deny members of the public access to view Councils plans for retaining walls at the Forrest Oval?

Response

The information requested is already part of a Freedom on Information application.

Question 2

Why is the Council being so secretive over these plans?

Response

Taken on Notice

Question 3

Why must a member of the public have to apply under Freedom on Information to view the plans?

Response

The Shire cannot give away intellectual property.

Question 4

Is it correct that an ex-Shire depot worker recently won an appeal for unfair dismissal?

Response

Taken on Notice

Question 5

What is the amount of \$4,203.25 to Titanwood Holding relate to in the February financials when the Town Hall centenary celebration did not happen?

Response

Taken on Notice

Question 6

Where in the Forrest Oval Sport and Recreation Business Plan does it contain the mandatory reporting requirements for Competitive Neutrality?

Response

Report is on the last page of the Business Plan in accordance with the reporting requirements for local governments when preparing a business plan.

Question 7

What is Councils policy on the 28 day response time as stated by the Shire administration?

Response

The process of acknowledgement of correspondence within 7 days and a response within 28 days was implemented by Council.

Question 8

What is Councils policy on Elected Members communicating via email with members of the community?

Response

The Shire President advised that Councillors had been directed to process items through the records system.

Mr John Saville-Wright

83 Avon Terrace

York WA 6302

Question 1

Given the budgets for the Recreation and Convention Centre, that the public were advised, can the Council advise what the total cost of the finished project will be and when will these figures be released to the public.

Response

Taken on Notice

Question 2

If the costs for the Forrest Oval project as detailed in the business plan are exceeded significantly will Council agree to a formal enquiry?

Response

Taken on Notice

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Minutes of the Ordinary Council Meeting held February 20, 2012

Corrections

Confirmation

**RESOLUTION
020312**

Moved: Cr Lawrance

Seconded: Cr Duperouzel

“That the minutes of the Ordinary Council Meeting held on February 20, 2012 be confirmed as a correct record of proceedings.”

CARRIED: 6/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- *Very successful WA Community Bank State Conference held in York 21st & 22nd March, 2012. Up to 200 delegates and visitors. Estimated economic boost to York of \$200,000.*
- *York Youth Centre wins the State Bendigo Community Bank Award to recognise the high value community benefit from the funding (\$50,000) provided by the York Branch.*
- *Structural Reform – 15 Councillors and staff from the South East Avon Regional Transition Group visited 5 Councils who have been through the amalgamation process to assess the benefits and pitfalls. The Study Tour was fully paid for by government funds and no costs to ratepayers were incurred.*
- *Leeuwin Youth Training Voyage – Two youths from York are currently on this adventure trip through funding by the Shire of York, the York Community Bank and scholarships. This joint initiative will continue in 2012/13 and future years.*
- *Tipperary Church celebrated 120 years on the 25th March, 2012 with a private function. 120 people attended the day.*
- *Thank you in particular Allison Brown for a successful Bendigo Bank Conference. The feedback is outstanding. Also Mark Lloyd for sound and lighting.*
- *York Motorcycle Festival – 1,200 bikes to be in attendance. Minikhana is also to be held to teach children how to ride a bike.*

- *York Show to be held on 8th September, 2012. York Show Committee have approval to hold at Forrest Oval.*

9. OFFICER'S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Derelict Sign – Imperial Hotel, 83 Avon Terrace, York

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

FILE NO:	AV1.12790
COUNCIL DATE:	26 March 2012
REPORT DATE:	13 March 2012
LOCATION/ADDRESS:	Lot 12, 83 Avon Terrace, York
APPLICANT:	J Saville-Wright & L Vincenti
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Council at its Ordinary Meeting held on 20 February 2012 considered a report that recommended legal action be instigated as follows:

“That Council resolve to:

- 1. APPROVE the initiation of legal proceedings for non-compliance with the Planning Direction dated 21 September 2011 in accordance with the provisions of the Planning and Development Act 2005.***
- 2. Delegate to the Chief Executive Officer the authorisation of expenditure regarding the legal proceedings.”***

The Officer Recommendation was not supported as a majority of elected members considered the sign frame to be similar to a banner pole.

At the time of writing this report, the condition of the sign is unchanged and a planning application has not been received for the erection of a new sign.

It is again recommended that legal action be instigated with the aim of having this issue finalised.

Background:

Compliance action was originally initiated by Council's former Planning Manager on 27 November 2009 to have the derelict sign repaired or removed.

Council considered a report at its Ordinary Meeting held on 19 December 2011 regarding this matter.

Council resolved to “Defer this item until the Ordinary Meeting on February 20, 2012” to allow the business more time to get appropriate machinery to remove the sign.

Correspondence was sent to the owners advising of the Council resolution and that Western Power was expected in town with appropriate equipment that could be utilised to remove the sign.

Following the decision of Council not to support the instigation of legal action, the owner of the premises has written to the Council on 9 March 2012 advising that it is “*the intention of the owners to have this sign removed, plans approved and new signage erected, as soon as possible, and that we have now located a company that is prepared to do the work*”. Mr Saville-Wright also conveyed these intentions on 22 September 2011, when the Planning Direction was issued.

To date no works or application has been carried out or received.

Refer to previous Council reports of 19 December 2011 and 20 February 2012 for the complete background regarding this issue.

Consultation:

The owners of the premises have been contacted verbally and in writing numerous times regarding this issue.

Statutory Environment:

York Town Planning Scheme No. 2

Clause 5.3.6 of the Scheme states:

“Where in the opinion of the local government, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effected for the purposes for which it was erected or displayed, the local government may by notice in writing require the advertiser to:

- (a) *repair, repaint or otherwise restore the advertisement to a standard specified by the local government in the notice, or*
- (b) *remove the advertisement.”*

The owners have been given the option to repair or otherwise restore, or remove the advertisement.

Planning and Development Act 2005

Section 214(3) of the Act states:

- (3) *“If a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person who undertook the development —*
 - a) *to remove, pull down, take up, or alter the development; and*
 - b) *to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.”*

The owners were directed in accordance with this section to repair, restore or remove the advertising sign.

Failure to comply with the Planning Direction results in an offence against section 214(7) of the Act. Offences against the Act can result in a penalty of \$50,000 for individuals or \$250,000 for corporations.

Policy Implications:

It is important that this issue is followed up in accordance with the provisions of the *Planning and Development Act 2005* to ensure that the community knows that offences against the Scheme and Act are an important issue that is taken seriously. It is not recommended that any more letters are sent as it is considered that sufficient contact has been made over an extended period of years.

Financial Implications:

Non-compliance with a Planning Direction by a landowner could result in an Infringement Notice of \$500.00 being issued, or if legal action is instigated, a fine of up to \$200,000.

Strategic Implications:

Compliance action needs to be undertaken consistently to ensure the community knows that actions that are inconsistent with the Act, Scheme or Policies are serious issues and should be taken seriously.

