

# SHIRE OF YORK

**MINUTES OF THE ORDINARY  
MEETING OF THE COUNCIL  
HELD ON 23 MARCH 2015  
COMMENCING AT 5.06pm  
AT THE YORK RECREATION &  
CONVENTION CENTRE**



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## SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL  
HELD ON MONDAY, 23 MARCH 2015, COMMENCING AT  
5.06PM AT THE YORK RECREATION & CONVENTION CENTRE

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

*Commissioner, James Best, declared the meeting open at 5.06pm.*

#### 1.2 Disclaimer

The Commissioner advised the following:

*"I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting today, can be revoked, pursuant to the Local Government Act 1995.*

*Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received. Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material."*

#### 1.3 Suspension of Standing Orders – Clause 3.2 – Order of Business

Commissioner declared Standing Orders will prevail.

#### 1.4 Announcement of Visitors

*The Commissioner welcomed the Hon Paul Brown MLC, Councillors Smythe, Wallace and Hooper.*

#### 1.5 Declarations of Interest that Might Cause a Conflict

##### **Financial Interests**

*Nil*

##### **Disclosure of Interest that May Affect Impartiality**

*Nil*

## 2. ATTENDANCE

2.1 Commissioner  
*James Best*

2.2 Staff  
*Graeme Simpson, Acting Chief Executive Officer; Tyhscha Cochrane, Deputy Chief Executive Officer; Allan Rourke, Manager Works & Services, Gail Maziuk, Compliance/Human Resources; 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 11 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 Mike Gill**

#### **Question 1:**

My question to the Commissioner is why has this section of new road been constructed to a sub standard quality that now represents an ongoing risk to the road user.

#### **Response:**

The new section of road has been constructed using best practices, while there are some areas which need some remedial work, such as shoulder width and the lack of survey control. Surveys are now implemented on all construction projects.

The risk to the road user is only an assumption which I am unable to comment on.

#### **Question 2:**

Has the Shire received any complaints regarding the poor quality of this section of road.

#### **Response:**

There have been no documented complaints regarding this section of road.

#### **Question 3:**

Who is responsible in the event of a serious accident given that the current CEO was informed of the sub standard nature of the works prior to the sealing of the road. I draw your attention to the Civil Liabilities Act of 2002 and note that once aware of a hazard the Council is bound by law to take corrective action or accept the liability for claims made in the event of an accident.

#### **Response:**

In the event of a serious accident WA Police will investigate and advise what the causes were and the factors involved in the accident.

**Question 4:**

Will the Council inform the Contract Works Manager responsible for these works of the potential for a claim to be made and will his insurers be notified of such liability under the premise of negligence.

**Response:**

This is assuming there may be a claim against the Shire of York and in the advent of this happening an investigation would be followed to determine liability.

**Mr Simon Saint****Question:**

Last year, it was identified that the YRCC was not trading according to the conditions of its approval, again, this was identified to Council, Council then raised an agenda item for the September 2014 FRAC meeting where they resolved to, "instruct the Executive to investigate compliance with the terms and conditions of the Tavern Licence issued to the York Recreation and Convention Centre and report the findings back to the meeting of the committee." Can Council provide me with a copy of the findings?

**Response:**

Shire records show that no action was taken on the September 2014 claims that an investigation be conducted into compliance with the terms of conditions of the Tavern License.

In December 2014 Racing, Gaming & Liquor WA inspectors checked the YRCC for compliance and found everything to be in order.

**Mr Mike Gill****Question:**

I received a letter from the Shire of York thanking me for my services to date in relation to the YRCC car park design and then was advised that I was no longer required to provide engineer/design work in any capacity. Who has been commissioned to undertake this work?

**Response:**

The contract is with Opus International Consultants (Australia) Pty Ltd.

**4. PUBLIC QUESTION TIME**

*The Commissioner provided the following statement at the commencement of Public Question Time:*

**Statement by the Presiding Member at the Opening of Public Question Time at Ordinary and Special Council Meetings**

"Public Question Time is provided for under the provisions of Section 5.24 of the Local Government Act and the Local Government (Administration) Regulations 1996.

To provide equal opportunity for people to ask questions a limit of two (2) questions per person per time will be applied. If there is time available in Public Question Time people may be given the opportunity to ask a further two (2) questions at a time.

## **Procedures**

- Questions submitted in writing prior to the meeting will be dealt with initially.
- Questions from the floor will be taken in the order recorded in a register.
- Statements, opinions and attachments will not be recorded in the minutes.
- Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting.
- Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.
- The minutes may only record a summary of the question asked and the response given.
- Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.
- At Special Council Meetings questions must relate to the items on the Agenda.
- Shire of York guidelines for Public Question Time are included on the meeting agenda.”

## **PRESIDING OFFICER**

21 October 2013

### **4.1 Public Question Time – Written Questions – Current Agenda**

*Public Question Time – Written Questions - commenced at 5.08pm*

#### **Jane Elise Ferro**

##### **Question 1:**

In the local newspaper, you have listed dates for Council Briefing Sessions as well as for Council Meetings. How have you been able to set these dates, especially for the Briefing Sessions, when your contract ends early July?

##### **Response:**

The Commissioner stated that he hoped the Elected Members would continue with the Agenda Briefing Information Sessions. It is common practice in the metropolitan area for Councils to hold Agenda Briefing Information Sessions for proponents to ask questions through a deputation regarding items on the Agenda, this also allows staff an extra week for further research if required.

##### **Question 2:**

Have you been in contact with the Elected Members regarding this?

##### **Response:**

The Commissioner advised that he cannot make decisions for Elected Members about continuing the practise of holding Agenda Briefing Information Sessions.

##### **Question 3:**

I understand you have been having regular meetings with Cr Pat Hooper but not with Cr Reid, our Shire President, or Councillors Smythe and Wallace. Why is this so?

##### **Response:**

The Commissioner advised the statement is incorrect and that he had met with Cr Reid, Smythe and Wallace collectively.



Foot Note: A review of the Commissioners diary shows that he has met most with Shire President, Cr Reid.

**Question 3:**

At the Introductory Advisory Group Meetings on 12 March, 2015 I suggested that our Councillors should be attending these meetings if they are to be expected to carry forward any long term plans/projects resulting from the six (6) Advisory Groups. Have you formally invited Councillors Reid, Smythe, Wallace and Hooper to these meetings? And have you asked Shire President Reid to give the opening address at the Visioning Launch date on 27 March, 2015 as you indicated to Dr Duncan Steed you would do?

**Response:**

The Commissioner stated that Elected Members had been invited to attend Advisory Group meetings and Council meetings.

**Question 4:**

Have they been formally invited?

**Response:**

The Commissioner advised that the Councillors had been informally invited. Cr Reid has been formally invited to open the Visioning Forum.

**Question 5:**

Have you considered liaising with our Councillors to bridge what they were already putting in place to move York forward while incorporating your ideas? Surely you realise by now how popular and well supported they are by the majority of residents in York and it is wise to build on what is working.

**Response:**

These questions are getting to a level of detail that would be more appropriate to discuss after the Council meeting. This question is not appropriate for a Council Meeting.

**Question 6:**

Going back to the Introductory Advisory Group Meeting on 12 March, 2015 you showed us a power point presentation which included all the wonderful achievements you consider you made possible in the cities/towns where you acted as a consultant and installed the Oregon Model. This certainly verifies your consultancy contract here in York. So are you the interim Council for York or a Consultant with a 6 month contract?

**Response:**

The Commissioner advised he has been appointed as a Commissioner with the added skills of a Consultant that could help York move forward.

**Question 7:**

Why do you speak about those of us who contribute to the shireofyork blog as idiots who don't tell the truth and post bullshit?

**Response:**

The Commissioner stated he has been taken out of context. He said the blog was puerile and pathetic, if you want to contribute on the blog it needs to be positive not negative. People in Perth do read the blog and it comes up top of the list in Google. Business people and tourism operators that have spoken to the Commissioner have stated the negativity needs to stop as it is having a detrimental impact on York. The Commissioner is meeting with residents mentioned in the Fitz Gerald report on a one to one basis. If the blog was in a productive and future focussed vein for York the Commissioner would be right behind it.

The Commissioner stated he would like to have a meeting with Ms Ferro to discuss some of the issues raised.

**Ms Darlene Barratt**

**Question 1:**

Why have my questions from the 16<sup>th</sup> February, 2015 meeting not been included in the Minutes and not answered?

**Response:**

It has been an administration oversight.

Foot Note: On reviewing the Minutes of the Ordinary Council Meeting held on 16 February, 2015 the questions and responses for Ms Barratt are on page 14 of the Minutes.

**Question 2:**

Why is the FOI subject on the Agenda? I take offense to this subject of FOI being brought up in any meetings. I have not received answers to four (4) pieces of correspondence and because of that I have had to go to the FOI road, which is my right.

**Question 3:**

Why has my correspondence not been answered?

**Question 4:**

Is not Freedom of Information my right?

