

# SHIRE OF YORK

**MINUTES OF THE SPECIAL  
MEETING OF THE COUNCIL  
HELD ON 25 SEPTEMBER, 2014  
COMMENCING AT 4.03PM  
IN THE COUNCIL CHAMBERS,  
YORK TOWN HALL, YORK**

# Table of Contents

<b>1. OPENING</b> .....	<b>3</b>
<b>1.1 Declaration of Opening</b> .....	<b>3</b>
<b>1.2 Disclaimer</b> .....	<b>3</b>
<b>1.3 Suspension of Standing Orders</b> .....	<b>3</b>
<b>1.4 Announcement of Visitors</b> .....	<b>3</b>
<b>1.5 Declarations of Interest that Might Cause a Conflict</b> .....	<b>3</b>
<b>Financial Interest</b> .....	<b>3</b>
<b>Disclosure of Interest that May Affect Impartiality</b> .....	<b>3</b>
<b>2. ATTENDANCE</b> .....	<b>4</b>
<b>2.1 Members</b> .....	<b>4</b>
<b>2.2 Staff</b> .....	<b>4</b>
<b>2.3 Apologies</b> .....	<b>4</b>
<b>2.4 Leave of Absence Previously Approved</b> .....	<b>4</b>
<b>2.5 Number of People in Gallery at Commencement of Meeting</b> .....	<b>4</b>
<b>3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b> .....	<b>4</b>
<b>3.1 Previous Public Questions Taken on Notice</b> .....	<b>4</b>
<b>4. PUBLIC QUESTION TIME</b> .....	<b>4</b>
<b>4.1 Public Question Time</b> .....	<b>5</b>
<b>5. APPLICATIONS FOR LEAVE OF ABSENCE</b> .....	<b>5</b>
<b>6. PETITIONS / PRESENTATIONS / DEPUTATIONS</b> .....	<b>5</b>
<b>7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b> .....	<b>5</b>
<b>8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION</b> .....	<b>5</b>
<b>9. REPORTS</b> .....	<b>5</b>
<b>10. MATTERS FOR RESOLUTION</b> .....	<b>5</b>
10.1.1 York Racecourse Development .....	<b>6</b>
10.2.1 Lot 10 (1) Redmile Road, York – Construction of a pool. ....	<b>9</b>
<b>11. CLOSURE</b> .....	<b>26</b>



## SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL  
HELD ON THURSDAY, 25 SEPTEMBER 2014, COMMENCING AT  
4.03PM 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 Mark Duperouzel declared the meeting open at 4.03pm*

#### 1.2 Disclaimer

The Deputy 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

Clause 10.5 – Breaking Down of Complex Motion

Moved: N/A

Seconded: N/A

Carried: N/A

#### 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

*Cr Tony Boyle – 10.1.1 – Impartial*

## **2. ATTENDANCE**

### **2.1 Members**

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

### **2.2 Staff**

*Michael Keeble, Chief Executive Officer; Gail Maziuk, Human Resources and Compliance Officer.*

### **2.3 Apologies**

*Cr Matthew Reid*

### **2.4 Leave of Absence Previously Approved**

*Nil*

### **2.5 Number of People in Gallery at Commencement of Meeting**

*There were twenty six (26) 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**

*Nil*

## **4. PUBLIC QUESTION TIME**

Public Question Time Opened.

### **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**

**Jacky Jurmann**

**Question 1:**

Regarding Matter for Resolution 10.1.1 Item 3, would this hold up the process or have any implications?

**Response:**

CEO advised no.

**Former Councillor Tricia Walters**

**Question 1:**

Regarding Matter for Resolution 10.2.1 the Set Back Policy needs to be looked at.

**Response:**

Taken on Notice.

**Question 2:**

Will this matter be deferred?

**Response:**

Cr Duperouzel stated this matter would not be deferred and that a decision is to be made by Council today.