If compliance action is not followed up, it will become extremely difficult for Council's Compliance Officer to carry out his duties efficiently and effectively.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

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

The issuing of Planning Directions and the carrying out of follow-up inspections is within the capacity of Council's Compliance Officer.

Legal costs may be incurred associated with enforcing any non-compliance with the Planning Directions.

Social Implications:

Derelict signage, particularly within the Town Centre, detracts from the streetscape of the town and in this case, from a State listed heritage building, which may impact on the perception of tourists and potential residents and business operators.

Environmental Implications:

There are no environmental issues associated with this issue.

Comment:

The works associated with repairing or removal of the sign is not estimated to be costly or extensive. The sign as it is detracts from the streetscape and the Imperial Hotel itself and gives the perception that the property is not well maintained.

It would have been in the owner's interest to resolve this issue as cost efficiently as possible, which to date would have been without the involvement of legal proceedings and it is disappointing that the owner has not rectified the situation without the intervention of Council.

Should the owner provide a response to Council's correspondence dated 9 December 2011 or take action to repair or remove the sign, that this report be noted for information purposes only.

OFFICER RECOMMENDATION

“That Council resolve to:

- 1. APPROVE the initiation of legal proceedings for non-compliance with the Planning Direction dated 21 September 2011 in accordance with the provisions of the Planning and Development Act 2005.***
- 2. Delegate to the Chief Executive Officer the authorisation of expenditure regarding the legal proceedings.”***

Item was withdrawn as sign is no longer insitu.

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.2 Sea Container Compliance Program

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

FILE NO:	PS.TPS.2
COUNCIL DATE:	26 March 2012
REPORT DATE:	13 March 2012
LOCATION/ADDRESS:	Shire wide
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Cr Tony Boyle – Financial Cr Brian Lawrence – Financial Cr Mark Duperouzel - Financial
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Council at its meeting held on 19 December 2011 considered a report regarding the next step in the Compliance Program for Sea Containers following the expiration of the moratorium period.

The Officer's recommendation was to issue Planning Directions under the provisions of the *Planning and Development Act 2005* to remove any sea containers that do not have Shire approval.

However, Council resolved to grant a further two (2) month amnesty for applications for planning approval at the standard fee and not the retrospective fee to allow one more opportunity for landowners to comply with the Planning requirements at the reduced rate and to avoid prosecution. This period expires on 20 February 2012.

At its Ordinary Meeting held on 20 February 2012, Councillors resolved to defer this item.

The report is re-presented for consideration and it is again recommended that Planning Directions be issued for removal of unapproved sea containers, and that further action be initiated if required.

Background:

A Local Planning Policy for Sea Containers was adopted on 18 August 2008 by Council. The Policy aimed to regulate the location and appearance of sea containers located within the Shire.

Due to an increasing number of sea containers being inappropriately located within the Shire and the increasing number of complaints being received, Council resolved at its Ordinary Meeting held on 20 June 2011 to:

"That Council:

APPROVE the following course of action:

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

5. *At the conclusion of the moratorium, Council's Compliance Officer initiate compliance action on all unapproved sea containers within the Shire of York."*

During the moratorium, Council's Compliance Officer carried out a survey of the Shire and letters were sent to all landowners where sea containers were found advising them of the moratorium and the approval/application requirements.

As at 8 December 2011, there were 66 landowners that had 1 to 2 sea containers located on their properties within the Shire, with 17 of the containers not having any approval.

On 19 December 2011, Council resolved to grant a final two (2) month amnesty period to enable those property owners with unapproved sea containers to gain approval. Following the amnesty period, 11 landowners had not gained approval or obtained an exemption from Council.

Currently, there are 10 landowners that do not have approval or an exemption to locate a sea container on their properties that are not in conjunction with approved building works.

The following is a summary of statistics relating to sea containers:

- 68 known sea containers located in the local government area
- 29 exemptions granted –
 - 14 in the general agriculture zone
 - 1 in the industrial area
 - 14 in other zones, mainly rural-residential and residential
 - 4 temporarily located in conjunction with approved building works
- 19 approvals granted –
 - 8 in the general agricultural zone
 - 2 in the industrial area
 - 9 in other zones, mainly rural-residential and residential
- 5 sea containers have been removed during this process
- 1 being processed
- 10 unapproved –
 - 2 in the general agricultural zone
 - 5 in the industrial area
 - 3 on residentially zoned properties

Consultation:

All landowners that were identified as having sea containers on their properties without Shire approval have received notification of the final amnesty period in writing giving them until the date of this Council meeting (i.e. 20 February 2012) to submit a planning application. At the time of writing this report, there are still 10 properties that have unapproved sea containers located on them – five (5) on industrial zoned properties, three (3) on residential zoned properties and two (2) on agricultural zoned properties. Refer to Appendix 1 for list.

It should be noted that these landowners had also been sent a minimum three (3) previous letters advising that approval was required to permanently located sea containers on their property prior to the last letter advising of the final amnesty period.

During the Compliance Program it has also been brought to Council's attention by landowners, farmers and the community that the current Policy required review. The Policy hasn't been reviewed since its adoption on 18 August 2008.

Statutory Environment:
York Town Planning Scheme No. 2

Clause 4.1 of the Scheme states:

“Subject to clause 4.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning consent of the local government under Part 7.”

Sea containers are not permitted development identified in clause 4.2.

Clause 8.8 enables Council to adopt local planning policies that may make provision for any matter related to the planning or development of the Scheme Area generally or in a particular class of matter, such as sea containers, throughout the Scheme Area or in one or more parts of the Scheme Area. In this case, the Policy relating to sea containers applies throughout the Scheme Area.

Planning and Development Act 2005

Clause 162 of the Act reinforces Clause 4.1 of the Scheme requiring approval prior to the commencement of development.

A person who contravenes Clause 162 is guilty of an offence under Clause 214 of the Act and unless otherwise provided, a person who commits an offence under this Act is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues.

An infringement notice may be issued for prescribed offences, including failing to obtain approval prior to commencement of development. The prescribed fine is \$500.00.

Section 214(3) of the Act enables the Shire, to issue a planning direction to remove, pull down, take up, or alter the development and to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.

Policy Implications:

The following issues need to be taken into account when considering policy implications:

1. It is important that compliance action initiated is followed up in accordance with the Council resolution to ensure that the community knows that unauthorised development is an important issue that is taken seriously.
2. All Policies should be reviewed on a regular basis to ensure that they remain applicable and reflect current strategic objectives.

Financial Implications:

The standard planning application fee is \$309.00, which comprises \$139.00 application fee and \$170.00 for advertising. All planning applications are advertising to the public and neighbouring landowners.

Retrospective planning applications are charged the standard application fee, plus twice that fee and an advertising fee. The total fee applicable to a retrospective application for a sea container is \$587.00, when compared with \$309.00 for a non-retrospective application.

Where a landowner can prove or is prepared to submit a Statutory Declaration that a sea container was located on their property prior to the introduction of the Policy (i.e. August 2008), then an exemption from approval can be granted. There is no fee associated with this process.