**Response to Question 2, 3 & 4:**

We acknowledge you are able to put in an FOI application.

**Question 5:**

I believe that Item 9.4.6 of today's agenda is unlawful. Has the Shire of York investigated if the deregistered business property under the corporations act vested with ASIC which deems the property invalid for sale or transfer?

**Response to Questions 2, 3, 4 & 5:**

Taken on Notice

**Question 6:**

Has the Shire talked to the company who loaned monies to the deregistered company? I believe they are owed \$2 million. \$4 million to the Taxation Department and \$7 million in total debts.

**Question 7:**

Where does the Shire of York sit in the list of debtors if the property sells with \$2 million owing to the original lender?

**Response to Question 6 & 7:**

The Acting Chief Executive Officer advised that in the absence of legal advice the item will remain.

**Question 8:**

If the Shire pays for the property to sell will they be legal entitled to the funds?

**Response:**

The Acting Chief Executive Office said we will investigate before land goes up for sale.

**Mr Mike Gill**

**Question:**

One of my questions from the last Ordinary Council meeting is not included in the Agenda.

**Response:**

The Commissioner advised the response to your question will be placed in the Minutes of this meeting.

**Ms Tricia Walters**

**Question 1:**

FOI – Why have the Shire chosen to give a total estimated cost of \$84,986 (\$85,000) as an example? I would challenge the requirement to set aside that amount of money. This would not be required if information requested was available. As far as the example is concerned the Shire employed a Project Manager and a Rec Centre Manager who should have had hard copies of all documentation, therefore, their salaries would not be applicable, to research information they probably created is counterproductive.

**Response:**

Taken on Notice

**Question 2:**

Why has in-kind sponsorship been included in the Annual Report? This is the first time that a dollar value has been included for in-kind. I believe that the published figures for monies actually provided is incorrect as additional sponsorship and in-kind had been approved during the year and is not included. To put a dollar value on in-kind has the potential to become a logistical and financial nightmare. Will Council look at simplifying how sponsorship figures are presented as being – recurring, non-recurring and in-kind?

**Response:**

Acting Chief Executive Officer stated he takes on board what has been said. The previous CEO included this information into the Annual Report. If cash in-kind can be measured then it should be listed. All issues should be brought to account, I personally thought it was a good idea. The Commissioner stated that itemising the number of volunteer hours put into a project is also valid.

**Mrs Roma Paton**

**Question:**

My FOI was lodged in January and I am still waiting. Why? Why do ratepayers have to pay \$300 plus \$30 per hour to obtain the correct figures for the costing of the rec centre? Why aren't the documents freely available to residents when we paid for the complex? Why blame York residents for the high FOI cost when we had no choice but to lodge FOI's to obtain information we were lawfully entitled to see?

**Response:**

The building is here now and operating. Every hour we spend on the past is every hour the administration is diverted from working on improving the town and Shire for the future. The Commissioner suggested that Mrs Paton meet with him and have a conversation regarding this issue.

Commissioner suggested that Public Question Time questions should be presented in writing before the Council meeting.

**Mrs Tanya Richardson**

**Question 1:**

York Easter Fair appendices are missing from the report.

**Response:**

Appendices to the Easter Fair item are not missing. The Commissioner had a request to hold an Easter Fair and this would bring some activity and vibrancy to the town. The name Antique and Collectors Fair stated in the Officers Recommendation will be replaced with the wording Easter Fair.

**Ms Darlene Barratt**

Takes offence that her questions have not been answered and had to place an FOI request.

**Response:**

The Commissioner stated he would discuss these matters with her at their planned meeting the following day.

**Cr Denese Smythe**

**Question:**

In Item 9.1.1 – Crawford Court – would like to query the cost mentioned in the Officer Recommendation. GHD are undertaking work on the Daliak Estate is that not the same thing?

**Response:**

Daliak Estate is in the development stage and all monies can be recouped.

**Question 2:**

Danceflight – I would like to query why Danceflight are doing up the building.

**Response:**

There are trades people within the family.

*There were no further questions from the Gallery Public Question time was declared closed at 5.34pm*

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

*Nil*

**6. PETITIONS / PRESENTATIONS / DEPUTATIONS**

*Nil*

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING & TABLING OF NOTES OF THE BRIEFING INFORMATION SESSION**

7.1 Minutes of the Special Council Meeting held February 11, 2015

Corrections

Confirmation

**RESOLUTION  
010315**

***“The Commissioner Endorsed:***

***That the minutes of the Special Council Meeting held February 11, 2015 be confirmed as a correct record of proceedings.”***

***The Commissioner Declared the Motion Carried***

7.2 Minutes of the Ordinary Council Meeting held February 16, 2015

Corrections

Confirmation

**RESOLUTION  
020315**

***“The Commissioner Endorsed:***

***That the minutes of the Ordinary Council Meeting held February 16, 2015 be confirmed as a correct record of proceedings.”***

***The Commissioner Declared the Motion Carried***

7.3 Minutes of the Electors Meeting held February 25, 2015

Additional Information:

Report of Acting Chief Executive Officer that administrative action has been taken to provide additional information within the Annual Report in respect to the statement concerning Complaints about Conduct of Members.

**Corrected information in relation to Complaints about Conduct of Members – Annual Report 13/14 Financial year**

**Complaints about Conduct of Members**

Council is required to report on official complaints that result in action under section 5.110 6 (b) or (c) of the Local Government Act 1995. During the 2012/13 year one breach resulted in action under this section.

Complainant/s Mr S Saint and Mrs H Saint - Complaint No's: SP 26 / 27 of 2012  
Note - The complainants lodged separate complaints, however the department dealt with them together.

Description of breaches the Panel found had occurred:

- a) breached clause 8.4(2) of the *Shire of York Standing Orders Local Law* - a minor breach by virtue of regulation 4 of the *Local Government (Rules of Conduct) Regulations 2007*;
- b) breached regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007*
- c) breached regulation 9(1) of the *Local Government (Rules of Conduct) Regulations 2007*

Decision:

The Panel delivered an order under section 5.110(6)(b)(i) of the Act that Cr Boyle be publicly censured on specified terms.

The Censure was carried out in the 13/14 Financial year.

Recommendation:

**RESOLUTION  
030315**

***“That the Commissioner:***

- 1. Endorse the amendment to the Annual Report***
- 2. Confirm the minutes of the Electors Meeting held February 25, 2015 be a correct record of proceedings.”***

***The Commissioner Declared the Motion Carried***

7.4 Agenda Briefing Information Session - March 16, 2015

Officers of the Shire of York presented background information on reports to be considered at the March Ordinary Council Meeting at the Agenda Briefing Information Session held on March 16, 2015.

Attachments – Agenda Briefing Information Session Notes

Recommendation:

**RESOLUTION  
040315**

***“That the Commissioner Resolved:***

***That the notes of the Agenda Briefing Information Session held on March 16, 2015 be noted.”***

***The Commissioner Declared the Motion Carried***

**8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Commissioner announced that the Visioning Launch originally planned for Friday, 27<sup>th</sup> March, 2015 is now to be deferred for one month. There are several reasons for this decision, there is currently a huge work load with the Advisory Group meetings and other meetings. There is a difference between the Visioning Forum and Advisory Groups that the community may not be fully aware of. The Commissioner will place a piece into the next issue of the York Community Matters Newspaper regarding the Visioning Forum. By holding the Visioning Forum next month will allow more time to be in contact with Community Groups and to market the Forum fully.

**9. OFFICER'S REPORTS**





## 9.1 Development Services

### 9. OFFICER'S REPORTS 9.1 DEVELOPMENT REPORTS 9.1.1 Crawford Court Precinct

*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.47  
COUNCIL DATE: 25 February 2015  
REPORT DATE: 4 March 2015  
LOCATION/ADDRESS: Crawford Court Precinct, York  
SENIOR OFFICER: G. Simpson, ACEO  
REPORTING OFFICER: K. Strange, TP  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Nil  
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

#### Summary:

In accordance with Schedule 5 of the York Town Planning Scheme No. 2, the preparation of an overall drainage plan for the Crawford Court Precinct is required prior to any approval for subdivision in the Crawford Court Precinct.

Mrs Kerry Bramley and Mr John Wieske have enquired in relation to the Shire covering the cost of preparing an overall drainage plan for the Crawford Court Precinct.

As per the resolution of Council from 15 September 2014, further investigation was required into the feasibility of preparing an overall drainage plan. It has been advised that the only way the costs could be re-couped from the land owners is through the preparation of a Structure Plan.

It has been concluded that the Shire is not in a position to cover the initial expense or the responsibility of project managing this document, especially given that the rate of return and overall community benefit would be minimal.

It is therefore advised that the Commissioner uphold the requirements of the Scheme and resolve that the landowners be responsible for the costs associated with the requirements of Schedule 5 in the Shire of York Town Planning Scheme No. 2.

