



# SHIRE OF YORK

**MINUTES OF THE ORDINARY  
MEETING OF THE COUNCIL  
HELD ON 18 NOVEMBER, 2013  
COMMENCING AT 3.00pm  
IN THE COUNCIL CHAMBERS,  
YORK TOWN HALL, YORK**



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## SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL  
HELD ON MONDAY, 18 NOVEMBER, 2013, COMMENCING AT  
3.00PM IN THE 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 Matthew Reid, Shire President, declared the meeting open at 3.00pm.*

*I would like to acknowledge the Ballardong People, the Traditional Owners of the land on which we are gathered and pay my respects to their Elders both past and present.*

#### 1.2 Disclaimer

The Shire President 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 (undergoing the repeal process) –

*Clauses 1 to 19 excluding Clause 8.5.1 which states "No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council."*

Moved: Cr Duperouzel; Seconded: Cr Hooper

*That the Local Law Standing Orders, excluding Clause 8.5.1 be suspended for the purpose of expediting the Council Meeting.*

*Carried: 5/0*

#### 1.4 Announcement of Visitors

*Nil*

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interest  
*Nil*

Disclosure of Interest that May Affect Impartiality  
*Nil*

**2. ATTENDANCE**

2.1 Members

*Cr Matthew Reid, Shire President; Cr Mark Duperouzel, Deputy Shire President  
Cr Denese Smythe, Cr David Wallace, Cr Pat Hooper*

2.2 Staff

*Ray Hooper, Chief Executive Officer; Jacky Jurmann, Manager of Planning Services;  
Graham Lantzke, Manager Works & Projects; Gordon Tester, Manager –  
Environmental Health & Building Services; Helen D’Arcy-Walker, Executive Support  
Officer*

2.3 Apologies

*Tyhscha Cochrane*

2.4 Leave of Absence Previously Approved

*Cr Boyle*

2.5 Number of People in Gallery at Commencement of Meeting

*There were 15 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 Ian McColl**

**Public Question Time - 21st October, 2013**

**Question 1:**

In relation to Item 9.1.1 on the meeting Agenda. Will the Shire write a public apology to Mrs Jenni McColl and accept that she has done nothing wrong against the York Shire’s Laws?

**Response:**

Item 9.1.1 simply refers to a draft policy on Advertising Signage for authority to advertise it for public comment. None of the laws or policies relating to signage currently in place have been changed and all actions to date remain valid and in place and there is no cause for any action by the Shire of York in relation to action taken on protest signage.

For your information and use in any future questions for public question time the following will apply:

- Statements will not be recorded
- Questions submitted may be paraphrased or summarised
- Questions/statements on the integrity of Councillors and staff or those denigrating them will not be accepted

In relation to your comment that the York Shire will not talk to you about the SITA proposal I advise that this statement is incorrect as Council can and has spoken to people on the proposal however they cannot and will not be forced into making a statement or a decision for or against the proposal while it is under assessment by a Government Department and while there is no planning application with supporting information before Council.

Your feelings on the SITA proposal are acknowledged however Council must act under and through defined processes on this and all other land use issues.

**Mr Peter Keeble**

#### **Public Question Time - 21 October 2013**

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

Could the money from the sale of the blocks between the Hall and the Hotel be transferred into the Greenhills Progress Association account for use on Walk Trails and maintenance.

##### **Response:**

No. Council has allocated \$22,500 to come from the Greenhills Townsite Redevelopment Reserve for walk trails and will aim to obtain a further \$22,500 from grants.

However until the current Trails Master Plan is reviewed no money will be spent.

#### **4. PUBLIC QUESTION TIME**

*Public Question Time commenced at 3.06pm*

*Cr Reid read the following statement in full 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 Written Questions – Current Agenda  
*Nil*

4.2 Public Question Time

### **Mrs Tanya Richardson**

#### **Question 1:**

Can Council please advise why Mr Peter Briggs was not made aware that this item would be on today’s agenda?

#### **Response:**

Gordon Tester, Manager – Environmental Health & Building Services was not aware of this.

#### **Question 2:**

Can Council please explain why suspension of Standing Orders is continuing and exactly what it is about?

#### **Response:**

Standing Orders are being reviewed and will be in place for the December Ordinary Council Meeting.

### **Ms Trisha Walters**

#### **Question 1:**

In the Disclaimer on the front of the Agenda could you please define the definition of ‘Documents’?

#### **Response:**

Taken on Notice

#### **Question 2:**

Why is this Council accepting the procedures from two Cities and not Shires?

#### **Response:**

The procedures have been tested in the Courts.



**Mrs Roma Paton**

**Question 1:**

Is it possible to have the format of the Question Time Form on the website to be made more user friendly?

**Response:**

Yes

**Mrs Tanya Richardson**

**Question 3:**

In the interest of open and transparent governance can Council please explain why the CEO's credit card statements are not included in the monthly financial reports and in turn audited by Councillors?

**Response:**

The CEO's credit card statements are allocated to different cost centres in the monthly financial report.

**Question 4:**

Town Planning Scheme No 2 Scheme Amendment No 50 Omnibus Amendment.

Can Council confirm this rezoning has been approved by Council?

**Response:**

The amendment has been finally adopted by Council but not approved by the WAPC.

**Question 5:**

Can Council confirm if the delay in finalising this rezoning has anything to do with SITA?

**Response:**

Yes

**Question 6:**

Can Council confirm that wording in the advertising of this amendment had references to SITA removed and subsequently replaced?

**Response:**

No. The amendment was advertised with references to Waste Management facilities which were removed when Council adopted the amendment and re-inserted by Department of Planning Officers.

**Question 7:**

Can Council confirm that they have not received any sort of proposal from SITA even though this rezoning has been approved by Council?

**Response:**

The amendment was not to do with SITA. Waste management in general was included in the Omnibus in a general review of the land use table and definitions.

**Question 8:**

Can Council confirm that they have input into answering questions from Public Question Time?

**Response:**

Answering questions taken on notice at a Council Meeting is an administrative task. All Councillors receive a copy of the response.

**Question 9:**

Can Councillors confirm they are aware of the answers sent out to the public?

**Response:**

Yes

**Question 10:**

Shouldn't Councillors have input if the questions relate to policy when Councillors are the policy makers not the CEO?

**Response:**

The Chief Executive Officer has been granted delegation by Councillors to answer questions relating to Policy.

**Question 11:**

Can Council confirm that they are indeed now the Audit Committee?