Compliance action and review of the Policy is within the Shire planning budget.

Strategic Implications:

If unapproved sea containers are permitted to remain without consequence, it will be extremely difficult for Council's Compliance Officer to carry out his duties efficiently and effectively, not only on sea containers but other compliance issues.

Policies should be applied consistently for a number of reasons, including providing the community a clear direction and position of Council, and, so that the Policy is given sufficient weight if legally challenged. Policies should be reviewed periodically for currency and effectiveness. It has been brought to the Shire's attention that this Policy is in need of review to ensure that its application meets the original intent of the Policy, i.e. control of sea containers in inappropriate locations.

It is recommended that all current unapproved sea containers should be pursued to ensure compliance with the current Policy and that any new or amended Policy apply only to any new sea containers installed from the adoption date of that Policy.

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Yes**

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

The issuing of Planning Directions and the carrying out of follow-up inspections is within the capacity of Council's Compliance Officer.

Legal costs may be incurred associated with enforcing any non-compliance with the Planning Directions.

Social Implications:

Sea containers can become a social issue if they are located inappropriately, such as in a heritage precinct, where the appearance can adversely impact the area.

Environmental Implications:

There are no environmental implications associated with this issue.

Comment:

The Sea Container Compliance Program has been successful, particularly due to the approach and efforts of Council's Compliance Officer. Similar approaches could be used in other compliance activities, including planning, health and building.

The review of the Policy is considered appropriate to ensure its application meets the original intent and objectives of the Policy, which is to control the inappropriate location of sea containers.

It is strongly advised that the compliance action under the current Policy be finalised prior to initiating a review or introducing a new Policy, for example to exempt any land specific zones. It would be unfair to all landowners who have complied with the current Policy and paid application fees, for those who have not complied to be treated differently.

Councillors Boyle, Lawrance and Duperouzel declared a financial interest in this item.

Ray Hooper, CEO stated the three (3) Councillors are exempted and are allowed to vote as per the letter received from the Department of Local Government.

**RESOLUTION
030312**

Moved: Cr Scott

Seconded: Cr Hooper

"That Council:

- 1. Issue Planning Directions for the removal of all unapproved sea containers within sixty (60) days from the date of the direction.***
- 2. Authorise the Chief Executive Officer to instigate legal action, including the incurring of associated costs, to enforce the provisions of Planning Directions."***

CARRIED: 4/2

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.3 Construction Of Dwelling And Associated Structures – Lots 9 And 10 Redmile 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:	RE1.60014, P754
COUNCIL DATE:	26 March 2012
REPORT DATE:	14 March 2012
LOCATION/ADDRESS:	Lots 9 & 10 Redmile Road, York
APPLICANT:	Veronica De Vis
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	1 – Survey Plan 2 – Plans 3 – Assessment Report for Dwelling
DOCUMENTS TABLED:	Nil

Summary:

On 20 August 2010, planning approval was granted under delegated authority to construct a sand pad for a future dwelling on Lot 10 Redmile Road, York, subject to conditions and then consequent planning approval was granted on 23 December 2011 under delegated authority to construct a dwelling on Lot 10 Redmile Road, York, subject to conditions.

An investigation of a complaint received resulted in the applicant being requested to submit a further planning application to gain approval for works commenced without consent.

The application was received on 27 January 2012 and was advertised to the public and adjoining landowners. One submission was received objecting to the proposal and is the subject of this report.

It is recommended that the application be approved, subject to the conditions of consent listed at the end of this report.

Background:

Filling and retaining works commenced under the original approval to construct a pad to enable a dwelling to be constructed on the lot that is flood affected.

A complaint was received from the neighbouring landowner on 8 January 2012 raising concerns that the buildings works were sub-standard and that the retaining wall had been constructed over the boundary and posed a threat to his property.

An investigation of the issues detailed in the complaint, and the site generally, was carried out on 13 January 2012 in the company of the landowner. The inspection revealed that there were a number of issues that required rectification and approval, including the expansion of the approved sand pad, addition of a rear landing and steps, and a front fence across both lots. The landowner was requested to stop work and submit a planning application for the unauthorised works, a survey plan to determine the location of the boundary and a Structural Engineers certificate for the retaining works.

The planning application was submitted as requested on 27 January 2012.

Consultation:

The application has been cooperative with Council's requests and directions throughout the process.

The complainant has been kept fully informed of the investigation, planning application and has been provided with a copy of the survey. The objection that he submitted continues to raise concerns regarding the quality of workmanship that Council's Building Surveyor is dealing with and has requested engineer's certification.

In accordance with the provisions of the York Town Planning Scheme No. 2, the application was advertised to the adjoining landowners directly in writing and the public at the Council Office, on Council's website and in the local newspaper. As indicated above, one submission was received in response to the advertising as follows:

"In response to your letter of February 13th regarding Lot 9 and Lot 10 (12) Redmile Rd, I wish to lodge an objection to the application to amend approved plans to increase the size of the sand pad on Lot 10.

The pad was constructed contrary to the original approval, extending well to the east of the plans lodged with the original application and encroaches upon the boundary of my property at 2 Redmile Rd. The pad is not retained and poses an erosional threat to my property.

Please refer to my previous correspondence of December 13th and, in particular, January 5th which illustrates my reason for my concerns.

I also draw your attention to the landing and steps which have been constructed without approval and to the workmanship. A similar method of construction for the proposed front fence would not be suitable."

In response to the issues raised, the following information is provided:

- A survey has been provided that shows that the sand pad and associated retaining wall does not encroach on the neighbouring property;
- The retaining works appear satisfactory to prevent erosion or spill onto the neighbouring property. The applicant has been requested to provide a Structural Engineer's certification for the retaining works. A condition is recommended (at the end of this report) for such certification to be provided prior to the issue of the Building Licence for the dwelling.
- It is agreed that the workmanship is of concern and as indicated above, engineering certification will be required throughout the construction process for the dwelling and front fence, where appropriate.

The Heritage Council, the York Society and Department of Water were also consulted regarding potential impacts on heritage and flooding respectively. Responses were received from each organisation and the comments have been considered in the assessment of this application. These comments did not contain any objections regarding the proposal.

Statutory Environment:York Town Planning Scheme No. 2

The dwelling application was assessed in accordance with the provisions of the Scheme, with particular consideration to the objectives of the zone and requirements relating to building in a flood prone area. The report is attached at Appendix 3.

With regards to the current proposal, the original assessment is considered applicable and that the application is consistent with the provisions of the Scheme.

Local Planning Policy – Heritage Precincts and Places

The site is located within the Blandstown Heritage Precinct and opposite a State listed heritage building. The application was referred to the Heritage Council and the York Society. Neither organisation has raised an objection to the approval of this application, subject to the provisions of the LPP being complied with.