#### Background:

On 18 January 2013, Scheme Amendment 47 was gazetted for the purposes of rezoning these lots from Rural Residential to Residential R2.5. The Amendment included inserting text in 'Schedule 5 – Additional Requirements for the Residential Zone' as follows;

3. *The Crawford Court residential precinct is to include land bounded by Northam-York Road, Attfield Road, Chandos Road, Herbert Road and Steere Road. In this area the following additional provisions shall apply:*
  - a. *An overall drainage plan must be prepared for the precinct prior to subdivision.*
  - b. *No additional access shall be permitted onto the Northam-York Road.*
  - c. *Where an Outline Development Plan is not required by the Shire of York or Western Australian Planning Commission prior to subdivision of any lot, any subdivision proposals must demonstrate the proposal will not compromise orderly and proper planning principles for the precinct, as expressed in all relevant Western Australian Planning Commission policies.*

At the Ordinary Meeting of Council held 15 September 2014, Council resolved to;  
*Consider covering the initial cost of preparing an overall drainage plan in accordance with Schedule 5 provided that;*

- 1. the cost be recovered over a period of time from landowners as they develop their land; and*
- 2. the appropriate statutory policy and/or procedure can be put in place to recover the cost in stages.”*

**Consultation:**

Mrs Kerry Bramley and Mr John Wieske initially consulted with the Shire to request that the Shire cover the cost.

Advice was obtained from the Department of Planning as well as a quote from GHD.

GHD provided the following summarised quote;

*\$34,307 ex GST for the ODP, which would include:*

- Initial consultation with landowners to understand development aspirations*
- Bushfire hazard assessment and mapping (desktop only)*
- Review of structure plan elements which would require consideration of developer contributions and staging by a Principal Civil Engineer. This would include drafting statutory provisions within the ODP which can support developer contributions*
- Preparation of the ODP, consistent with the structural requirements of the WAPC structure planning guidelines*
- Presentation of the ODP to Council, including preparation of agenda items*
- Review and summary of submissions following advertising*

*This would be supported by a standalone LWMS, consistent with the requirements of Better Urban Water Management, at a separate estimated fee of \$20,321 ex GST.*

**Statutory Environment:**

Shire of York Town Planning Strategy

In accordance with the Strategy, subdivisions that create more than three (3) lots require the preparation of an Outline Development Plan. This may be required for developers within the Crawford Court Precinct and in accordance with Schedule 5, however it will largely depend on the configuration of subdivision.

Shire of York Town Planning Scheme No 2

In accordance with Schedule 5, an overall drainage plan must be prepared for the precinct prior to subdivision. Therefore, until such time that this plan has been produced and approved to the satisfaction of the Local Government, the landowners are unable to subdivide their property.

Structure Plan Preparation Guidelines

This document outlines the State requirements for the content of a Structure Plan. Structure Plans provide a framework for the coordinated provision of future development.

**Policy Implications:**

There are no policy implications associated with this report.

**Financial Implications:**

There are no financial implications associated with the recommended resolution of this report.

The cost of preparing a Structure Plan for the Crawford Court Precinct would have significant financial implication for the Shire given that the item is unbudgeted and funds would need to be sourced from an alternative item. Given that the total initial cost would equate to \$54'628, this is a large expense for Shire and, if at all, would not be recovered in a timely manner.

**Strategic Implications:**

The Shire of York's 2012 Strategic Community Plan goals are:

**Social**

- *Manage population growth, through planned provision of services and infrastructure.*
- *Strengthen community interactions and a sense of a united, cohesive and safe community.*
- *Build and strengthen community, culture, vibrancy and energy.*

**Environmental**

- *Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.*
- *Support sustainable energy and renewable resource choices.*

**Economic**

- *Build population base through economic prosperity.*
- *Value, protect and preserve our heritage and past.*
- *Grow the economic base and actively support local businesses and service provision.*

The development of Crawford Court Precinct is consistent with the Strategic Community Plan, however, when weighing up the cost of the Shire facilitating this development against the overall community benefit, it is not considered as a priority.

It is considered that the financial/economic impact to the Shire would far outweigh the benefit to only a small number of community members i.e. 12 properties.

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:           No**

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

There are no economic implications associated with the resolution of this report.

If the Shire agreed to cover the cost of preparing the Structure Plan, then the cost would have significant economic implications the Shire.

**Social Implications:**

There are no social implications associated with this proposal.

There is a potential for the funding of this project to cause an undesirable precedent in the future to fund private development.

**Environmental Implications:**

There are no environmental implications associated with this proposal.

**Officer Comment:**

In accordance with Schedule 5 of the Scheme, an overall drainage plan needs to be prepared prior to permitting and subdivision within the Crawford Court Precinct.

As well as this, as a condition of subdivision in accordance with Schedule 5, an outline development plan may be required from the landowners which will detail issues, including drainage, more specifically for the context of their individual site/lots. This would largely depend on the configuration and scale of development for each lot.

The landowners/developers of the Precinct are responsible for meeting these requirements including all associated costs prior to any subdivision approval. Ms Bramley and Mr Wieske have not questioned the requirement, rather the responsibility of cost.

In considering the matter, further advice was obtained in relation to the most appropriate way to recover costs of the associated drainage plan and supporting documents, and it was concluded that in order to re-coup costs, a Structure Plan or Outline Development Plan (ODP) would be required. However, the rate at which these costs would be recovered would be largely dependent on the rate at which the land is developed which is expected to be over an extended period of time i.e. 10 – 20 years.

Further to this, a quote was obtained from GHD for the initial cost of the preparation of a Structure Plan, in accordance with the Department of Planning Structure Plan Preparation Guidelines. It was estimated that the cost would be \$34'307 excluding GST and a further \$20'321 excluding GST for a local water management strategy (i.e. the overall drainage plan). This cost does not include the internal staff hours required to manage this project which could be in excess of 50 – 100 hours.

Essentially, the Structure Plan would contain an implementation plan that would include, among other things, developer contributions. In general terms, developer contributions are the total costs of the development apportioned between the landowners/developers, however the cost is generally only recoverable when development occurs.

In order to share costs equally among the landowners, Council agreed to investigate if there was a way that we could re-coup the costs associated. Whilst the Shire does not wish to discourage development within York, it is not responsible for the costs involved. Agreeing to the initial cost associated with this development would also set an undesirable for the Shire to fund future development.

#### OFFICER RECOMMENDATION

*“That the Commissioner:*

- 1. Uphold the requirements of the Shire of York Town Planning Scheme No. 2, specifically Schedule 5, additional requirements for the Crawford Court Precinct;*
- 2. Write to the landowners to inform them that the cost of the requirements associated with Schedule 5 will be the responsibility of the landowners/developers of the area.”*

#### RESOLUTION 050315

*“That:*

***The Officer Recommendation Not be adopted. The Officer Report to be deferred for one month.”***

***The Commissioner Declared the Motion Carried***

## 9.2 Administration Reports

### 9. OFFICER'S REPORTS

#### 9.2 ADMINISTRATION REPORTS

##### 9.2.1 York Health Advisory Group

**FILE NO:** HS.GEN.3  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 5 March 2015  
**LOCATION/ADDRESS:** Shire of York  
**APPLICANT:** York Health Advisory Group  
**SENIOR OFFICER:** G K Simpson, A/CEO  
**REPORTING OFFICER:** G K Simpson, A/CEO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

#### **Summary:**

The York Health Advisory Group (YHAG) Committee has requested the Shire to support its submission to have an on call doctor service for the York Hospital, particularly after Independent Practitioner Network (IPN) surgery hours and weekends.

#### **Background:**

In previous years the Shire provided a house and car allowance for two doctors but in 2009 the doctors employed at the IPN surgery decided not to provide the emergency service and after hours service and relinquished the Shires subsidy allowances.

#### **Consultation:**

Mr Julian Krieg, YHAG Chairman and Ms Tricia Walters, YHAG Deputy Chairman, met with Commissioner Best and Acting CEO G K Simpson.

#### **Statutory Environment:**

The State Health Department is the responsible authority. Ms Beverley Hamerton, Operations Manager of WA Country Health Service manages the regional health needs and arranges the employment of doctors in hospitals.

#### **Policy Implications:**

This Shire has not had a policy position in respect to the provision of financial subsidies for medical practitioners.

#### **Financial Implications:**

It is suggested that the Shire rent a suitable house on the open market at a suggested \$350 per week. In addition, consideration needs to be given to the provision of a vehicle being \$20,000 initial outlay and then \$10,000 for change over and \$5,000 for running costs.

#### **Strategic Implications:**

Improving regional health services is a priority in the Shires Key Desire to build a sense of Community, it is also a Governance Objective to strengthen the Shire Leadership.

#### **Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken: Not Applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

The proposed service is for after hours and weekend emergencies which will not have a large impact on the local economy.

**Social Implications:**

This service will have a positive impact on the social fabric of York.

**Environmental Implications:**

Nil

**Officer Comment:**

The York Hospital and local residents will have significant benefit in that an after hours local doctor can provide immediate service and if necessary admit patients to hospital, whereas without a medical service after hours, people have to travel to other centres.