**Response:**

Yes

**Question 12:**

Can Council confirm that they have received a copy of the answer given to me regarding finance reporting relating to there being checks and balances in place ensuring the accuracy of excel reporting?

**Response:**

Yes

**Question 13:**

The January, February and March finance reports have the total listed in red, in brackets with a negative symbol before the figure. It was explained to me that this was a typo even though these checks and balances are supposedly in place. Will Council consider requiring the Shire to provide monthly reports in a consistent format and according to current accounting standards (eg revenue as black and not bracketed and expenses in red and not bracketed) rather than using the inconsistent and non-standard practices currently employed?

**Response:**

Local Government work in the opposite scenario to private enterprise. Income is seen as a negative. This is standard process across the State.

**Question 14:**

The full 2012/13 Financial Year actual against budget report for the Shire was not published (reporting for 11 months only was provided) will Council request that the full financial year report be published in the Minutes for the Ratepayers.

**Response:**

Will follow up.

**Question 15:**

Has a decision been reached regarding changing the times of Council Meetings.

**Response:**

Council meetings will be commencing at 4.00pm from the first Ordinary Council meeting in February 2014.

*Public Question Time was declared closed by the Shire President at 3.23pm*

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

*Nil*

**6. PETITIONS / PRESENTATIONS / DEPUTATIONS**

*Nil*

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

7.1 Minutes of the Special Council Meeting held October 21, 2013

Corrections

Confirmation

**RESOLUTION  
021113**

**Moved: Cr Smythe**

**Seconded: Cr Wallace**

***“That the minutes of the Special Council Meeting held October 21, 2013 be confirmed as a correct record of proceedings.”***

***CARRIED: 5/0***

7.2 Minutes of the Ordinary Council Meeting held October 21, 2013

Corrections

Confirmation

**RESOLUTION  
031113**

**Moved: Cr Duperouzel**

**Seconded: Cr Hooper**

***“That the minutes of the Ordinary Council Meeting held October 21, 2013 be confirmed as a correct record of proceedings.”***

***CARRIED: 5/0***

7.3 Minutes of the Special Council Meeting held November 11, 2013

Corrections

Confirmation

**RESOLUTION**

**041113**

**Moved: Cr Wallace**

**Seconded: Cr Duperouzel**

***“That the minutes of the Special Council Meeting held November 11, 2013 be confirmed as a correct record of proceedings.”***

***CARRIED: 5/0***

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

*Cr Reid stated that 360 action requests have been received by the Works section since late July. 221 have been actioned. Currently the Works section receive approximately 4 action requests per day.*

*Cr Reid also stated that the new Council have done a lot of work towards meeting community expectations and fostering a good relationship between Council and volunteers and the media.*

**9. OFFICER'S REPORTS**

## **9.1 Development Services**



## 9.2 Administration Reports





9. OFFICER'S REPORTS  
9.2 ADMINISTRATION REPORTS  
9.2.1 York Recreation & Convention Centre (YRCC)

FILE NO: CCP.7  
COUNCIL DATE: 18 November 2013  
REPORT DATE: 5 November 2013  
LOCATION/ADDRESS: N/A  
APPLICANT: Shire of York  
SENIOR OFFICER: R Hooper, CEO  
REPORTING OFFICER: Kathryn Brown, YRCC Manager  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Nil  
DOCUMENTS TABLED: Nil

**Summary:**

The following is a summary of items for York Recreation and Convention Centre for the month of  
October 2013.

- **Additional Opening Hours** – Patronage is still largely dependent on what events are occurring within the sports complex but our patrons are certainly welcoming another hospitality venue to choose from in town.
- **Catering Numbers on Fridays**- Monthly averages were calculated from the number of meals served each Friday night. Still a consistent improvement in numbers served with roughly a 30% increase in adult meals, over 150% increase in kids' meals and also a double in numbers of desserts and side dishes sold. Possibly due to revised menu format which provides "affordable" main courses. Decline in weekend trading since the football finals but there was still interest, with October yielding an average of 11 meals served, in addition to snacks etc.
- **Sporting Event Catering**  
Revised catering arrangements made with all summer sports groups now that we are able to open and cater for all their events, inclusive of liquor service.
- **Diversity of Private Functions**  
During October YRCC hosted an insurance seminar, the visitoryork website launch, a Roadwise lecture, opening day tennis and a classic car rally, in addition to regular tennis and lawn bowls fixtures
- **Feedback:**
  - Complaints about lack of mirrors in weights area of gym
  - Positive comments on the "community atmosphere" here Friday nights and the participation of additional clubs with "the wheel" raffle
  - Tennis club wanting to mount their second honour board on the wall
  - Many new visitors to the venue with the vintage car show complimented the building and the concept of a multi-purpose, communal facility for sports clubs. They admired the synthetic surfaces in particular.

**Background:**

York Recreation and Convention centre is a hospitality venue within a sporting complex and is aimed at bringing together local sporting clubs and the wider York community. Through quality of customer service and excellent facilities and catering, we also wish to attract corporate clients with potential knock-on effects for other local businesses

**Consultation:**

Shire of York  
Affiliated Sporting clubs  
Corporate and local clients for functions

**Statutory Environment:**

Nil

**Policy Implications:**

Not Applicable

**Financial Implications:**

Decreased turnover figures since September but to be expected with the boost of the Agricultural show and football finals in September and with October being the month after winter sport finishes and summer sport just commencing. Trading reaching a new consistency with being open more hours, as evidenced by roughly 15% decline only in regular trading turn over (ie not inclusive of special events).

**Strategic Implications:**

***The Shire of York's 2012 Strategic Community Plan -***

***Social: Building a Sense of Community******Vision***

- *Our community will be inclusive and interactive, where people feel safe and are welcomed.*
- *Our community will value each other, building relationships and networks to interact, socialise and recreate.*
- *Our community will have access to service requirements.*

***Objectives***

*Outcomes – Connected community*

*Objectives – Strengthen community cohesiveness and participation*

*Priorities - Develop and participate in a regional social plan to capture and strengthen community development opportunities, such as recreation, social groups, communication and activities*

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Not Applicable**

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

The YRCC has the capacity to enhance the local economy through the attraction of conferences, seminars and events.

**Social Implications:**

Recreation and community hub facilities are integral to community wellbeing and social interaction.

**Environmental Implications:**

Nil

**Officers Comment:**

The report serves to keep the community informed of the activities at the YRCC.