Policy Implications:

There are no Policy implications associated with this proposal. It should be noted however that the applicant has been advised that the construction must be wholly within the boundaries of each lot and no construction is permitted across boundaries unless the lots are amalgamated. The applicant has gained approval to amalgamate from the Western Australian Planning Commission, but has advised that she may not proceed.

Financial Implications:

The applicant has paid the appropriate application fees.

Strategic Implications:

The construction of a dwelling and associated works are consistent with the objectives of the Residential zone.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

There are no economic implications associated with this proposal for the Shire.

Social Implications:

There are no social implications associated with this proposal.

Environmental Implications:

The land is flood affected and therefore to enable the construction of a dwelling, the land requires filling. The filling should be limited to the area required only for the dwelling to ensure that there is no adverse impact on flood paths. Drainage works have been also required as part of the works to manage stormwater within the site.

Comment:

The landowner has been very co-operative throughout the process and when completed, the dwelling should complement its surroundings. There are no planning reasons why this application should not be approved.

However, this is the third planning application associated with the construction of a dwelling on this lot and as the works are largely being completed by the landowner, the situation will need to be monitored closely by Council's Compliance Officer to ensure that the works are being completed in accordance with the approved plans, particularly as it is situated in the Blandstown heritage precinct.

Council's Health and Building Manager is also working with the landowner to ensure that all approvals associated with temporarily residing in a caravan and installation of an on-site sewerage management system are obtained and any conditions are being met.

RESOLUTION
040312

Moved: Cr Lawrance

Seconded: Cr Hooper

"That Council:

APPROVE the planning application relating to Lots 9 and 10 (12) Redmile Road, York to:

- 1. Fill the rear of Lot 9 by 0.5 metres;**
- 2. Construct a front fence on Lots 9 and 10; and**
- 3. Amend the approved plans for the construction of a dwelling on Lot 10 to include a landing and steps at the rear and increase the dimensions of the sand pad;**

Subject to the following conditions and advice notes:

- 1. Condition 1:** *The Development must substantially commence within two (2) years from the date of this decision.*
- 2. Condition 2:** *Development must take place in accordance with the stamped approved plans.*
- 3. Condition 3:** *Development must take place in accordance with the provisions of the Local Planning Policy – Heritage Precincts and Places.*
- 4. Condition 4:** *Prior to the issue of a Building Licence for the construction of the dwelling on Lot 10, a Structural Engineer's Certificate be submitted certifying the compaction of the sandpad and the structural stability of the retaining wall.*
- 5. Condition 5:** *Prior to the issue of a Building Licence for the construction of the dwelling on Lot 10, the approved drainage plan shall be amended to show the drainage is contained wholly within Lot 10.*
- 6. Condition 5:** *All works must be wholly within each lot. No works are permitted to straddle or cross lot boundaries. Any existing works that straddle or cross boundaries must be demolished or amalgamation must be finalised within 6 months from the date of determination.*
- 7. Advice Note 1:** *If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.*
- 8. Advice Note 2:** *Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.*
- 9. Advice Note 3:** *If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.*
- 10. Advice Note 4:** *This approval is not a building licence. In accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1960, an application for a building licence must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.*

CARRIED: 6/0

9.1.3 - Appendices

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Information Services

FILE NO:	CS.LCS.8.1
COUNCIL DATE:	26 March, 2012
REPORT DATE:	9 March, 2012
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	P Law, Information Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Appendix A and B
DOCUMENTS TABLED:	Nil

Summary:

The following is a summary of items for York Information Services for the month of February 2012.

- **Visitor Numbers:** (Appendix A) These numbers are counted manually and include adults and older children actually walking through the doors of the Information Services office. They do not include people walking into the Town Hall to use toilets, view exhibits etc.

The number of visitors coming through the doors in February 2012 was **671** as compared to 563 in 2011.

News reporting during the month of February put tourism numbers for the South West down. Although Information Officers only record visitor numbers coming into the Information Services office, those numbers are steady, if not increasing.

However, the type of visitor is different now to that of two or three years ago. Visitors are asking for budget accommodation. \$140 a night for a couple is too expensive. People are not prepared to pay this when they can visit bigger towns with more to offer and get cheaper accommodation.

Many visitors are also coming to town with their picnic lunch. Those that are looking to buy a sit down meal do not want to pay more than \$15-\$20.

- **Product Sales:** (Appendix B) Net sales for the month of February 2012 were **\$522.15** compared to \$695.15 for the same period 2011.

Sales figures include sale of stock items left from York Tourist Bureau, the prices of which have been discounted to cost price.

- **Request for services:** There are certain services that visitors ask for (verbally) on a regular basis, these include:

Keys for Tipperary School-	5	Bottled water-	4
Train Service-	2	Internet access-	2
Signage for caravan parking-	2	Bridal trails-	1
Laundromat-	2	Large accommodation in 1 venue-	2
York Racing-	1	Budget accommodation-	4
Swimming Pool (outside hours)	2		

- **York Tourist Maps:**

A quote was received early February from Vanguard Press, to reprint these maps. Expressions of interest to take up advertising places were sent out to all tourism operators. All but 4 of the 16 places were taken within 2 days. The following places were taken up in the following week. It is anticipated the art work will be ready for the printer by early March.

- **York Tourist Brochure:**

There has been a high demand from many towns throughout Western Australia for a brochure on York. Officers have arranged to print a high quality brochure, advertising York, offering advertising places to local businesses. This brochure is to be made available to Visitor centres throughout WA, other venues by request.

Although this was met with some negativity from a minority of locals, a high percentage of the advertising places have been sold and the overall response has been very positive.

It is anticipated that through the sale of advertising places there will be a nil cost to the Shire of York.

- **Free RV Parking at Avon Park:**

This has become a very popular destination for visitors to York. It is enabling the town to secure more overnight visitors who may have otherwise moved on to the next town. This area is popular for its proximity to the centre of town, the swimming pool and due to the cost.

Information officers are finding that visitors are opting out of using the York caravan park for the following reasons:

1. It is too far out of town. As there is no public transport system or taxi service it makes it difficult for people to go out for dinner and have a couple of drinks.
2. There is no swimming pool at the caravan park. With the hot weather people want to be close to a pool. It is easier to park down at Avon Park and then walk to the pool for the afternoon.
3. The fees for service offered at the caravan park. Many visitors comment that the fees charged here are some of the highest in the country, with very little offered for that fee. They would prefer to either move on to the next town, where the caravan park is cheaper, or camp for free and then spend some money in the small shops in town.

This area is only being recommended to people with fully self contained RV's, due to the closure of the public toilets at night time. The night time closure of these toilets has in effect caused people to move on to the next town.

Due to the popularity of the Avon Park RV parking area, Information Officers recommend that council look at further options to expand this service to a larger area, at peak tourist times (Easter weekend, Spring) as a way of ensuring that we gain a larger volume of overnight visitors to York.

- **Staff:**

Pam Law is to leave York Information Service in early March, moving to full time employment over at the Shire of York administration office. Her replacement will be Tamara Simunov.