**RESOLUTION**

**060315**

***“That the Commissioner:***

***Advise the York Health Advisory Group Committee that:***

- 1. It supports the need for an on-call doctor service for the York Hospital, particularly after IPN surgery hours and weekends.***
- 2. Commits financial resources for the next three financial years to provide for a house and car allowance for an initial three financial years.***
- 3. An extension to the initial triennium is to be negotiated during the first three months of 2018 in time for the Shires deliberation of the 2018/19 budget.***

**AMENDMENT**

- 4. The Shire of York to write to the York Health Advisory Group with advice of outcome as soon as possible.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***

**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.2 Application To Keep Bees**

**FILE NO:**  
**COUNCIL DATE:** 23<sup>rd</sup> March 2015  
**REPORT DATE:** 4<sup>th</sup> March 2015  
**LOCATION/ADDRESS:** 81 Andrews Avenue, York  
**APPLICANT:** Candessa Ashbury  
**SENIOR OFFICER:** G Simpson, A/CEO  
**REPORTING OFFICER:** J Coles, EHO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Attachment 1 –  
Correspondence from Applicant  
(Provided only to the Commissioner)  
Attachment 2 - Shire of Kalamunda Bee Keeping  
Local Law 2008  
**DOCUMENTS TABLED:** Nil  
**REPORT APPROVED BY THE A/CEO:** Graeme Simpson

**Summary:**

To consider the applicant's request for permission to place one beehive on the residential property at 81 Andrews Avenue, York

**Background:**

The Shire of York Health Local Laws 2000 do not allow persons to keep, or permit the keeping of bees anywhere within the district, unless approval to do so has been given by the Council.

The owner of 81 Andrews Avenue, the applicant, made enquires to this end, with the Shire's Environmental Health Officer, and has subsequently sought such permission, in writing, to follow the requirement(s) of the relevant legislation (please refer to Statutory Environment). The reason set out in the application for keeping bees at 81 Andrews Avenue is to help pollinate the owner's fruit trees.

Department of Agriculture and Food WA sourced background information:

Only a relatively small part of Western Australia (WA) is suitable for beekeeping as much of the landscape lacks the melliferous flowers needed for honey production. There are currently more than 960 registered beekeepers in WA, with nearly 29,000 hives. More than 90% of these are amateur beekeepers. In order to maintain high security standards, beehives need to be registered with the Department of Agriculture and Food WA.

The applicant's written request, Attachment 1, has been determined to be a confidential item, under s. 5.23(2)(b) *Local Government Act 1995*, as the document contains personal affairs of a person.

**Consultation:**

Nil

**Statutory Environment:**

Administered by Shire of York

1. *Health Act 1911 - Shire of York Health Local Laws 2000* – Division 7

### *Interpretation*

6.7.1 *In this Division, unless the context otherwise requires—*

*“bees” means an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee.*

### *Restrictions on keeping of Bees in Hives*

6.7.2 (1) *A person shall not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by the Council.*

(2) *If, in the opinion of an Environmental Health Officer, the approved beehives are causing a nuisance, the Council may direct any bees or approved beehives to be removed.*

(3) *A person shall comply with a direction within the time specified.*

*Administered by Department of Agriculture and Food WA*

### *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013 – Regulation 13*

(1) *A person must not be or become a beekeeper unless the person is a registered beekeeper.*

*Penalty: a fine of \$2 000.*

(2) *Subregulation (1) does not apply to a person who becomes a beekeeper only because of the ownership, or the charge, care or possession, of bees —*

(a) *kept in a device of an approved kind; and*

(b) *used for the purposes of the pollination of crops,*

*if the bees and device are disposed of in accordance with subregulation (4) within 8 weeks after the person becomes a beekeeper in relation to them.*

(3) *A beekeeper who owns bees, or has the charge, care or possession of bees, that are kept in a device approved for the purposes of subregulation (2)(a) must legibly and indelibly mark on the device the date when the bees are first placed in it.*

*Penalty: a fine of \$2 000.*

(4) *For the purposes of subregulation (2), the manner of disposing of the bees and the device is by —*

(a) *destroying the bees immediately after flying has ended at night by pouring petrol into the device and immediately closing it; and*

(b) *burning the device and the dead bees in a pit in the ground; and*

(c) *burying the burnt remains under at least 30 cm of earth.*

(5) *A device used and disposed of in accordance with subregulations (2) and (4) is not to be regarded as a hive for the purposes of these regulations.*

(6) *A person may apply, in the approved form accompanied by the appropriate fee, to the Director General for registration as a beekeeper.*

(7) *If a person makes an application under subregulation (6), the Director General may register, or refuse to register, the person as a beekeeper.*

### **Policy Implications:**

The Shire of York does not have a policy, or specific local law relating to bees and/or bee keeping. Therefore, no policy implications apply in the preparation of this report.

### **Financial Implications:**

Nil

### **Strategic Implications:**

Nil

### **Voting Requirements:**

Commissioner's Voting Support



**Site Inspection:**

**Site Inspection Undertaken:**

Not applicable at application stage.

Site inspection applicable, if Council resolve to approve such an application to verify compliance with proposed approval conditions.

**Triple bottom Line Assessment:**

**Economic Implications:**

Nil

**Social Implications:**

Nil

**Environmental Implications:**

'We will sustain and enhance our rural identity and natural aspects within our thriving natural environment, ensuring our natural environment is protected and enhanced'. The environmental benefits of keeping bees, by means of pollination, is globally documented and recognised.

**Officer Comment:**

The *Shire of York Health Local Laws 2000* (local law) does not contain provisions detailing specific legal requirements for the keeping of bees.

Nevertheless, the method of seeking approval within the local law enables Council to regulate the approval by means of imposing conditions, which are attached to the approval. In doing so, Council is advised to impose conditions which are imposed in line with other local government guidelines and bee keeping local laws, which also compliment other State legislation (administered by the Department of Agriculture and Food WA), and which are not too burdensome – notwithstanding nuisance considerations.

In addition, the local law provides the provision for Council to also remove such approved bees and/or beehives, in the event that the Shire's Environmental Health Officer is satisfied that a nuisance is being caused, not the likelihood of a nuisance.

Since the permission request states that the applicant's friend is a beekeeper and will be caring for the hive on a regular basis, the Council is minded to consider the beekeeper having adequate access to maintain the beehive, to ensure that sound hive management principals are followed.

Therefore, Council has two options available:

1. Council resolves to approve the applicant's request to keep 1 (one) beehive upon the property, 81 Andrews Avenue, York, and to condition such an approval with the following conditions:
  - No more than 1 (one) beehive will be kept on the property at any one time;
  - The bee keeper must hold a current Certificate of Registration under Regulation 13 of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* and must be made available to the Shire for inspection upon request.
  - If the bee keeper is not the owner of the property where the beehive is sited, the Shire is to be satisfied that the owner's consent is provided to the bee keeper to maintain the beehive to as part of sound hive management principals.
  - To the satisfaction of the Shire's Environmental Health Officer:
    - An adequate and permanent supply of water must be provided in a shaded area nearby, so as not to cause a nuisance to neighbours;
    - The boundary adjacent to the beehive must be screened to prevent bees flying low over a thoroughfare, public place or adjoining land; and
    - The beehive must be at least 5 (five) metres from the boundary of adjoining lots and at least 8 (eight) metres from the boundary of any public place or thoroughfare.

- The beehive must be kept in such a manner that they do not cause a nuisance to another person.
2. Council resolves to not approve the applicant's request to keep 1 (one) beehive upon the property, 81 Andrews Avenue, York. It is noted that should Council accept this option, not to approve the application, that the applicant can appeal that decision at the State Administrative Tribunal.

**RESOLUTION  
070315**

***"That the Commissioner:***

***Approves the request for 1 (one) beehive to be kept at 81 Andrews Avenue, York, and that such an approval is subject to the following conditions:***

- ***No more than 1 (one) beehive will be kept on the property at any one time;***
- ***The bee keeper must hold a current Certificate of Registration under Regulation 13 of the Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013 and must be made available to the Shire for inspection upon request.***
- ***If the bee keeper is not the owner of the property where the beehive is sited, the Shire is to be satisfied that the owner's consent is provided to the bee keeper to maintain the beehive to as part of sound hive management principals.***
- ***To the satisfaction of the Shire's Environmental Health Officer: An adequate and permanent supply of water must be provided in a shaded area nearby, so as not to cause a nuisance to neighbours;  
The boundary adjacent to the beehive must be screened to prevent bees flying low over a thoroughfare, public place or adjoining land; and  
The beehive must be at least 5 (five) metres from the boundary of adjoining lots and at least 8 (eight) metres from the boundary of any public place or thoroughfare.***
- ***The beehive must be kept in such a manner that they do not cause a nuisance to another person.***

***Approves that no bees will be introduced onto the property of 81 Andrews Avenue, York, until the Shire of York is satisfied that all of the above conditions have been met, and that written confirmation of this is received by the applicant.***

***Approves that where a complaint regarding bee keeping is received, the complaint will be investigated to ensure that any nuisance that exists is abated."***

***The Commissioner Resolved to Adopt the Officer Recommendation***

**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.3 Corporate Bowls 2015**

**FILE NO:** FI.DON  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 5 March 2015  
**LOCATION/ADDRESS:** Shire of York  
**APPLICANT:** York Corporate Bowls 2015  
**SENIOR OFFICER:** G K Simpson, A/CEO  
**REPORTING OFFICER:** G K Simpson, A/CEO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** Graeme Simpson

*At the Briefing Information Session the organisers of the Corporate Bowls requested this item be withdrawn.*



**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.4 Audit Committee**

**FILE NO:** FI.FRP.6  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 9 March 2015  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** Shire of York  
**SENIOR OFFICER:** G K Simpson, A/CEO  
**REPORTING OFFICER:** G K Simpson, A/CEO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

The provisions of Part 7, Division 1A require a Local Government to establish an Audit Committee. The loss of members and proposed change in purpose of the Committee means the existing Finance, Risk & Audit Committee needs to be disbanded.