**RESOLUTION  
051113**

**Moved: Cr Wallace**

**Seconded: Cr Hooper**

**OFFICER RECOMMENDATION**

***“That Council:***

***Receive the October 2013 report prepared by York Recreation and Convention Centre.”***

***CARRIED: 5/0***



**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.2 York Motor Museum Order**

**FILE NO:** AV.1.6672, B6672  
**COUNCIL DATE:** 18 November 2013  
**REPORT DATE:** 7 November 2013  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** Shire of York  
**SENIOR OFFICER:** R Hooper, CEO  
**REPORTING OFFICER:** Tim Jurmann, Senior Building Surveyor  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**Summary:**

Council is requested to consider issuing a building Order requiring the repair of a brick boundary wall on the York Motor Museum adjacent the Bendigo Bank and closing the southern rooms of the Museum to the public as a safety precaution. This may result in the proprietors of the York Motor Museum choosing to cease all operations.

**Background:**

The Shire of York was contacted by the Bendigo Bank regarding a possibly structurally defective wall on the Southern side of the building known as the York Motor Museum, adjacent to the car-park at the rear of the Bendigo Bank.

The wall was inspected by two Shire Building Surveyors and was found to be defective due to cracking, bowing and deflection.

The Shire spoke to the Owner and the Curator and subsequently sent correspondence regarding the structurally defective wall.

After an extended period of time and intermediate correspondence the Owner sent correspondence to the Shire stating that in his opinion the wall was not structurally defective.

The Shire disputed his claims, and as no action had been taken to rectify the wall sent Notice of Intention to serve a Building Order to the Owner accompanied by photographic evidence of the walls defects.

A Structural Engineer who advised he had been commissioned to assess the wall came to the Shire Offices and verbally advised the Building Manager that due to the nature of the wall defects, the public should not be allowed to enter the building.

In mid 2012 the Shire of York was contacted by the Manager of the Bendigo Bank, regarding the wall of the York Motor Museum adjacent to the car park at the rear of the Bendigo Bank. The Manager was concerned that the wall had become structurally unsound and was a danger to the people using the car park.

The Shire Building Surveyor subsequently inspected the wall.

The wall was found to be structurally unsound In the opinion of the Building Surveyor, due to rotation of the wall causing the wall leaning against the wall of the Bendigo Bank, bowing of the wall, and the cracks in the wall being defined as structural cracks under the Australian Standard, AS 2870- 2011, Residential Slabs and Footing Classification of damage due to footing movements; Classification of damage with reference to walls.

The Building Surveyor immediately verbally notified the Curator of the York Motor Museum, Mr Peter Harbin, and requested that he advise the owner of the defects and to take action to rectify the wall.

It was noted at the time that a downpipe from the Bendigo Bank roof, was discharging onto the ground immediately adjacent to the wall.

As such discharges of water can cause movement, particularly in clay soils, the Bendigo Bank was requested to arrange for discharge of the water away from any buildings. This work was carried out by the Bendigo Bank.

The Curator of the Museum advised that the owner of the Museum, Mr Peter Briggs was away overseas and would attend to the matter on his return in a couple of months.

Telephone messages were subsequently left on the telephone numbers given to the Shire by the Museum Curator.

No further communications were received.

On the 11<sup>th</sup> of April, 2013, the Shire then sent a letter to the York Motor Museum PTY LTD requesting that the Museum employ a Structural Engineer to inspect the wall to determine its structural adequacy.

On the 4<sup>th</sup> of May 2013, Mr Peter Briggs replied on York Motor Museum letterhead that he wanted the Shire to direct the Bendigo Bank to connect their downpipe to a soak-well and that there was no point doing any work to the wall until this had been done. At this point the downpipe had been extended to discharge more than 4.0 metres away from the wall and in the opinion of the Shires Building Surveyors this was adequate to not cause structural impact on the wall.

On the 17<sup>th</sup> of May, 2013, the Shire wrote to the York Motor Museum advising that the downpipe discharge had been located to a point where it was considered it would not structurally impact upon the York Motor Museum wall and that the wall needed to be rectified or an Structural Engineer's Certificate attesting to the structural adequacy of the wall needed to be obtained. The Museum was advised that if this was not done then a formal Notice of Intention to Serve a Building Order would be issued.

On the 22<sup>nd</sup> of May 2013, the Museums Curator, Mr Peter Harbin, wrote to the Shire advising Mr Peter Briggs would be overseas until the end of June and he was not authorised to undertake any works.

On the 26<sup>th</sup> of June 2013, Mr Briggs wrote to the Shire advising that he had inspected the wall, and that he was a qualified Registered Builder, and in his opinion the cracking was non-structural and had been caused by the down-pipe discharge from the Bendigo Bank. He also advised that since the down-pipe discharge had been relocated, no further damage would be likely to occur, so there was no reason to take any further action.

On the 4<sup>th</sup> of July, the Shire contacted Mr Peter Briggs by telephone, after managing to obtain Mr Briggs' mobile telephone number, advising him that the wall was actually rotating to the point it was leaning up against the wall of the adjacent building and not just experiencing cracking. He was then advised that he must repair the wall, or that if he did not believe the wall was structurally unsound then he needed to get a Structural Engineer to Certify this. He advised he would be contacting the Bendigo Bank to pay for the Engineer's Certificate as he believed the Banks downpipe had caused the damage prior to it being relocated.

On the 14<sup>th</sup> of August, 2013, the Shire issued a Notice of Intention to serve a Building Order to the York Motor Museum Pty Ltd, accompanied by photographic evidence of the structural defects, and advice that the Shires Senior Building Surveyor and Building Manager, both Level 1 Building Surveyors had inspected the wall and that in their opinion the wall was structurally unsound.

On the 15<sup>th</sup> of September 2013 Mr Briggs wrote to the Shire advising that the wall had been up for 100 years and it would not hurt anybody. He also advised he would get an independent Structural Engineer's report and that he would strenuously fight any action by the Council and that he would be advising the Bendigo Bank that he believed the damage to his building was caused by the original down-pipe discharge.

In October 2013, a local Structural Engineer attended the Shire Office in person, and advised that he had been commissioned by Mr Briggs to inspect the wall and that in his opinion the wall was structurally defective, and that minor seismic activity or adverse loads could cause the wall to fail, and that in his opinion the public should not be allowed to enter the building.

No correspondence from the York Motor Museum Pty Ltd or the Structural Engineer was forthcoming.

On the 6<sup>th</sup> of November the Notice of Intention to serve a Building Order was re-issued with the minimum time frames for response, and a reviewed time period in which to complete the works, after advice had been received, on the new processes of issuing Notice under the new Building Regulations.