- **Town Hall Foyer Display:**

The items that have been left in the foyers, both downstairs and upstairs, of the York Town Hall since the closure of the Town Hall Centenary Exhibition, have been extremely popular. There have been both locals and visitors coming in to the Town Hall to view the items and pictures. Many people taking their time to read the banners and item descriptions, spending up to 30 minutes per visit.

There have been many positive comments regarding the current items on display. However, we have also had negative feedback from people that have made a special trip to York to view the photos of past Councillors' and Mayors, which were once on display. These were removed when the Town Hall was repainted and then kept away for the period of the exhibition.

Information Services officers recommend that these photos are returned and left on permanent display in the upper gallery or foyer areas.

- **Complaints-**

These are usually received by way of verbal feedback, with the occasional Council Action Request form, letter or email received. The most common over the month of February was:

- Lack of attractions and businesses available Monday and Tuesday
- Lack of places to eat of Monday and Tuesday nights
- Rude customer service of several business proprietors- accommodation, food and retail
- Lack of places to get lunch after 2pm
- Lack of heritage buildings open to visit

Background:

Town Hall Centenary display has now been primarily removed from the York Town Hall. The banners, Shire of York art work and a few other items have been left on display.

Information Officer employment position advertised and interviews undertaken by Gail Maziuk.

There has been a large increase in the number of events coming to and through York for the next few months. All known details are listed on the Calendar of Events, which is distributed through York Information Services and available on the Shire of York website.

This will be the last report for York Information Services from P Law.

Consultation:

Shire of York and local business proprietors

Statutory Environment:

Nil

Policy Implications:

Not Applicable

Financial Implications:

Nil

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:

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

RESOLUTION
050312

Moved: Cr Lawrence

Seconded: Cr Scott

“That Council:

Receive the York Information Services Report.

CARRIED: 6/0

9.2.1 - Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.2 Rescind Delegation De3 Approval and Refusal Of Building Licences

FILE NO:	OR.CMA.1
COUNCIL DATE:	26 March 2012
REPORT DATE:	15 March 201
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	G Tester, MHB
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Councils existing delegation DE3 Approval and Refusal of Building Licences is derived from legislation that will be repealed on 2 April 2012.

The delegation is to be rescinded as the new legislation will remove the ability of a Local Government to Certify Compliance via a resolution of its Council.

Background:

Councils existing Delegation *DE3 Approval and Refusal of Building Licences*.

DE3 Approval and Refusal of Building Licences

Legislation

Pursuant to the provisions of the the Local Government (Miscellaneous Provisions) Act 1960.

374 (1b) Plans of buildings to be approved by local government.

The Council resolved that the following delegations be approved:

TO: The person(s) appointed to the office of Building Surveyor or as previously approved by Council resolution as Building Surveyors and the Manager of Environmental Health and Building services

DELEGATIONS: Approval or refusal of building licences issued pursuant to the Local Government (Miscellaneous Provisions) Act 1960.

GUIDELINES OR CONDITIONS:

These approvals are limited to those applications in conformity or contravention with the Building Code of Australia, the Building Regulations, Town Planning Scheme No.2, and related Council procedures and guidelines where applicable

Consultation:

Nil

Statutory Environment:

Building Services (Registration) Act 2011

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Comment:

Any existing delegation by a local government to approve or refuse plans of buildings will cease on 2 April 2012 as the new legislation will remove the ability of a local government to certify compliance via a resolution of its Council.

In order to certify compliance, a building surveyor must be registered under the Building Services (Registration) Act 2011 as either a Building Surveying Practitioner (Local Government) or a Building Surveying Contractor (Private Industry).

Council is in the fortunate position to have two fully accredited Level One Building Surveyors on its staff to administer the provisions of the new Act and Regulations.

This will mean that there will be no impediment to the processing and issuing of Building Permits.

The turn around time for Certified Building Permits from Building Surveying Contractors is required to be 10 working days and uncertified applications will be 35 working days.

The majority of building applications will be of the uncertified type which apart from some minor changes will be attended to in a similar manner to the previous arrangements. The most significant change is that Councils Building Surveyors will be issuing Certificates of Design Compliance for all uncertified building permit applications.

Council will retain an enforcement role in regards to breaches of the new legislation which feature significantly increased penalties.

Mandatory inspections may form part of the building conditions applied to certain types of Building Permits

**RESOLUTION
060312**

Moved: Cr Smythe

Seconded: Cr Scott

“That Council:

Rescind delegation DE3 Approval and Refusal of Building Licences effective as of 2 April, 2012.”

CARRIED: 6/0

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.3 Youth Report for February 2012

FILE NO:	CS.LCS.6
COUNCIL DATE:	26 th March, 2012
REPORT DATE:	16 th March, 2012
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	Lyn Kay, YDO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

The following is a summary of the activities undertaken by the Youth Development Officer since the last report submitted in February, 2012.

- **Youth Centre:**

Youth Centre is opening each Thursday between 3-6pm. Average attendance of 15 per week.

Youth Development Officer would like to sincerely thank the York Scouts and an anonymous couple from the Shire for donations to the York Youth Centre.

Donations will fund blinds and a new First Aid Kit. Without the generous help from the Community these things would remain on "The List" until funds are sourced.

Youth Development Officer is seeking volunteers to help supervise the Centre. They will need a Working with Children card and Police Clearance.

The Youth Development Officer is obtaining design and quotes to assist with applications for a Grant to build outdoor sports courts so as the Youth can go outside and play various sports and hang out.

- **Holiday Programme:**

The Youth Development Officer is finalising the Programme with:

Tuesday 17th April, 10am – 4pm-

Artist-Jenny Broun from the Beverley Station Gallery working with 9 year olds – Youth

Wednesday 18th April-10am-4pm

Vicki Valente taking cooking classes

We are also hoping to have a day making candles, to be finalised and on the 20th April having a free sausage sizzle to celebrate Youth Week.

- **Active after School Program:**

Term 1 is nearly finished with the children improving on their Soft Crosse (Lacrosse) skills and with the help of my assistant, Judy Davies, lots of fun, water and healthy fruit will be consumed.

- **Karaoke Disco:**

The 1st Disco for 2012 will be held on Friday 30th March at the Town Hall with Pre- Primary through to Youth.

We have Karaoke and lots of games and prizes.

Entrance fee is \$2.50. Cool drinks, lollies and hot dogs are available with all profits going to the Youth Centre.

- **Breakfast Club:**

Youth Development Officer and the Salvation Army have been running the Breakfast Club every Friday morning at the York Youth Centre. Lots of cereals, pancakes, fruit juice, toast and fruit have been consumed and we have all enjoyed our breakfasts together.

- **Leeuwin Ocean Adventure:**

Two lucky youths, Michael Kasteel and Quaid Rosbotham, will be sailing on the Leeuwin on Wednesday 21 March 2012 for one week. This has been made possible by sponsorship from the Shire of York, in partnership with the York Bendigo Bank. A small grant was also obtained from the Leeuwin Foundation. We wish the boys an enjoyable journey.