**Background:**

The previous Finance Risk & Audit Committee consisted of all Councillors and two community members. Two Councillors have resigned and the remaining four members suspended, leaving only two community members.

**Consultation:**

Commissioner  
Department of Local Government and Communities

**Statutory Environment:**

Section 5.11 of the Local Government Act (1) (c) provides for the disbanding of the Finance, Risk & Audit Committee and Section 7.1A requires the establishment of an Audit Committee.

**Policy Implications:**

This proposal will establish new policy. The Commissioner must act as the Audit Committee and if additional members are desired they can assume adviser status.

**Financial Implications:**

The statutory suspension of members has reduced meeting attendance costs.

**Strategic Implications:**

Nil

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** Not Applicable

**Triple bottom Line Assessment:**

**Economic Implications:**

Not Applicable

**Social Implications:**

A lack of community representation may be perceived as not being open governance but the statutory situation has to be followed.

**Environmental Implications:**

Not Applicable

**Officer Comment:**

Membership of the Audit Committee is determined by the legislation and there are two parts, the Committee is to be three (3) or more and at least three (3) or the majority are to be Council members. The Commissioner, being the replacement for the members cannot be equalled or outnumbered.

**RESOLUTION  
080315**

***“That the Commissioner:***

- 1. Disband the existing Finance, Risk & Audit Committee in accordance with Section 5.11 (1) (c) of the Local Government Act.***
- 2. Assume the role of the Audit Committee.***
- 3. Consider inviting members of the public to act as Advisors to the Audit Committee.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***

9. OFFICER'S REPORTS  
9.2 ADMINISTRATION REPORTS  
9.2.5 Easter Fair

FILE NO: CS.CEV  
COUNCIL DATE: 23 March 2015  
REPORT DATE: 9 March 2015  
LOCATION/ADDRESS: Cnr Avon Terrace & Joaquina Street  
APPLICANT: Mr Chris Baker  
SENIOR OFFICER: G K Simpson, A/CEO  
REPORTING OFFICER: G K Simpson, A/CEO  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Nil  
DOCUMENTS TABLED: Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

**Summary:**

Mr Chris Baker has again approached the Shire for financial assistance to conduct an Antique and Collectors Fair during the Easter period.

**Background:**

Mr Baker has conducted the Fair for many years in the York Town Hall and arranges supplementary stalls outside of the hall.

**Consultation:**

Commissioner  
Shire staff

**Statutory Environment:**

Local Government Act provisions require Council (Commissioner) to waive fees set by Council at the budget meeting.

**Policy Implications:**

Complies with the policy position.

**Financial Implications:**

The fees charged for hire of the hall are \$70 for setting up and \$800 per day for the event. Hire fees for 1 day set up and 3 days use amounts to \$2,470.

**Strategic Implications:**

The supporting of the Fair supports the Economic Development objective of promoting York as a regional centre with historical significance.

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

Site Inspection Undertaken: **Not Applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

Not Applicable

**Social Implications:**

Supplements other activities during the Easter period.

**Environmental Implications:**

Not Applicable

**Officer Comment:**

Support for local activities during holiday periods is a very important aspect of promoting tourism and lifting visitor numbers.

**OFFICER RECOMMENDATION**

*“That the Commissioner:*

1. *Approve the application by Mr Chris Baker of York to conduct an Antiques and Collectors Fair in the York Town Hall during the period 3<sup>rd</sup> - 6<sup>th</sup> April, 2015 inclusive.*
2. *Waive hall hire fees amounting to \$2,470.”*

**RESOLUTION**

**090315**

*“That the Officer Recommendation be amended to read:*

1. *Approve the application by Mr Chris Baker of York to conduct an Easter Fair in the York Town Hall during the period 3<sup>rd</sup> - 6<sup>th</sup> April, 2015 inclusive.*
2. *Waive hall hire fees amounting to \$2,470.”*

***The Commissioner Resolved to Adopt the Officer Recommendation***

*Reason for Amendment –*

*The name ‘Antique & Collectors Fair’ is owned by a third party, who is not involved with this application.*



**9. OFFICERS' REPORTS**  
**9.2 Administration Reports**  
**9.2.6 Audit Committee Minutes 18 March 2015**

**FILE:** FI.FRP.4, FI.FRP.5, FI.FRP.6  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 18 March 2015  
**LOCATION/ADDRESS:** N/A  
**ACTION OFFICER:** Tyhscha Cochrane, DCEO  
**SENIOR OFFICER:** Graeme Simpson, ACEO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Minutes 18 March 2015  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

To receive and endorse the recommendations of the Audit Committee (18 March 2015).

**Background:**

N/A

**Consultation:**

Member - Commissioner;  
Staff; and  
Auditors.

**Statutory Environment:**

Local Government Act 1995 (as amended)  
Local Government (Financial Management) Regulations 1996  
Local Government (Audit) Regulations 1996

**Policy Implications:**

Nil.

**Financial Implications:**

Not applicable to this report.

**Strategic Implications:**

Nil.

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** Not applicable

**Triple bottom Line Assessment:**

**Economic Implications:**

N/A

**Social Implications:**

N/A

**Environmental Implications:**

Not applicable.

**Comment:**

To receive and endorse the recommendations of the Audit Committee held on the 18<sup>th</sup> March 2015.

**RESOLUTION**

**100315**

*“That Commissioner receives the Minutes of the Audit Committee meeting held on the 18<sup>th</sup> March 2015 and endorses the following recommendations from the Audit Committee:*

**Report 7.1:**

*“That it be noted that the Shire’s Auditor, Macri Partners, attended the Audit Committee meeting held on the 18<sup>th</sup> March 2015; and*

*That an invitation be provided to Anthony Macri, Audit Partner of Macri Partners’ to extend their contract for a further 12 month period.*

**Advice Note:**

*It is Council’s intention to finalise the budget by 30 June 2015, in case of risk of Council not having an absolute majority to set the 2015/16 budget.”*

**Report 7.2:**

*“That the Commissioner:*

*Notes the results of the Chief Executive Officer’s review of the appropriateness and effectiveness of the Council’s systems in regard to risk management, internal control and legislative compliance.*

**Advice Note:**

*It is provided for information purposes only and staff are building on their reporting structures, with the recent turnover of staff it has been difficult to meet all requirements at a high standard.*

*Council has requested the Auditor General to conduct an audit as “Systemic Weaknesses” in Western Australian’s Local Government sector is leaving Shires vulnerable to procurement fraud and corruption CCC are providing Misconduct Resistance Training.”*

**Report 7.3:**

*“That the Audit Committee recommends to Council the following:*

- 1.** *notes the audit outcomes and corrective action detailed in the report titled “2014 Compliance Audit Return” for implementation by the Chief Executive Officer; and*
- 2.** *approves the completed 2014 Compliance Audit Return, as detailed in Appendix A, for certification by the Commissioner and the Chief Executive Officer in accordance with Regulation 15(2) of the Local Government (Audit) Regulations 1996.”*

***The Commissioner Resolved to Adopt the Officer Recommendation***

## 9.3 Works Reports

Nil

## 9.4 Financial Reports

### 9. OFFICER'S REPORTS

#### 9.4 FINANCE REPORTS

##### 9.4.1 Freedom of Information

FILE NO:	AS.RMT.2
COUNCIL DATE:	23 March 2015
REPORT DATE:	9 March 2015
LOCATION/ADDRESS:	N/A
APPLICANT:	N/A
SENIOR OFFICER:	Graeme Simpson, A/CEO
REPORTING OFFICER:	Tyhscha Cochrane, Deputy CEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

#### Summary:

That the Commissioner considers the financial impact of Freedom of Information applications and limited staff resources.

#### Background:

History of FOI Applications:

##### 2012/13

Total 22 FOI applications received

##### 2013/14

Total of 16 FOI applications received

##### 2014/15 – February 2015

Total of 9 FOI applications received - 2 carried over from the previous year

#### Consultation:

Staff;  
Commissioner

#### Statutory Environment:

Freedom of Information Act and Regulations are applicable to this report in relation to processes and fees and charges.