Due to the danger to the public, it would be pertinent of Council to consider closure of the southern rooms of the York Motor Museum to protect the public from possible injury or death.

As the York Motor Museum is an iconic local attraction, the Shire Council is asked to consider a Building Order for rectification of the York Motor Museum.

**Consultation:**

The Shire has contacted the Curator of the York Motor Museum and Mr Peter Briggs of the York Motor Museum Pty Ltd on numerous occasions by correspondence, telephone and in person.

**Statutory Environment:**

Building Act 2011 and Building Regulations 2012.

**Policy Implications:**

Nil

**Financial Implications:**

Legal fees incurred in referring the matter to Councils Solicitors.

Structural Engineer's fees incurred for inspecting the wall and the issuing a Structural Engineer's report.

Possible legal action or claims for compensation by injured persons or compensation from people with damaged property.

**Strategic Implications:**

To ensure the safety of the public and community.

**Voting Requirements:**

**Absolute Majority Required:            Yes**

**Site Inspection:**  
**Site Inspection Undertaken:** Yes

**Triple bottom Line Assessment:**

**Economic Implications:**

Temporary closure of the southern rooms of the Museum may impact on tourism and economic returns to the community and the Motor Museum operations.

**Social Implications:**

The temporary closure of the Museum may result in reassessment of the long term viability of the Museum, resulting in it being closed permanently, impacting on the Town identity and long term tourism.

**Environmental Implications:**

This building is part of the heritage environment of York and it should be repaired to an acceptable standard.

**Officers Comment:**

There has been a protracted response from the York Motor Museum Pty Ltd, after numerous attempts to gain proactive cooperative action to rectify the southern wall of the York Motor Museum. The verbal advice from the Structural Engineer has confirmed informally that the wall is unsound and potentially of greater threat to public safety than initially thought.

In this regard it is highly recommended that action be progressed in the form of an independent Structural Engineer's Report and the matter be referred to Council's Solicitors if Council's order is not complied with, with instruction that legal processes be implemented to have the wall rectified and any costs incurred be claimed against the York Motor Museum Pty Ltd.

**RESOLUTION**

**061113**

**Moved: Cr Duperouzel**

**Seconded: Cr Smythe**

***"That Council:***

***In the event that there is no satisfactory response from the York Motor Museum indicating an intention to repair the defective southern brick boundary wall, a building order be issued requiring rectification of the wall within (thirty) 30 days and closure of the southern rooms of the Museum until such time as required works are completed and that;***

***Council commission a report from a structural engineer for expert determination of the structural adequacy of the wall, if required, and that;***

***In the event the York Motor Museum fails to comply with Council's order within the allocated time, the matter be referred to Council's solicitors to instigate legal action against the York Motor Museum for failure to comply with Council's notice."***

***CARRIED: 5/0***



**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.3 Youth Report for November 2013**

**FILE NO:** CS.LCS.6  
**COUNCIL DATE:** 18<sup>th</sup> November, 2013  
**REPORT DATE:** 8<sup>th</sup> November, 2013  
**LOCATION/ADDRESS:** N/A  
**APPLICANT:** Shire of York  
**SENIOR OFFICER:** R Hooper, CEO  
**REPORTING OFFICER:** Anneke Birleson, YDO  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Nil

**Summary:**

- **York Youth Centre** – The Youth Centre is running every Tuesday and Wednesday after school. Attendance continues to be variable.

An opportunity was also discussed with Julie Solich (WIFSA) regarding setting up a regular program at the Youth centre for youth to have a creative outlet, be it art, music, drama or dance. This would include clients of WIFSA and therefore, working towards breaking down barriers within the younger groups of our community.

- **Summer School Holiday** - Contact initiated with Eleanor Jones and Ryan Creed from Inclusion WA. They have been involved in the Inclusive holiday program in Northam. It is hoped that a similar program can be developed in York.

Meeting held with Julie Solich from WIFSA (Ability Focus) to discuss a proposal to work together towards initiating a program this school holidays. The focus is on inclusion and therefore, providing free opportunities for people of all ages to access sports and activities within the community.

- **Urban Art Project** – Application has been made to the Community Crime Prevention Fund for a grant. The project outline involves six workshops followed by an exhibition and mural (to be painted on the Forrest Oval water tanks). Urban artist, Darren Hutchens is on board and very keen to get this project going.

**Background:**

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

**Consultation:**

Youth  
School  
Police  
Health  
Councillors  
Council Staff  
Community Members

**Statutory Environment:**

Nil

**Policy Implications:**

Not Applicable

**Financial Implications:**

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

**Strategic Implications:**

***The Shire of York’s 2012 Strategic Community Plan -***

**Social: *Building a Sense of Community -***

- *Develop a Youth Plan to capture specific youth activities and opportunities.*

**Environment: *Enhanced Lifestyle Choices -***

- *Provide and maintain facilities for youth and aged services.*
- *Provide and maintain local area spaces and parks.*
- *Implement asset plans for youth facility, skate park, park improvements, pool upgrades, archives centre, town hall upgrades.*

**Economic Development: *Maximise Development -***

- *York will diversify economically through commercial growth, providing jobs and services to support our growing population.*
- *There will be employment and investment choices, providing a place for business access to rural and metropolitan opportunities.*

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Not applicable**

**Triple bottom Line Assessment:**

**Economic Implications: Nil**

**Social Implications:**

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

**Environmental Implications:**

Not applicable

**Comment:**

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

**RESOLUTION**

**071113**

**Moved: Cr Duperouzel**

**Seconded: Cr Wallace**

***“That Council:***

***Receives this report and acknowledges and endorses the activities and initiatives of the Youth Activities Coordinator.”***

***CARRIED: 5/0***

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

FILE NO: CS.LCS.8.1  
COUNCIL DATE: 18 November 2013  
REPORT DATE: 7 November 2013  
LOCATION/ADDRESS: N/A  
APPLICANT: Shire of York  
SENIOR OFFICER: R Hooper, CEO  
REPORTING OFFICER: Information Services Officers – Vicki & Tamara  
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 **October 2013**.

- **Visitor Numbers** - (Appendix A) These numbers are counted manually and only 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 Information Services are recording additional information on the visitor numbers visiting the Town Hall for such things as shopping, information only, events, family history, sightseeing, and walks. This count will assist any grant applications in the future and are available on request.

The number of visitors coming through the doors in October 2013 was **2279** as compared to **1384** in 2012.