- **Banners in the Terrace:**

Youth Development Officer spoke at the York District High School Assembly and asked for the children to design a Banner for the St. Georges Terrace Display from 29th July to 11th August. We have a gift voucher for the best design to be voted by staff of the Shire.

- **Kidsport:**

Youth Development Officer attended a workshop for the **SPORT4ALL** Project and will be meeting with delegates from the local Junior Sporting Groups to discuss this initiative between Department Of Sport and Recreation and the Avon Kidsport Shires.

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:**Key Result Area 4 - Youth - Objectives:**

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

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:
Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:
Nil

Social Implications:

Nil

Environmental Implications:

Not Applicable

Comment:

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

RESOLUTION
070312

Moved: Cr Scott

Seconded: Cr Duperouzel

“That Council:

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

CARRIED: 6/0

9.3 Works Reports

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Monthly Financial Reports – February 2012

FILE NO:	FI.FRP
COUNCIL DATE:	26 March 2012
REPORT DATE:	7 March 2012
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:	Nil

Summary:

The Financial Report for the period ending 29 February 2012 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 29 February 2012
- 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 29 February 2012;

Sundry Creditors as per General Ledger	\$45,790.46
Sundry Debtors as per General Ledger	\$307,663.67
Unpaid rates and services current year (paid in advance inc. ESL)	\$870,564.94
Unpaid rates and services previous years (inc. ESL)	\$394,842.99

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:

Not applicable.

RESOLUTION

080312

Moved: Cr Boyle

Seconded: Cr Hooper

“That Council:

Receive the Monthly Financial Report for February and ratify payments drawn from the Municipal and Trust accounts for the period ending 29 February 2012:

	<u>VOUCHER</u>	<u>AMOUNT</u>
<i>MUNICIPAL FUND</i>		
<i>Cheque Payments</i>	29942 - 29984	\$ 103,350.65
<i>Electronic Funds Payments</i>	8997 - 9111	\$ 257,449.78
<i>Direct Debits Payroll</i>		\$ 160,782.25
<i>Bank Fees</i>		\$ 878.16
<i>Corporate Cards</i>		\$ 1,088.15
<i>Shell Cards</i>		\$ 192.30
<i>TOTAL</i>		<u>\$ 523,741.29</u>

TRUST FUND

<i>Cheque Payments</i>	3953 - 3957	\$ 900.00
<i>Direct Debits Licensing</i>		\$ 108,626.95
<i>TOTAL</i>		<u>\$ 109,526.95</u>

TOTAL DISBURSEMENTS **\$ 633,268.24”**

CARRIED: 6/0

Note to this item

The Chief Executive Officer has delegated authority under Delegation DE1 (Council Meeting 19 September 2011) to make payments from the Municipal and Trust accounts.

9.4.1 Appendices

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.2 Waive Fees Associated with the York Community Radio Inc.

FILE NO:	FI.DON
COUNCIL DATE:	26 March 2012
REPORT DATE:	13 March 2012
LOCATION/ADDRESS:	26 Barker Street
APPLICANT:	York Community Radio Inc.
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

This report deals with a request from the York Community Radio Inc. for Council to consider writing off sundry debtors associated with 26 Barker Street – rates (A31700) and insurance.

Background:

Council considered the lease agreement at its Ordinary Council meeting held on the 19th March 2007 where it was resolved to renew the lease with York FM for the land and premises at 26 Barker St, York for a five (5) year period.

An agenda item was considered and deferred at the Ordinary Council meeting held on the 20th February 2012.

Consultation:

The Secretary of the York Community Radio Inc wrote to Council on the 24th October 2011 as follows:

"I write with reference to the account sent to York Community Radio for Rates & Insurance for the years 09/10 and 10/11.

If York Community Radio were to pay the amount of \$2334.97 it would more than empty our bank account, leaving us no operating funds for payment of utility bills etc. and would force the closure of York FM.

I am sure that the Shire of York would not wish for the closure of York FM, in view of the recent development of good relations between us and the recent sponsorship grant from the Shire of York to York Community Radio.

Considering that the current Management Committee has only been in office since 1 August 2011 and the charges were not billed at the appropriate times, York Community Radio Inc. requests that the charges of \$2334.97 be waived so that York FM can continue to operate.

We look forward to a favourable response."

Statutory Environment:

Local Government Act 1995 Section 6.12 states:

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

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

** Absolute majority required.*

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

Policy Implications:

Not applicable.

Financial Implications:

Council have considered the 2009/10 and 2010/11 outstanding debtors in its surplus and therefore it is not recommended to alter these debts. However to support this community group Council could consider charges that are applicable for this year for rates and insurances being a total of \$1,251.97 in addition to the monies already provided through sponsorship for equipment. As part of the guidelines of the Sponsorship process Council does not usually support sponsoring more than one activity for a particular group.

Each financial year sponsorships are considered by Council as part of the budgetary process. Applications should be processed each year prior to budget adoption however in this circumstance Council could consider additional sponsorship, as income has not been accounted for in the 2011/12 municipal budget.

The following table shows a break down of the outstanding balances to date:

Inv No	Inv Date	Amount	Description	Running Total	Post Yr
3169	07/12/2011	121.97	INSURANCE - 11/12 - 26 BARKER STREET GST	3586.94	11/12
3173	07/12/2011	1130.00	RATES 11/12 - 26 BARKER STREET GST	3464.97	11/12
2596	12/01/2011	118.82	INSURANCE 10/11 - 26 BARKER ST GST	2334.97	10/11
2600	12/01/2011	1095.00	RATES 10/11 - 26 BARKER ST GST	2216.15	10/11
1919	09/09/2009	1.10	RADIO STATION LEASE - 26 BARKER ST 09/10 - YORK COMMUNITY RADIO - LEASE 26 BARKER ST 2006/07 GST	1121.15	09/10
1906	02/09/2009	137.05	INSURANCE 09/10 - 26 BARKER ST GST	1120.05	09/10
1909	02/09/2009	983.00	RATES 09/10 - 26 BARKER ST	983.00	09/10

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Not applicable**

Triple bottom Line Assessment:

Economic Implications:

The fees and charges are seen as a burden for this community group.

Social Implications:

Assisting local community groups.

Environmental Implications:

Not applicable.

Comment:

As part of the lease agreement which was signed by the Secretary and the Chairperson on the 17th September 2010 all outgoings were the responsibility of the York Community Radio Station.