Local Government Act.

#### Policy Implications:

Linkages to the Recordkeeping Policy and in turn the Information Statement.

**Financial Implications:**

This service is undertaken and is not cost recovery, fees are charged in accordance with the Regulations.

2012/13 Total 22 FOI applications received – income \$1,015.00

2013/14 Total of 16 FOI applications received – income \$518.00


2014/15 – February 2015 Total of 9 FOI applications received - 2 carried over from the previous year – income to date \$425.00

FOI's are not just limited to the FOI Officer who is designated for FOI work, they also impact on the various departments within the Shire who are also required to assist the officer completing the application and providing background information. These charges have not been included, as they are hard to monitor as each application varies ie. the application can deal with planning, facilities, administration and so forth.

It would be reasonable to say that the Shire will deal with approximately 19 applications over the financial year, which could result in an additional \$28,500 in consultant fees. This is based on approximately \$1,500 per application and once again is dependent on the complexity of each application.

It should be noted that most applications are very time consuming and involve years of information. It is not just a matter of photocopying, research is required, the document needs to be read, on most cases third parties approached, information redacted and so on.

There are a lot of overheads associated with employment and are all dependent upon the applicants being satisfied that they have received everything, unfortunately Council's history with internal and external reviews have been extremely high.

	<b>SHIRE OF YORK</b>	
	<b>Freedom of Information</b>	
	<b>Cost to Shire of York</b>	
<b>ESTIMATED ANNUAL EXPENDITURE</b>		
Staff 1 - Administrative/Research - 22 hrs/wk	\$	33,439
Staff 2 - Research/Liaison/Meetings	\$	23,712
Staff 3 - Liaison/Meetings	\$	9,880
Superannuation	\$	9,720
Workers Comp	\$	5,036
Training	\$	700
Computers	\$	2,500
Sundry - Photocopying/Paper/Stationery/Utilities		
<b>Total Estimated Costs</b>	<b>\$</b>	<b>84,986</b>
<b>Comments:</b>		
Plus additional Consultant Fees approx. per month as required depending on number of FOI applications and complexity. Some issues may require legal advice which may vary costs per application.		

Currently the expense which relates only to the staff time is 1.8% of the rates income, this does not include consultants or legal advice that may be required from time to time.

**Strategic Implications:**

N/A

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** N/A

**Economic Implications:**

There is an economic impact on the community and other services provided, as the service is not cost recovery.

**Officers Comment:**

Under the FOI Act the Council has 45 days to finalise and issue a Notice of Decision.

The majority of FOI's that are being received are large and complex and divert a substantial and unreasonable portions of staff resources away from other every day operations. This includes not only staff resources but also finance and equipment.

An example is provided to illustrate the complexity that most applications require to ensure that the requirements of the Act are met:

**Example – extract from letter sent out recently:**

*"you seek access, under the FOI Act, to documents which you described as follows:*

- 1. Whole of life costs for the York Recreation and Convention Centre.*
- 2. Expenditure to date of Forrest Oval Recreation and Convention Centre to include:*
  - (a) Full details of Grants received;*
  - (b) All monies provided from Shire funds;*
  - (c) Re-allocation of grants from other projects;*
  - (d) Costs of work provided by Shire of York staff;*
  - (e) Costs associated with remedial work carried out since building officially opened; and*
  - (f) Costs of work carried out on Oval ground." ("the requested documents")...*

*...The Shire's electronic records keeping system and data bases contain approximately:*

- 805 financial documents relating to accounts received and payments made in respect of the construction and/or installation of infrastructure at the Centre;*
- 215 financial documents relating to monies received and payments made in respect of the installation of fixtures and furniture at the Centre;*

- *85 financial documents relating to monies received and payments made in respect of the buildings at the Centre; and*
- *660 financial documents relating to work performed by Shire staff in relation to the development, construction and operation of the Centre.”*

It should be noted that helping an applicant reduce the scope is a requirement under the Act and therefore every endeavour to reduce/refine the scope is undertaken, however the following needs to be considered:

- the limited human resources available to the Shire to deal with your application;
- the statutory obligations and duties imposed upon the Shire by the FOI Act in relation to the rights and entitlements of any third party or parties who may be affected by any decision on access made by the Shire;
- the number of documents falling within the scope of your FOI application; and
- the amount of time that would be required by one or more officers of the Shire to:
  - a. collect, collate and photocopy the requested documents;
  - b. make a decision on access with respect to each document;
  - c. redact any potentially exempt matter from each document or, in the alternative, to redact any third party information that is agreed to be removed from the scope of your FOI application;
  - d. photocopy the redacted documents, prior to their release;
  - e. consult with all of the affected third parties, in the event that consents not granted for third party information being removed from the scope of the FOI application.

#### OFFICER RECOMMENDATION

*“That the Commissioner:*

*Acknowledges the additional cost associated with Freedom of Information applications, ie. Consultants and staff time.*

*Advice Note:*

*The additional costs will be noted in the mid-year review document.”*

#### **RESOLUTION**

**110315**

***“That:***

***The Officer Recommendation Not be adopted and this item be referred to the next Ordinary Council Meeting.”***

***The Commissioner Declared the Motion Carried***

**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.2 Monthly Financial Reports – February 2015**

**FILE NO:** FI.FRP  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 3 March 2015  
**LOCATION/ADDRESS:** Not Applicable  
**APPLICANT:** Not Applicable  
**SENIOR OFFICER:** Graeme Simpson, Acting CEO  
**REPORTING OFFICER:** Tabitha Bateman, Financial Controller  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Yes – Appendix A as detailed in Summary  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

The Financial Report for the period ending 28 February 2015 is presented for consideration.

Appendix A includes the following:

- Monthly Statements for the period ended 28 February 2015
- Bank Account Reconciliations
- List of Creditors Payments
- Corporate Credit Card Transaction Listing

**Statutory Environment:**

Local Government Act 1995 (As Amended).  
 Local Government (Financial Management) Regulations 1996 (As Amended).  
 Australian Accounting Standards.

**Financial Implications:**

The following information provides balances for key financial areas for the Shire of York's financial position as at 28 February 2015;

*Outstanding Rates and Services*

Total outstanding rates as at 28 February 2015 are \$1,573,698 compared to \$1,709,064 as at 31 January 2015 which is an increase to cash at bank of \$135,367.

3 Years & over	\$ 284,255	18.06% of rates outstanding
2 Years & over	\$ 185,173	11.77% of rates outstanding
1 Years & over	<u>\$ 223,232</u>	14.19% of rates outstanding
<i>Total Prior Years</i>	<i>\$ 692,660</i>	<i>44.01% of rates outstanding</i>
Current rates	\$ 881,037	55.99% of rates outstanding

*Outstanding Sundry Debtors*

Total outstanding sundry debtors as at 28 February 2015 are \$413,139 compared to \$582,444 as at 31 January 2015.

90 days & over	\$317,237	76.79% of sundry debtors outstanding
60 days & over	\$ 24,428	5.91% of sundry debtors outstanding
30 days & over	\$ 19,488	4.72% of sundry debtors outstanding
Current	\$ 51,986	12.58% of sundry debtors outstanding

**Strategic Implications:**

Nil

**Voting Requirements:**

Commissioner’s Voting Support

**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.

**Officers Comment:**

Not applicable.

**RESOLUTION  
120315**

*“That the Commissioner:*

*Receive the Monthly Financial Report for February and ratify payments drawn from the Municipal and Trust accounts for the period ending 28 February 2015:*

	<u>AMOUNT</u>
<b><u>MUNICIPAL FUND</u></b>	
<i>Cheque Payments</i>	\$ 65,625.45
<i>Electronic Funds Payments</i>	\$ 386,933.40
<i>Direct Debits Payroll</i>	\$ 153,604.50
<i>Bank Fees</i>	\$ 1,072.54
<i>Corporate Cards</i>	\$ 435.20
<i>Fire Messaging Service</i>	\$ 619.22
<b>TOTAL</b>	<b><u>\$ 608,290.31</u></b>
<b><u>TRUST FUND</u></b>	
<i>Cheque Payments</i>	\$ 40.00
<i>Electronic Funds Payments</i>	\$ 3,057.37
<i>Direct Debits Licensing</i>	\$ 119,796.80
<b>TOTAL</b>	<b><u>\$ 122,894.17</u></b>
<b>TOTAL DISBURSEMENTS</b>	<b><u>\$ 731,184.48”</u></b>

*The Commissioner Resolved to Adopt the Officer Recommendation*

**Appendices Attached**



9. OFFICER'S REPORTS  
9.4 FINANCE REPORTS  
9.4.3 Mid Year Review

FILE NO: FI.FRP  
COUNCIL DATE: 23 March 2015  
REPORT DATE: 9 March 2015  
LOCATION/ADDRESS: Not Applicable  
APPLICANT: Not Applicable  
SENIOR OFFICER: Graeme Simpson, Acting CEO  
REPORTING OFFICER: Tyhscha Cochrane – Deputy CEO  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Appendix A – 2014/15 Budget to Actual Analysis  
(Adopted Budget Mid Year Review as at 31/12/2014)  
DOCUMENTS TABLED: Nil  
REPORT APPROVED BY THE A/CEO: Graeme Simpson

**Summary:**

The Local Government Act 1995 requires the Council to undertake a review of the Annual Budget each year.