- **Product Sales** - (Appendix B) Net sales for the month of October 2013 were **\$1342.20** compared to **\$1181.30** for the same period 2012.
- **Wildflowers for 2013** - It has been very busy with the wildflower season in full swing. There are a lot of wildflowers around York it is a particularly good year for them.
- **York Annual Arts & Crafts Awards** - The York Annual Arts & Crafts Awards was a success, there was a lot of visitors around town as it was a busy weekend, well done to all the people involved in the event.
- **West Coast Skydivers Sundowners** - It was a huge success, they had over 170 experienced skydivers, plus tandems plus other students, the coaches from overseas and interstate just loved it and the skydivers loved it. It was that successful that it will be ran each year from now on.
- **Request for Services** - There are certain services that visitors ask for (verbally) on a regular basis, these include:
  - Laundry Mat
  - More RV Parking signs coming into town
  - Bus Tours to show people around the town and take them to the attractions in York
  - More York Information signs as you come into town

• **Feedback**

- Tourist are very happy with the Free RV Parking down at Avon Park, we have had a lot of great feedback. The only thing is that some say they don't know it's here as its not advertised very well and not many signs around town showing that we have a Free RV Parking facility.
- The Souvenir Coin Machine is very successful and a lot of tourists are very happy that York has one as it is a popular collector's piece at the moment, so that was a great buy.

**Background:**

We have the calendar of Event for the year of 2013. We have also started the 2014 calendar of Events. 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.

**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**

**081113**

**Moved: Cr Smythe**

**Seconded: Cr Duperouzel**

***"That Council:***

***Receive the October 2013 report prepared by York Information Services."***

***CARRIED: 5/0***

## Item 9.2.4 – Appendices



**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.5 Application to Keep Three (3) Dogs**

**FILE NO:** RS.ANC.1  
**COUNCIL DATE:** 18<sup>th</sup> November 2013  
**REPORT DATE:** 8th November 2013  
**LOCATION/ADDRESS:** 6 Yarran Pl, York 6302  
**APPLICANT:** Glen Plaisted  
**SENIOR OFFICER:** Ray Hooper, CEO  
**REPORTING OFFICER:** Ranger Services  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Photographs of Property  
Acceptance Letter from Ms Sheryl Morgan

**Summary:**

An application has been received from Mr Glen Plaisted requesting permission to keep three dogs on his property at 6 Yarran Pl. York.

**Background:**

It is a requirement of the York Shire Council's Dogs Local Law (2004) that the maximum number of dogs that can be kept on a premise within a townsite is two unless an exemption is granted by Council under the provisions of section 26(3) of the Dog Act 1976 (as Amended).

Council has approved similar applications in the past where all adjoining neighbours have agreed to the request and the Shire Ranger or other authorised Council Officer has considered that there are no valid reasons for withholding such approval.

**Consultation:**

The Shire Ranger has liaised with Mr Glen Plaisted, occupier of the property 6 Yarran Pl. York.

**Statutory Environment:**

Dog Act 1976 (As Amended)  
York Shire Council Dogs Local Law (2000)

**Policy Implications:**

Not Applicable

**Financial Implications:**

Not Applicable

**Strategic Implications:**

Not Applicable

**Voting Requirements:**

**Absolute Majority Required:** Yes

**Site Inspection:**

**Site Inspection Undertaken:** Yes

The Shire Ranger inspected the property on the 01<sup>st</sup> of November 2013 and has advised that there are no reasons to withhold the granting of an exemption to keep three dogs at the property.

The property is adequately fenced to contain the dogs, there are currently 3 dogs in residence at the moment.

**Triple bottom Line Assessment:**

**Economic Implications:**

Nil

**Social Implications:**

Keeping of dogs in a townsite may impact on the social cohesion of a community if the dogs create a nuisance.

**Environmental Implications:**

Nil

**Comment:**

Mr Plaisted has had no complaints in relation to any dogs on his property. The yard is completely enclosed. It is recommended that Council agree to the granting of an exemption for the keeping of three dogs at 6 Yarran Pl. York subject to the following conditions:

- That the exemption be reviewed in twelve months to ensure that no adverse problems have been experienced as a result of the exemption, and
- That Council reserve the right to withdraw the exemption at anytime if any major or substantial problems are experienced prior to the review period.
- That the exemption applies only to the dogs nominated by the applicant.
- Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept on this property.

**RESOLUTION**

**091113**

**Moved: Cr Smythe**

**Seconded: Cr Wallace**

***“That Council:***

***Approve an exemption for the keeping of three dogs at 6 Yarran Pl. York subject to the following conditions:***

***That the exemption be reviewed in twelve months time to ensure that no adverse problems have been experienced as a result of the exemption,***

***And***

***That Council reserve the right to withdraw the exemption at any time if any major or substantial problems are experienced prior to the review period.***

***The exemption applies only to the dogs nominated by the applicant. Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept at the property.”***

***CARRIED: 4/1***



**9. OFFICER'S REPORTS**  
**9.2 ADMINISTRATION REPORTS**  
**9.2.6 Application to Keep Three (3) Dogs**

**FILE NO:** RS.ANC.1  
**COUNCIL DATE:** 18<sup>th</sup> November 2013  
**REPORT DATE:** 12<sup>th</sup> November 2013  
**LOCATION/ADDRESS:** 7 View Street, York 6302  
**APPLICANT:** Julie Kilpatrick  
**SENIOR OFFICER:** Ray Hooper, CEO  
**REPORTING OFFICER:** Ranger Services  
**DISCLOSURE OF INTEREST:** Nil  
**APPENDICES:** Nil  
**DOCUMENTS TABLED:** Letter from Dr. Will Powell of Manjimup Veterinary Clinic

**Summary:**

An application has been received from Mrs Julie Kilpatrick requesting permission to keep three dogs on her property at 7 View St. York.

**Background:**

It is a requirement of the York Shire Council's Dogs Local Law (2004) that the maximum number of dogs that can be kept on a premise within a townsite is two unless an exemption is granted by Council under the provisions of section 26(3) of the Dog Act 1976 (as Amended).

Council has approved similar applications in the past where all adjoining neighbours have agreed to the request and the Shire Ranger or other authorised Council Officer has considered that there are no valid reasons for withholding such approval.

**Consultation:**

The Shire Ranger has liaised with Mrs Julie Kilpatrick occupier of the property 7 View St. York.