The lease states the following in relation to outgoings:

“Outgoings where used in this Lease shall mean the total sum of all outgoings, costs and expenses properly and reasonably assessed, charged, imposed, levied or paid by the Lessor in relation to the Premises the Building and the Land and without limiting the generality of the foregoing shall include:

- (a) *all taxes (including any State or Federal land tax, on the basis that the Land is the only land owned by the Lessor, but excluding any income tax or capital gains tax), rates, assessments and charges, levies, impositions and fees imposed, levied or charged by any Authority upon the Land or Premises;*
- (b) *all rates, costs and charges payable in relation to the supply of water, sewerage and drainage to or from the Premises;*
- (c) *all charges incurred or paid by the Lessor for lighting, heating, air conditioning, ventilating the Building or providing electricity, gas or fuel to the Premises;*
- (d) *the cost of collecting and disposing of garbage and refuse from the Premises.”*

“3.2 Outgoings

- (a) *The Lessee shall pay to the Lessor on demand or as the Lessor shall direct the Outgoings which now are or shall be charged in respect of the Premises or be payable by the owner or occupier thereof PROVIDED THAT if no separate assessment issues for any of such Outgoings the Lessee shall pay such amount as is reasonably determined by the Lessor.*
- (b) *The Outgoings shall be deemed to accrue from day to day and in respect of any Outgoings Year less than twelve (12) months, the Lessor shall be entitled to apportion the same on a daily basis.”*

It should be noted that Staff provided a further copy of the outstanding invoices on request to the Chairperson on the 18th February 2011, which had previously been sent out to the former Chairperson.

The CEO requested a response from Councillors by the 12th December 2011 to enable consideration at the December 2011 Council meeting if they wanted part or all of monies written off, as no responses were forthcoming it was taken to mean that Council did not want to consider writing off any of the outstanding monies owed to Council.

As the 2011/12 rates and insurance have been invoiced it would be appropriate to consider these charges while considering this report.

OFFICER RECOMMENDATION

“That Council:

1. *acknowledges, however does not support the York Community Radio Inc request for the charges relating to insurance and rates for the 2009/10 and 2010/11 financial years to be waived.*
2. *will consider waiving fees associated with this financial year 2011/12 for insurance and rates, totalling an amount of \$1,251.97.*
3. *request the York Community Radio Inc to review their existing lease by the 8th April 2012 to enable endorsement by the 30 April 2012, as per Schedule 1 of the Lease.”*

RESOLUTION

090312

Moved: Cr Hooper

Seconded: Cr Scott

That Council Amend the Officer Recommendation to read:

“That Council:

1. ***Will waive all current charges of 3,586.94 in recognition of past issues.***
2. ***Enter into a negotiated MOU with York FM 101.3 for the purpose of fees, funding and future development from the 1st July, 2012.***
3. ***Develop a new lease arrangement with the committee of York FM 101.3 by 1st July, 2012.”***

Amendment

Moved: Cr Lawrance

Seconded: Cr Duperouzel

That item 1 in the motion be amended to read “will waive all outstanding charges for 2009/10 and 2010/11.”

3/3

The amendment was lost 3:4 on the casting vote of the Shire President.

The original motion was put.

CARRIED: 6/0

The Officer Recommendation was changed to allow for greater financial support for a high community benefit organisation.

9. OFFICER'S REPORTS

9.4 REPORT

9.4.3 York Football Club – Application to be Recognised as a Community Group

FILE NO:	CS.CEV.1
COUNCIL DATE:	26 March 2012
REPORT DATE:	28 February 2012
LOCATION/ADDRESS:	Peace Park
APPLICANT:	Alister Draper
Secretary, York Football Club	
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Judith Anderson
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

It is a requirement that York Football 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 13 January 2012 Council received an application from Alister Draper seeking Council recognition of York Football Club 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.

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

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:

Nil

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 York Football Club is a not for profit organization of approximately 50 playing members.

The York Football Club provides opportunities for children and adults to participate in Australian Rules Football.

The York Football Club wishes to raise funds to pay for the running expenses of the club.

Current copies of Certificates of Incorporation and Public Liability Insurance of \$10,000,000 have been provided.

RESOLUTION
100312

Moved: Cr Scott

Seconded: Cr Hooper

“That Council:

Recognise the York Football Club as a Community Group for the purpose of waiving fees and charges related to trading in public places and thoroughfares for fundraising activities.”

CARRIED: 6/0

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.4 York Hockey Club

FILE NO: CCP.7

COUNCIL DATE: 26 March 2012

REPORT DATE: 15 March 2012

LOCATION/ADDRESS: Forrest Oval Sports Precinct

APPLICANT: York Hockey Club Inc

SENIOR OFFICER: Ray Hooper, CEO

REPORTING OFFICER: Gail Maziuk, Senior Admin Officer

DISCLOSURE OF INTEREST: Nil

APPENDICES: Nil

DOCUMENTS TABLED: Nil

Summary:

The York Hockey Club Inc has prepared a Small Grants Application to CSRFF for funding support to establish a second grass hockey field at the Forrest Oval Sports Precinct.

Background:

Hockey is the highest participation sport in York and the York Hockey Club is the largest hockey club in the Wheatbelt. A second field is critical to ensure the ongoing ability to provide facilities for competition and social hockey to the York community, as well as providing a venue for surrounding towns and the region in general.

The existing single field is straining under the pressure of constant use supporting the growth in membership and increase in both competition and social use. At the current rate of deterioration of the standard of the existing field the club cannot continue the rate of growth in membership or take the opportunities available for new/increased levels of competition and social hockey.

The proposed new field design and size will accommodate a soccer field, which can be used if/when the sport of soccer is introduced in York at a social/club/competition level.

Consultation:

Council, Shire of York, Hockey Club committee and members

Statutory Environment:

Nil

Policy Implications:

Nil

Financial Implications:

The Shire of York has committed to providing \$15,000, either cash or in-kind to support this project.

Strategic Implications:

Strengthening Councils Co-location of sports program.

Providing increased opportunities for community members to participate in Hockey either at competition or social levels. The design of the new field will accommodate soccer, providing the opportunity to introduce a new sport to the community.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:
Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Increased opportunities for regional carnivals and sports events which will benefit local businesses and service organisations.

Social Implications:

Enhancing opportunities for participation in sport and physical exercise

Environmental Implications:

Drainage will be managed in the overall precinct plan

Comment:

Council endorsement of the grant application submitted by the York Hockey Club for funds to develop a second grass hockey field will enhance the successful club and social environment already evident to the members of York Hockey Club and the York Community. The York Hockey Club are a strong independent organisation who work hard to maintain their success within York and the Region.

RESOLUTION
110312

Moved: Cr Hooper

Seconded: Cr Smythe

“That Council:

Endorse the CSRFF Small Grants Application submitted by the York Hockey Club Inc and to prioritise the application as priority 1 of 1 application submitted for endorsement.”

CARRIED: 6/0

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Prison Work Camp & Section 95 Activities

FILE NO:	CS.SSP.2
COUNCIL DATE:	26 March 2012
REPORT DATE:	20 March 2012
LOCATION/ADDRESS:	Various
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	M Sharpe, Ranger
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Project Nomination Form
DOCUMENTS TABLED:	Nil

Summary:

Council decision required for the establishment of prisoner work camps and Section 95 activities within the Shire of York.