The attached worksheets show a line by line analysis with projections to the 30<sup>th</sup> June 2015. The worksheets indicate that while amendments are required throughout the adopted budget, management has taken the approach to meet our objective of maintaining a balanced budget.

It is anticipated that further internal budget reviews will be undertaken for the 2014/15 financial year at the end of April and May and if changes are required these will be submitted to Council including any relevant end of year transfers or setting aside of funds for inclusion in the following year budget.

**Background:**

The 2014/15 annual budget was adopted by Council on 17 July 2014. Council also resolved at the time of adopting the budget the following:

***“That Council, by a simple majority:***

- 1. In accordance with Regulation 34(5) of the Local Government (Financial Management) Regulations 1996 and Australian Accounting Standard Number 5, adopt the percentage of 10% or \$10,000 whichever is the greater for reporting material variances in the Statement of Financial Activity.”***

Whilst the Council determined that only major variances be reported on where it is considered appropriate to provide additional comments this has occurred. Comments are however mostly restricted to those areas mentioned within the Council resolution above.

**Statutory Environment:**

Local Government (Financial Management) Regulation 33A states the following:

***“33A. Review of budget***

- (1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.
- (2A) The review of an annual budget for a financial year must —

- (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
  - (b) consider the local government's financial position as at the date of the review; and
  - (c) review the outcomes for the end of that financial year that are forecast in the budget.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.
- (3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.
- \*Absolute majority required.*
- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

Local Government Act 1995 states the following:

**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."

**Financial Implications:**

Council experienced some setbacks early in the financial year that can be attributed largely to termination payments and the unexpected cost of filling these vacant positions. As a result \$416,230 has been deferred from this year's budget to meet our objective of a balanced budget.

**Strategic Implications:**

Nil

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken: Not applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

No economic implications arise from this review as project based expenditure included in the budget is still progressing.

**Social Implications:**

The mid year review shows an open and accountable system. Every effort has been made to incorporate community needs projects.

**Comment:**

The purpose of the review is to ensure that the Council is informed of the likely financial position of the Shire at 30<sup>th</sup> June 2015 in terms of its adopted budget. For purposes of annual reporting, Council is required to report against the adopted budget.

**Environmental Implications:**

Nil

**Officers Comment:**

Nil

**RESOLUTION**

**130315**

***“That the Commissioner in accordance with section 6.8 of the Local Government Act:***

- 1. authorise the following unbudgeted items, which have been provided for in the mid year review;***

***Exp – Account 42150 – \$11,538 – Parental Leave Payments***

***Inc – Account 42250 - \$11,538 – Parental Leave Reimbursements***

***Exp – Account 112072 – \$30,000 – Swimming Pool Grant Income***

***Inc – Account 112303 – \$30,000 – Swimming Pool Capital Expenditure***

***Exp – Account 146172 – \$14,387 – Lease Expenditure***

***Exp – Account NEW – \$6,000 – Old Gym Refurbishment***

- 2. endorse the projections and variations to 30 June 2015 for the 2014/15 Annual Budget Mid Year Review and notes the comments section of the mid year budget review; and***

- 3. that a copy of the review be forwarded to the Department of Local Government within 30 days of Council having given consideration.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***

**Appendices Attached**



**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.4 Danceflight**

**FILE NO:** CS.CCS.6/CCP.22  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 6 March 2015  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** N/A  
**SENIOR OFFICER:** Graeme Simpson – A/CEO  
**REPORTING OFFICER:** Tyhscha Cochrane – Deputy CEO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

Danceflight dance school of York would like to propose that the Shire kindly allow them to hire and facilitate an upgrade of the unused former gym area of the Recreation Centre.

They would like to further propose that the Shire provide a subsidised hire rate in return for a guaranteed long term hire to Danceflight.

**Background:**

Danceflight are the only local dance school started by a local Mother and Daughter team and have been operating for the past 6 years. They offer students classes in the styles of Ballet, Tap, Jazz, Lyrical, Hip-hop and Acrobatics.

Danceflight is a private business, however they state it is a labour of love and they consider themselves a community group providing an important service to the town's children.

For the past 6 years they have been operating from The Masonic Hall, which is in need of repair, however this is not on the agenda at this stage. They would very much like to offer the students a more professional and specific venue in which to provide tuition there by encouraging more students and being able to provide more classes, in addition the new venue would be more conducive to occupational health and safety requirements.

**Consultation:**

Building Consultant;  
Staff; and  
Contractors.

Some valid questions were raised after the briefing session on the 16<sup>th</sup> March 2015 regarding this agenda item and further discussions were had with Danceflight, discussions related to the possibility of becoming an incorporated body, mirrors waiting until after fundraising activities had taken place.

**Statutory Environment:**

Local Government Act.

**Policy Implications:**

N/A

**Financial Implications:**

Received quotes to put mirrors up, after meeting with instructors to ensure it meets their needs, mirrors \$2,928 and floorboards \$2,636.36.

Currently the fees are set at \$465 per annum. I would envisage these going up in the new financial year with the work expected and this will need to be discussed with Danceflight prior to entering into any works or arrangements.

**Strategic Implications:**

Social: Building a Sense of Community and Built Environment: Enhanced Lifestyle Choices.

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** Various

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

Underutilised Shire asset.

**Social Implications:**

Danceflight is a business in the community that provides children with the valuable opportunity to learn the art of dance and contribute to their cultural development as well as contributing to the community entertainment through annual performances at the Town Hall and various community appearances and fundraisers.

**Environmental Implications:**

Use of the built environment.

**Officers Comment:**

The instructors ambitions, as indicated in their correspondence to Council are as follows:

- (A) provide a more professional excellent dance specific location in which to provide dance lessons for the community
- (B) provide revenue for the Shire through long term hire of a currently unused area
- (C) create a space that would be conducive to hiring out to other fitness/community groups.

The Group have advised that they will paint the rooms in return for Council doing the floors and mirrors, this has been checked with Council's Purchasing Officer and this can be done outside of utilising a registered painter. It is considered that completing the floors with an appropriate flooring for dancers is fair and reasonable in trade off for the painting that will be undertaken by volunteers of the group.

The mirrors will not be organised until the group has completed fundraising activities to enable this to happen.

Building upgrades not specifically related to Danceflight's request are required to comply with standards and information that came out of the Age Friendly Community Audit.

The stairs are set up for an exit point and need some minor upgrading to be used as an entry.

The stairway on the outside of the building will only be used as an exit point and all entry will be through the stadium. This is something Council will look at in the new financial year to ensure it meets the standard requirements.

The activities for youth in town are limited and this business offers some form of interaction 5 days per week for the year 2015.

**RESOLUTION**

**140315**

***“That the Commissioner:***

- 1. allocates approximately \$2,700.00 to the upgrades of the old gymnasium area in relation to the flooring;***
- 2. authorises Danceflight to undertake the painting of the facility as trade off for 1. above; and***
- 3. advises Danceflight that all appropriate insurances to be in place for the business and public liability to be provided as per standard procedures for any agreement that is put in place.***

***Advice Note:***

***Danceflight should investigate the possibility of becoming an incorporated body to enable them to access grants in the future.***

***This report is to show that Council support Danceflight’s intent to assist youth in York.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***





**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.5 Non-Rates Write Offs**

**FILE NO:** FI.DRS  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 5 March 2015  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** Pam Law  
**SENIOR OFFICER:** Tabitha Bateman  
**REPORTING OFFICER:** Pam Law  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

The Commissioners' approval is sought to write off debts associated with two sundry debtors totalling \$371.48.

**Background:**

These invoices were raised in August and September 2014 for library books that were not returned to the Shire of York.

Both of the debtors have been sent monthly statements, reminder letters and final demand letters. There has been no response to any correspondence forwarded and there is no contact phone number available for either of them.

Usually when invoices are 60 days overdue they would be sent to AMPAC Debt Collections for follow up. However, on their advice, these debtors have not been as the likelihood of recovery is low and the recovery costs would be too high.

**Consultation:**

AMPAC Debt Collections

**Statutory Environment:**

Local Government Act 1995 – Section 6.12 Power to Write Off Debts

**Policy Implications:**

Not Applicable

**Financial Implications:**

Reduction in outstanding sundry debtors by \$371.48

**Strategic Implications:**

Nil

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken:** Not Applicable

**Triple bottom Line Assessment:**

**Economic Implications:**

Council must be seen to be pro-active in debt recovery action as the ultimate burden rests with the ratepayer.