**Statutory Environment:**

Dog Act 1976 (As Amended)  
York Shire Council Dogs Local Law (2000)

**Policy Implications:**

Not Applicable

**Financial Implications:**

Not Applicable

**Strategic Implications:**

Not Applicable

**Voting Requirements:**

**Absolute Majority Required:** Yes

**Site Inspection:**

**Site Inspection Undertaken:** Yes

The Shire Ranger inspected the property on the 08<sup>th</sup> of November 2013 and has spoken to all adjoining neighbours who have no objection to the 3<sup>rd</sup> dog application being approved, the ranger also advised that there are no reasons to withhold the granting of an exemption to keep three dogs at the property.

The property is adequately fenced to contain the dogs; there are currently 3 dogs in residence at the moment.

**Triple bottom Line Assessment:**

**Economic Implications:**

Nil

**Social Implications:**

Keeping of dogs in a townsite may impact on the social cohesion of a community if the dogs create a nuisance.

**Environmental Implications:**

Nil

**Comment:**

Mrs Kilpatrick has had no complaints in relation to any dogs on her property. The yard is completely enclosed. It is recommended that Council agree to the granting of an exemption for the keeping of three dogs at 7 View St. York subject to the following conditions:

- That the exemption be reviewed in twelve months to ensure that no adverse problems have been experienced as a result of the exemption, and
- That Council reserves the right to withdraw the exemption at anytime if any major or substantial problems are experienced prior to the review period.
- That the exemption applies only to the dogs nominated by the applicant.
- Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept on this property.

**RESOLUTION**

**101113**

**Moved: Cr Smythe**

**Seconded: Cr Duperouzel**

***“That Council:***

***Approve an exemption for the keeping of three dogs at 7 View St. York subject to the following conditions:***

***That the exemption be reviewed in twelve months time to ensure that no adverse problems have been experienced as a result of the exemption,***

***And***

***That Council reserve the right to withdraw the exemption at any time if any major or substantial problems are experienced prior to the review period.***

***The exemption applies only to the dogs nominated by the applicant. Upon the death or permanent removal of any of the nominated dogs a maximum of two dogs only will be permitted to be kept at the property.”***

***CARRIED: 4/1***

### **9.3 Works Reports**



## 9.4 Financial Reports



**9. OFFICER'S REPORTS**  
**9.4 FINANCE REPORTS**  
**9.4.1 Investments – October 2013**

<b>FILE NO:</b>	<b>FI.FRP</b>
<b>COUNCIL DATE:</b>	<b>18 November 2013</b>
<b>REPORT DATE:</b>	<b>13 November 2013</b>
<b>LOCATION/ADDRESS:</b>	<b>Shire of York</b>
<b>APPLICANT:</b>	<b>N/A</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Tabitha Bateman, FO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Shire of York Investment Portfolio</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

**Summary:**

That Council consider the investment portfolio as attached.

**Background:**

The investment policy requires Council to review the performance of its investments on a monthly basis.

**Consultation:**

Auditors; and  
Dominic Carbone.

**Statutory Environment:**

Not Applicable.

**Policy Implications:**

In accordance with the Financial Management Investment Policy.

**Financial Implications:**

Credit Ratings:

**Strategic Implications:**

Not applicable.

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Not applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

Not applicable.

**Social Implications:**

Not applicable.

**Environmental Implications:**

Not applicable.

**Comment:**

In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York as at 31 November 2013.

The Shire of York Investment Portfolio identifies Council's investment type, term to maturity and investment value.

The reporting will be reviewed on an ongoing basis by the Auditors and staff.

**RESOLUTION**

**111113**

**Moved: Cr Hooper**

**Seconded: Cr Wallace**

***"That Council receive the Shire of York Investment Portfolio as attached to this report."***

***CARRIED: 5/0***



## Item 9.4.1 – Appendices



**9. OFFICER'S REPORTS**

**9.4 FINANCE REPORTS**

**9.4.2 Monthly Financial Reports – October 2013**

**FILE NO:** FI.FRP  
**COUNCIL DATE:** 18 November 2013  
**REPORT DATE:** 13 November 2013  
**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 31 October 2013 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 31 October 2013
- Bank Account Reconciliations
- List of Creditors Payments
- Payroll Direct Debits Summary
- Corporate Credit Card Summary
- Fuel Card Summary

**Consultation:**

Dominic Carbone

**Statutory Environment:**

Local Government Act 1995 (As Amended).

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

**Policy Implications:**

Nil.

**Financial Implications:**

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 October 2013;

Sundry Creditors as per General Ledger	<b>\$169,942.80</b>
Sundry Debtors as per General Ledger	<b>\$887,298.46</b>
Unpaid rates and services current year (inc. ESL)	<b>\$1,854,453.27</b>
Unpaid rates and services previous years (inc. ESL)	<b>\$793,457.58</b>

**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**

**121113**

**Moved: Cr Smythe**

**Seconded: Cr Hooper**

***“That Council:***

***Receive the Monthly Financial Report for October and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 October 2013:***

	<u><b>VOUCHER</b></u>	<u><b>AMOUNT</b></u>
<b>MUNICIPAL FUND</b>		
<b><i>Cheque Payments</i></b>	<b><i>30882 - 30936</i></b>	<b><i>\$ 86,113.74</i></b>
<b><i>Electronic Funds Payments</i></b>	<b><i>11421 - 11549</i></b>	<b><i>\$ 1,496,640.74</i></b>
<b><i>Direct Debits Payroll</i></b>		<b><i>\$ 253,220.24</i></b>
<b><i>Bank Fees</i></b>		<b><i>\$ 3,894.50</i></b>
<b><i>Corporate Cards</i></b>		<b><i>\$ 2,530.91</i></b>
<b><i>Shell Cards</i></b>		<b><i>\$ 15.00</i></b>
<b><i>TOTAL</i></b>		<b><i><u>\$1,842,415.13</u></i></b>
<b>TRUST FUND</b>		
<b><i>Cheque Payments</i></b>	<b><i>4205 - 4211</i></b>	<b><i>\$ 3,417.57</i></b>
<b><i>Direct Debits Licensing</i></b>		<b><i><u>\$ 136,059.25</u></i></b>
<b><i>TOTAL</i></b>		<b><i><u>\$ 139,476.82</u></i></b>
<b><i>TOTAL DISBURSEMENTS</i></b>		<b><i><u>\$1,981,891.95”</u></i></b>

***CARRIED: 5/0***

## Item 9.4.2 – Appendices



## 9.5 Late Reports





## 9. OFFICER'S REPORTS

### 9.5 LATE REPORTS

#### 9.5.1 Planning Offence – Bella Cucina, 82 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:	AV1.12680
COUNCIL DATE:	18 November 2013
REPORT DATE:	8 November 2013
LOCATION/ADDRESS:	Lot 5(pt), 82 Avon Terrace, York
APPLICANT:	V Parisi
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Photographs of Signage
DOCUMENTS TABLED:	Nil

#### **Summary:**

Council at its Ordinary Meeting held on 19 August 2013 resolved to conditionally approve a retrospective planning application for the erection and display of advertising signage at the Bella Cucina Café situated at 82 Avon Terrace, York.