Background:

The Community Ranger and the CESM met with Peter Smithers Section 95 Officer from Wooroloo Prison Farm on the 20 February 2012 to discuss the possible use of prisoners to assist in mitigation and clean-up work along the Avon River. A further request was made by the Ranger for the prisoners to assist in other projects within the Shire of York. Peter Smithers informed us that we would need to submit a Project Nomination Form prior to commencement of any work.

Consultation:

Peter Smithers - Wooroloo Prison

Justin Corrigan - Community Emergency Services Manager

Pat Flynn- York Race Club president. (Prison labour has been used extensively)

Statutory Environment:

Section 95 of the Prisons Act.

Policy Implications:

Nil-(may however need a future policy on use of prison labour in the Shire of York)

Financial Implications:

Community groups wishing to benefit from labour provided by work camp and Section 95 need to:

- Identify suitable projects.
- Provide all materials and specialised tools and equipment.
- Arrange specialised supervision if and when it is required (eg where the expertise of a builder or tradesperson is required.)
- Shire staff and equipment may be required depending on the project.

Strategic Implications:

The 5 main categories under which the Department of Correction Services will give preference to work are: heritage, environmental, recreation and tourism, community service and disaster relief. These matters are listed in the Shire of York Strategic Plan.

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: None

Triple bottom Line Assessment:

Economic Implications:

Numerous projects could be put forward to enhance the appeal of York which would benefit tourism.

Use of the labour will reduce the Shire of York's Works expenditure and has given similar size shires great benefits

Social Implications:

The projects decided upon could enhance the appeal of the Shire of York and make the Shire of York a safer and more enjoyable place to live.

Some members of the community may have concerns with prisoners working in the town-site. It should be noted they have been working at the York Horse Racing Club for sometime without objection. The prisoners are low risk minimum security and are always supervised by Department of Corrective Services Officers.

Environmental Implications:

The initial project discussed was to reduce the fuel loads in the Avon River and enable a safer approach and minimal environmental impact when conducting our mosaic burning programme.

Dependant on the projects put forward improving our parks and reserves would enhance the beauty of the Shire of York.

Officers Comment:

The use of prisoners in projects nominated by The Shire of York has great potential in helping us make York safer and more picturesque.

**RESOLUTION
120312**

Moved: Cr Lawrance

Seconded: Cr Smythe

"That Council:

"Contact the Department of Corrective Services to apply for the prisoner work camps and Section 95 activities to be undertaken in the Shire of York."

CARRIED: 6/0

9.5.1 Appendices

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.2 Avon Tourism Funding

FILE NO:	CS.CEV.6
COUNCIL DATE:	26 March 2012
REPORT DATE:	26 March 2012
LOCATION/ADDRESS:	N/A
APPLICANT:	Avon Tourism
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	T Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

That Council confirm its commitment to tourism and provide \$2,000 for the 2011/12 financial year for regional area promotion and marketing of the Avon Valley.

Background:

The Shire of York has previously been a financial member of Avon Tourism up to 2009/10 and in 2010/11 contributed \$10,000 to the Guest Town promotion at the Perth Royal Show.

Consultation:

Councillors and Avon Tourism.

Wendy Williams emailed Cr Boyle and the information is provided for information:

"Should this matter be discussed at today's meeting, I feel it important that Council are aware of the resolution passed by the Board of Avon Tourism.

As with the Perth Travel Expo, crowds at the Caravan & Camping Show were down on the previous year, with around 45,000 visitors attending. The Show was a great success for the Avon Valley with 2800 Holiday Planners and 2300 Avon Valley Bags being distributed. We received a great deal of positive feedback, with consumers welcoming a destination close to Perth.

Again, my thanks to Council for their consideration.

Hi Tony

Again I would like to thank you for the opportunity to present to Council and to outline the activities undertaken by Avon Tourism in the marketing and promotion of York and the Avon Valley Region.

At the recent meeting of the Board of Avon Tourism, the concerns expressed by Council with regard to Shire of York funds being expended on the proposed Website Integration were discussed. Board Members were appreciative of Council concerns and the following resolution was passed.

Moved: Bev Hodges Seconded: Chris Pepper

That our thanks be extended to Council and the Shire of York for their financial support and confirm that the funds will be utilised for general operational costs [Non Capital Expenditure] inclusive of the Avon Valley Holiday Planner and Trade Show attendance.

The motion was carried

Should Council give favourable consideration to providing financial assistance, Shire of York funds would be expended only as outlined above. As advised at the meeting, funds are extremely tight at present and any consideration for the current financial year would be greatly appreciated.

As requested, current financial statements of income and expenditure will be included with our Marketing Plan when requesting assistance for the 2012/13 financial year. This will be done upon my return from the Caravan & Camping Show at which the Avon Valley is being well received, with in excess of 1500 Avon Valley Bags and Holiday Planners being provided to visitors to the show over the past three days.

I look forward to hearing from you and hoping for a successful outcome."

Statutory Environment:

Not applicable.

Policy Implications:

Policy No. 13.1 - Events For York

Objective: *To ensure that York retains its status as an events centre in the Avon Valley.*

Financial Implications:

If Council confirms its commitment \$2,000 will be allocated this year and for the following three years a fee of approximately \$10,000 per year in the forward capital works plans for membership of Avon Tourism.

Strategic Implications:

Key Result Area 2: Economic Development & Tourism

Objectives:

1. *To encourage a sustainable community by increasing employment opportunities in York, attracting investment and businesses to the town, and achieving diversification of industries.*
2. *To increase tourism to achieve business viability and growth.*
3. *To increase the net disposable income of the York community and investigate ways of increasing spending within the Shire.*
4. *To utilise the unique features of York's heritage and rural lifestyle, where appropriate, as the basis for economic development.*
5. *To ensure economic development does not conflict with York's heritage, lifestyle and environment.*

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Tourism is a high value industry in the Avon Valley with economic benefit to local and regional businesses.

Social Implications:

Regional and local tourism events, activities and businesses can benefit residents.

Environmental Implications:

Nil.

Comment:

Avon Tourism is a peak regional tourism organisation endeavouring to co-ordinate regional events and area promotion to benefit businesses and communities.

**RESOLUTION
130312**

Moved: Cr Scott

Seconded: Cr Smythe

“That Council:

1. ***notes the recommendation of the Board of Avon Tourism;***
2. ***provides \$2,000 towards regional area promotion and marketing for the Avon Valley in the 2011/12 budget subject to no funds being utilised for the Bookeyeasy system; and***
3. ***provide a commitment that the forward financial plans will include an allocation for funding towards Avon Tourism for the next three financial years.”***

CARRIED: 6/0

9.6 Confidential Reports

10. NEXT MEETING

RESOLUTION
140312

Moved: Cr Scott

Seconded: Cr Lawrence

“That Council:

hold the next Ordinary Meeting of the Council on April 16, 2012 at 3.00pm in Council Chambers, York Town Hall, York.”

CARRIED: 6/0

11. CLOSURE

Cr Boyle thanked everyone for their attendance and declared the meeting closed at 3.55pm