**Social Implications:**

Nil

**Environmental Implications:**

Nil

**Officers Comment:**

Having exhausted all avenues of debt collection approval for write off is requested.

**RESOLUTION**

**150315**

***“That the Commissioner:***

***Resolve to write off \$371.48 from sundry debtors as per the following:***

***Debtor: 1187  
Description: Lost / Damaged Library Items  
Value: \$89.40***

***Debtor: 1204  
Description: Lost / Damaged Library Items  
Value: \$282.08”***

***The Commissioner Resolved to Adopt the Officer Recommendation***

**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.6 Rates – Three Year Sale of land**

**FILE NO:** FI.RTS.PPO.9774  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 5 March 2015  
**LOCATION/ADDRESS:** Lot 68 Lewis Road, York  
**APPLICANT:** Pam Law  
**SENIOR OFFICER:** Tabitha Bateman  
**REPORTING OFFICER:** Pam Law  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

It is proposed that the Shire of York utilise AMPAC Collection Services to sell the parcel of land attached to Assessment 9774 due to non-payment of rates and service for a period of three year of more, under Section 6.64 of the Local Government Act.

**Background:**

This property has been in its current ownership since 2005. The 2005/06 rates and services were sent to Austral Mercantile Collections (AMC) before payment was made. The last payment received was on 14 October 2009.

The 2010/11 rates and services were sent to AMC for collection.

In February 2012 the Shire of York was notified by a local real estate agent that the Company listed as the registered owner of this property had gone into liquidation. The Shire of York was not contacted by the liquidators directly.

In May 2013 outstanding rates and services totalling over three years were sent to AMC for follow up. If no response was received in regards to the demand letters AMC were to issue a General Procedure Claim (GPC). The next step would have been a Property Seizure and Sale Order whereby the land would have been put up for sale to recover costs.

In August 2013 a company search revealed that the Company listed as owning this property had been deregistered with ASIC since 29 November 2011. AMC noted that there had been no reply to mail sent to the registered York address or the address of the liquidators. As the company was deregistered a GPC could not be served.

There have been numerous attempts by different parties over the past four years to make contact with the owner of this property, with no success.

The rates, services and accrued interest are outstanding from 15 October 2009 and to date total \$10,001.71.

**Consultation:**

AMPAC Debt Recovery  
Price Sierakowski Corporate  
Austral Mercantile Collections

**Statutory Environment:**

Section 6.64 of the Local Government Act 1995 States:

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and -*
- (a) from time to time lease the land;*
  - (b) sell the land;*
  - (c) cause the land to be transferred to the Crown; or*
  - (d) cause the land to be transferred to itself.*

Local Government Act 1995 Section 6.68 Exercise of power to sell land

- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government –*
- (a) has a reasonable belief that the cost of the proceedings under that section will exceed the value of the land; or*
  - (b) having made reasonable efforts to locate the owner of the property is unable to do so.*

**Policy Implications:**

With reference to Council policy "Recover Rates & Service Charges", dated 15 February 2010, Council resolution 200210,

*1.0 Unpaid for at least three (3) years.*

*A report be presented to Council on an annual basis, detailing the amount of rates and service charges outstanding, by Assessment Number, and recommending action be authorised by the Council. The privacy Act prevents the property owner's details from being published in a report to Council.*

**Financial Implications:**

Reduction in rates sundry debtors by \$10,001.71 plus accrued interest.

**Strategic Implications:**

Corporate services, Financial Services – to achieve maximum community benefit from effective use of resources (staff, finances and information technology)

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken: Not Applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

Council must be seen to be proactive in debt recovery action as the ultimate burden rests with the ratepayers. Unrecoverable debts need to be cleared as early as possible to lessen the financial implication on ratepayers.

**Social Implications:**

Nil

**Environmental Implications:**

Nil

**Officers Comment:**

The Local Government Act 1995 Section 6.64 (1) (b) makes provision for the sale of land in relation to unpaid rates and charges.

Given the high level of debt, inability to make contact with the ratepayer (Section 6.68 (2) (b) ) given that the ratepayer is a deregistered company and the amount of time that has been afforded in searching for the ratepayer to either clear or reduce this debt, it is appropriate therefore to recommend sale of this land using the provisions of the Local Government Act 1995.

**RESOLUTION**

**160315**

***“That the Commissioner:***

***Pursuant to Section 6.64 (1)(b) of the Local Government Act 1995, proceed to sale of Lot 68 (37) Lewis Road, York due to rates and services outstanding for 3 or more years.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***



**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.7 Sale A8050**

**FILE NO:** FI.RTS.PPO.8050  
**COUNCIL DATE:** 23 March 2015  
**REPORT DATE:** 5 March 2015  
**LOCATION/ADDRESS:** Lot 481 Georgiana Street, York  
**APPLICANT:** AMPAC Debt Recovery  
**SENIOR OFFICER:** Tabitha Bateman  
**REPORTING OFFICER:** Pam Law  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**REPORT APPROVED BY THE A/CEO:** *Graeme Simpson*

**Summary:**

Transfer of ownership of Lot 481 Georgiana Street, York is necessary from the current deceased estate into the name of a surviving family member.

**Background:**

This debt file was handed to AMPAC Debt Recovery in August 2014.

The owner of this property passed away in 1996. A last will and testament had been left by the deceased, although probate had never been granted.

AMPAC Debt Recovery made several investigations into locating the apparent executor of the estate. They conducted a probate search, a skip trace on the deceased, which may have led to a possible beneficiary of the estate.

The beneficiary of the will was found to have no financial means to pay the debt or take on the care and maintenance of the property.

During the course of AMPAC's investigations a family member of the deceased had been located and has offered to purchase the property and clear all outstanding debts with the Shire of York.

With this offer of purchase being made, the Shire of York has stayed all debt recovery proceedings.

**Consultation:**

AMPAC Debt Collections

**Statutory Environment:**

Local Government Act 6.68 Exercise of power to sell land

(2) A local government is not required to attempt under section 6.56 to recovery money due to it before exercising the power of sale where the local government-

(b) having made reasonable efforts to locate the owner of the property is unable to do so.

**Policy Implications:**

With reference to Council policy "Recover Rates & Service Charges", dated 15 February 2010, Council resolution 200210,

*1.0 Unpaid for at least three (3) years.*

*A report be presented to Council on an annual basis, detailing the amount of rates and service charges outstanding, by Assessment Number, and recommending action be authorised by the Council. The privacy Act prevents the property owner's details from being published in a report to Council.*

**Financial Implications:**

Decrease in outstanding rates sundry debtors by \$12,282.04 (05/03/15).

**Strategic Implications:**

Corporate Services, Financial Services - to achieve maximum community benefit from effective use of resources (staff, finances and information technology)

**Voting Requirements:**

Commissioner's Voting Support

**Site Inspection:**

**Site Inspection Undertaken: Not Applicable**

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

Not Applicable

**Social Implications:**

Nil

**Environmental Implications:**

Nil

**Officers Comment:**

1. The Council is exercising its power to sell the land pursuant to section 6.64 of the local Government Act in respect of the land; and
2. Pursuant to section 6.68(2)(b) of the Local Government Act, the Shire has made reasonable efforts to locate the owner of the property and has been unable to do so.

In order to satisfy 6.68(2)(b) in this context, those reasonable efforts being:

1. A description of all efforts made to locate the apparent executor of the will;
2. Obtaining a copy of the will;
3. The result of the probate search;
4. The results of the skip trace;
5. Efforts made locating the potential beneficiary of the will;
6. Efforts made contacting other related family members and the responses received; and
7. Any other steps which may have been taken that may be relevant.

It is requested that this offer of purchase be accepted. It is felt that it would be a more cost effective option to allow sale to go to a family member of the deceased considering the length of time that this rates debt has been outstanding and the added cost of future legal action.



**RESOLUTION**

**170315**

***“That the Commissioner;***

***Pursuant to section 6.68 (2)(b) of the Local Government Act allow sale of Lot 481 Georgiana Street, York to an interested party.”***

***The Commissioner Resolved to Adopt the Officer Recommendation***



## 9.5 Late Reports

Nil

## 9.6 Confidential Reports

Nil

## 10. NEXT MEETING

*“That the Commissioner:*

*holds the next Ordinary Meeting of the Council on Tuesday, April 28, 2015 at 5.00pm at the York Recreation & Convention Centre, York.”*

### **RESOLUTION 180315**

*“That the Commissioner Amends to read:*

*holds the next Ordinary Meeting of the Council on Tuesday, April 28, 2015 and the Agenda Briefing Information Session on Monday, April 20, 2015 at 5.00pm at the York Recreation & Convention Centre, York.”*

***The Commissioner Declared the Motion Carried***

*The Commissioner requested that questions for Public Question Time be in writing and tabled before the meeting. If there have been any ongoing matters that require addressing please make an appointment to see the Commissioner and the Acting Chief Executive Officer.*

## 11. CLOSURE

*Commissioner James Best thanked everyone for their attendance and declared the meeting closed at 6.04pm.*