Conditions 3 to 5 of the planning approval required changes to the signage that had been erected and displayed without Council approval. Compliance inspections have revealed that these conditions have not been complied with and requests for compliance have been disregarded.

It is recommended that legal action be instigated for non-compliance with the conditions of approval.

#### **Background:**

Planning approval was granted under delegation on 1 March 2012, and amended on 12 May 2012, for the change of use of the premises to a café. Nine (9) conditions of approval were imposed, with condition 5 specifically relating to advertising as follows:

“The advertising signage shall only be displayed in accordance with the stamped approved plans dated 19 April 2012. Signage may not be illuminated or contain flashing lights. Any changes or additional signage will require separate planning approval.”

Following receipt of a complaint regarding illuminated neon flashing signs, the operators of the café were advised in writing on 7 February 2013 that they were in breach of their planning approval and were requested to remove the illuminated signage.

An inspection was carried out at the expiration of the 28 days and it was found that the operators had not complied with Council's request. Therefore, a Planning Direction was issued pursuant to Section 214(3) of the *Planning and Development Act 2005* giving the statutory period of 60 days to remove the offending signage. This action has been suspended while the planning application is being considered.

In accordance with Clause 7.14, the applicant applied for retrospective approval of the advertising signage.

Council at its Ordinary Meeting held on 19 August resolved:

*"That Council:*

*APPROVE the retrospective planning application for the erection and display of advertising signage at the Bella Cucina Café located at Lot 5(pt), 82 Avon Terrace, York, subject to the following conditions:*

- 1. Development must substantially commence within two (2) years from the date of this decision.*
- 2. Development must take place in accordance with the stamped approved plans.*
- 3. One small neon 'Open' sign may be displayed in the front window of the café and one rope-style, non-flashing, white or cream light attached to the bottom edge of the building's awning.*
- 4. Details are to be submitted to the local government for approval for two (2) spotlights to illuminate the existing approved parapet sign.*
- 5. All unapproved signage must be removed within twenty-eight (28) days from the date of this determination.*
- 6. Illuminated lighting is only permitted during opening hours.*
- 7. Any changes to the approved signage or any additional signage requires prior approval from the local government."*

Inspections carried out by Council's Planning Staff following expiration of the 28 day period provided in Condition 5 revealed that conditions 3, 4 and 5 have not been complied with and that the original (as proposed) advertising signage continues to be erected, displayed and illuminated.

**Consultation:**

A letters was sent to the applicant on 20 September 2013 requesting compliance with the conditions of planning approval. No response was received and no action was taken.

A 'show cause' letter was sent to the applicant on 5 November 2013 giving 7 days to show cause why Council should not instigate legal action. No response had been received at the time of writing this report.

**Statutory Environment:**

Planning and Development Act 2005

Section 162 of the Act states that a person must not commence or carry out development on land to which the planning scheme applies unless:

- (a) the approval has been obtained and is in force under the planning scheme or interim development order; and*
- (b) the development is carried out in accordance with the conditions subject to which the approval was granted.*
- (c) Nothing in this section limits or otherwise affects a right or entitlement under any other written law.*

Section 218 of the Act states that a person who contravenes the provisions of a planning scheme; or commences, continues or carries out any development any part of an area the subject of a local planning scheme or otherwise than in accordance with the provisions of the planning scheme or commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition, commits an offence.

Section 223 provides a general penalty, unless otherwise provided, that 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.

Section 227 of the Act enables an Infringement Notice to be issued for prescribed offences as outlined in the Regulations. An offence against Section 218 is a prescribed offence under the *Planning and Development Regulations 2009* and therefore an Infringement Notice for a prescribed amount of \$500.00 could be issued.

### York Town Planning Scheme No.2

Clause 9.3 of the Scheme states:

*“A person must not:*

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

The landowner has contravened the Act and the Scheme. Council has the choice of instituting legal action or issuing an infringement notice for the offence committed. It is recommended that an infringement notice be issued, and then if the applicant still does not comply with the conditions, then legal action be instigated.

#### **Policy Implications:**

The advertising signage as erected and displayed does not meet the provisions of the adopted local planning policies. If approved, the approval will create an undesirable precedent and may result in the historic streetscape of the York town centre being dominated by garish and distasteful flashing signage, typical to places such as Las Vegas.

Policies must be applied consistently not only to provide the community with the same standards and expectations, but to ensure that the policies are taken seriously and given appropriate weight of consideration in a court of law.

It is as important that applicants comply with their planning approvals and any conditions to ensure that the development proposed and advertised to the community and neighbouring landowners is the development that is completed.

#### **Financial Implications:**

The cost of complying with the conditions of the planning approval would be minimal as all that is required is for the applicant to remove some lighted and remove and relocate a portion of a small advertising sign, which could be completed by the landowner.

The issuing of an Infringement Notice prior to instigation of legal action that will require the employment of legal representation will reduce the financial costs associated with this action. However, it should be noted that legal costs associated with planning compliance are included in Council's adopted budget and are generally recoverable through court proceedings.

**Strategic Implications:**

It is important to ensure that all development is carried out with the appropriate approvals and in accordance with the approvals, including plans and conditions of consent to ensure that appropriate development occurs and does not impact on the character of York, particularly within the heritage precincts.

**Voting Requirements:**

**Absolute Majority Required:** No

**Site Inspection:**

**Site Inspection Undertaken:** Yes (numerous)

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

The original Council resolution and approval considered the reasons for the type and design of signage as outlined by the applicant, including the need to increase visibility of his business, and provided a suitable resolution to cater to the needs of for both parties (i.e. Council and the applicant).

Compliance with the resolution would have resulted in minimal economic implications for both parties, and the community. However, due to the applicant disregarding Council's resolution and the planning legislation, there may be some economic implications for the community.

**Social Implications:**

It is important to implement compliance activities consistently in the community and that appropriate action is taken.

**Environmental Implications:**

There are no environmental implications associated with this proposal.

**Comment:**

Considerable amounts of Shire resources have already been spent on this development and therefore, it is considered appropriate for an infringement notice to be issued. Should the landowner choose not to comply or not to pay the fine, then legal action will need to be instigated.

**RESOLUTION  
131113**

**Moved: Cr Smythe**

**Seconded: Cr Wallace**

***“That Council:***

- 1. Issue an Infringement Notice under the provisions of Section 227 for an offence against Section 218 of the Planning and Development Act 2005 to the landowner for non-compliance with conditions 3, 4 and 5 of the Notice of Determination on Application for Planning Consent dated 23 August 2013 issued under the provisions of the York Town Planning Scheme No. 2.***
- 2. Advise the landowner of the appeal right to the Infringement Notice: “A person may elect to have the alleged offence dealt with by a local court. However, this action may result in the imposition of a higher penalty. Payment of the fine or to elect for a court hearing must be made within 28 days from the date of issue of the Notice, otherwise a person may be prosecuted for the offence.”***
- 3. Advise the landowner that legal action will be instigated if the conditions of the planning approval are not complied with within 28 days from the date of this resolution.***
- 4. Authorise the Chief Executive Officer to instigate legal action for non-payment of the fine and/or non-compliance with the Planning Direction.”***

**CARRIED: 5/0**



**Item 9.5.1 - Appendices**





**9. OFFICER'S REPORTS**  
**9.5 LATE REPORTS**  
**9.5.2 RTG Transition Funding**

<b>FILE NO:</b>	<b>OR.RDT.5</b>
<b>COUNCIL DATE:</b>	<b>18 November 2013</b>
<b>REPORT DATE:</b>	<b>18 November 2013</b>
<b>LOCATION/ADDRESS:</b>	<b>South East Avon</b>
<b>APPLICANT:</b>	<b>SEARTG</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>REPORTING OFFICER:</b>	<b>Ray Hooper, CEO</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>SEARTG Report</b>
<b>DOCUMENTS TABLED:</b>	<b>Quotations</b>

**Summary:**

The Board of the South East Avon Regional Transition Group requests the Shire of York to formally accept the quotations received and issue purchase orders for the upgrading of computer wiring, telephone upgrade and associated equipment as part of the transition funding agreement with the State Government.

**Background:**

The Regional Transition Group has identified that information technology and community systems are vital for the operations of the member local governments regardless of whether or not the proposed amalgamation eventuates.

**Consultation:**

SEARTG Members  
Department of Local Government  
WALGA Purchasing Services  
Consultants

**Statutory Environment:**

**Local Government Act 1995 –**

**3.57. Tenders for providing goods or services**

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*

**Local Government (Functions and General) Regulations 1996 -**

**Division 2 — Tenders for providing goods or services (s. 3.57)**

*[Heading inserted in Gazette 2 Feb 2007 p. 245.]*

**11. When tenders have to be publicly invited**

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.*

- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
- (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
  - (b) the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA; or
  - (ba) the local government intends to enter into a contract arrangement for the supply of goods or services where —
    - (i) the supplier is either —
      - (I) an individual whose last employer was the local government; or
      - (II) a group, partnership or company comprising at least 75% of persons whose last employer was that local government;
 and
    - (ii) the contract —
      - (I) is the first contract of that nature with that individual or group; and
      - (II) is not to operate for more than 3 years;
 and
    - (iii) the goods or services are —
      - (I) goods or services of a type; or
      - (II) (in the opinion of the local government) substantially similar to, or closely related to, goods or services of a type, that were provided by the individual (or persons) whilst employed by the local government;
 or
  - (c) within the last 6 months —
    - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications; or
    - (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;
 or
  - (d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or
  - (e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or
  - (ea) the goods or services are to be supplied —
    - (i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and
    - (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

- (f) *the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or*
- (g) *the goods to be supplied under the contract are —*
  - (i) *petrol or oil; or*
  - (ii) *any other liquid, or any gas, used for internal combustion engines.*

*[Regulation 11 amended in Gazette 29 Apr 1997 p. 2145; 26 Jun 1998 p. 3447; 25 Feb 2000 p. 970-1; 29 Jun 2001 p. 3130; 31 Mar 2005 p. 1054-5; 2 Feb 2007 p. 245-6.]*

**Policy Implications:**

Nil

**Financial Implications:**

All proposed expenditure is within the budget allocations and the transition funding provided by the Department of Local Government.

**Strategic Implications:**

Nil

**Voting Requirements:**

**Absolute Majority Required:            Yes**

**Site Inspection:**

**Site Inspection Undertaken:            Not Applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

Use of Transition funds to undertake upgrades and the acquisition of hardware reduces the cost imposed on the four local governments which would normally be met from municipal funds by the individual Councils.

**Social Implications:**

Improved communication systems benefit the public.

**Environmental Implications:**

Nil

**Comment:**

The upgrading and new equipment will benefit the four Shires individually and position all better for resource sharing, systems commonality and all communication processes.

**RESOLUTION**

**141113**

**Moved: Cr Hooper**

**Seconded: Cr Duperouzel**

***“That Council:***

**1. *That the Shire of York accept the following quotations:***

- Electek, for the data cabling of the Shires of Cunderdin, Quairading, Tammin at a cost of \$83,248.***
- AT & D (Telstra), for the installation of ICT systems at the Shires of Cunderdin, Quairading, Tammin and York at a cost of \$105,000.***
- Focus Networks, for Technical and Project Management services at a cost of \$11,419.***

**2. *That the Chief Executive Officer be authorised to give consideration and to approve the following additional expenditure.***

- Additional Data Cabling for the Shire of York Administration Centre and Depot – estimated cost \$12,000 to \$15,000.***
- The upgrade of up to 20 IP telephone handsets from 5330E to 5360 model.***

**3. *Subject to (1) and (2) above the Chief Executive Officer be authorised to issue the purchase orders and/or sign supplier agreements.”***

**CARRIED: 5/0**

## Item 9.5.2 – Appendices



## 9.6 Confidential Reports





## 10. NEXT MEETING

**RESOLUTION  
151113**

**Moved: Cr Hooper**

**Seconded: Cr Duperouzel**

***“That Council:***

***Hold the next Ordinary Meeting of the Council on December 16, 2013 at 3.00pm in the Council Chambers, York Town Hall, York.***

***Hold the Proposed Annual Electors meeting at the conclusion of the Ordinary Meeting of the Council on December 16, 2013 at 5.00pm.”***

**CARRIED: 5/0**

## 11. CLOSURE

*Cr Reid thanked everyone for their attendance and declared the meeting closed at 4.01pm.*