Public Question Time Closed.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

*Nil*

**6. PETITIONS / PRESENTATIONS / DEPUTATIONS**

*Nil*

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

*Nil*

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

*Nil*

**9. REPORTS**

*Nil*

**10. MATTERS FOR RESOLUTION**

10. MATTERS FOR RESOLUTION  
10.1 DEVELOPMENT SERVICES  
10.1.1 York Racecourse Development

FILE NO: CCP.10  
COUNCIL DATE: 25 September 2014  
REPORT DATE: 25 September 2014  
LOCATION/ADDRESS: York Racecourse, Spencers Brook Road  
APPLICANT: York Racing Inc.  
SENIOR OFFICER: M Keeble, CEO  
AUTHOR: K Strange, PO  
DISCLOSURE OF INTEREST: Tony Boyle - Impartial  
APPENDICES: Nil  
DOCUMENTS TABLED: Nil  
REPORT APPROVED BY THE CEO: Michael Keeble

**OFFICER RECOMMENDATION**

*“That Council:*

- 1. Delegate the Chief Executive Officer to issue Building Permits for Class 2 to 9 buildings for privately certified building permit applications that have had a Certificate of Design Compliance issued under the Building Act 2011;*
- 2. Instruct the Chief Executive Officer to issue a Building Permit for the class 9b certified building; and*
- 3. Instruct the Chief Executive Officer to assess York Racing Inc. compliance with their planning approval.”*

**RESOLUTION  
400914**

**Moved: Cr Hooper**

**Seconded: Cr Wallace**

*“That Council*

- 1. Delegate the Chief Executive Officer to issue Building Permits for Class 2 to 9 buildings for privately certified building permit applications that have had a Certificate of Design Compliance issued under the Building Act 2011;*
- 2. That Council instruct the Chief Executive Officer to issue a Building Permit for the Class 9b certified building.*
- 3. Instruct the Chief Executive Officer to assess York Racing Inc. compliance with their planning approval.”*

**CARRIED: 4/1**

**Cr Smythe requests her no vote be recorded.**

**Summary:**

Mr Patrick Flynn, Chairman of York Racing Inc. requested, in writing, that Council consider amending the conditions of their development approval issued 25 October 2011 for development at the York Racecourse on Spencers Brook Road. Mr Flynn also requested that Council delegate the CEO to issue Building Permits for Class 2 to 9 buildings for privately certified building permit applications that have had a Certificate of Design Compliance issued under the Building Act 2011.

After Mr Flynn was notified of the amended conditions, he requested that Council defer the conditions until such time that further discussions can be had with the planning officer and other relevant staff.

**Background:**

On 1 September 2014, York Racing Inc. applied for a building permit for the construction of the main undercover area, a 1,386m<sup>2</sup> class 9b building. Through this process it was identified that a number of conditions had not been complied with which prevented the issuing of a building permit. As there were a number of time constraints, this issue was put forward to Council at the Ordinary meeting in September where Council resolved the following;

*“That Council Amend the Officer Recommendation to read:*

- 1. Endorse the staffs action in approving a staged building permit (stage 2) for the installation of the concrete slab for the York Racetrack Public Building on the understanding that no further building permits will be issued until such time as the relevant conditions have been completed to Councils satisfaction.*
- 2. Planning Officer and associated staff to have a meeting with the race club as soon as possible to discuss the conditions to enable building to commence as quickly as possible.”*

After Mr Flynn reviewed the conditions he requested that the matter be deferred however still requested the delegation to CEO for building permits.

**Consultation:**

Mr Patrick Flynn has consulted with the Shire of York regarding this matter.

**Statutory Environment:**

Building Act 2011

*S.20 Granting of Building Permit*

*(1) A permit authority to which a certified application or an uncertified application is made must grant the building permit if it is satisfied —*

...

- (n) that the applicant has obtained in relation to the building work each authority under a written law that is prescribed for the purposes of this paragraph; and*
- (o) that the applicant has complied or is complying with each authority mentioned in paragraph (n); and*

...

*(2) A permit authority to which an application is made must not grant the building permit unless it is satisfied as to each of the matters mentioned in subsection (1)(a) to (s).*

**Policy Implications:**

There are no policy implications for Council associated with this report.

**Financial Implications:**

There are no financial implications for Council associated with this report.

**Strategic Implications:**

There are no strategic implications for Council associated with this report.

**Voting Requirements:**

**Simple Majority Required:** Yes

**Site Inspection:**

**Site Inspection Undertaken:** Yes

**Triple bottom Line Assessment:**

**Economic Implications:**

There are no economic implications for Council associated with this report.

**Social Implications:**

There are no social implications for Council associated with this report.

**Environmental Implications:**

There are no environmental implications for Council associated with this report.

**Comment:**

York Racing Inc. is developing the Racecourse so that it is a functioning community facility. Currently there are a number of outstanding conditions that need to be addressed and/or amended to reflect the intent of the approval. However, it is also very important to stay within the parameters of relevant legislation.



10. MATTERS FOR RESOLUTION

10.2 DEVELOPMENT SERVICES

10.2.1 Lot 10 (1) Redmile Road, York – Construction of a pool.

FILE NO: RE1.11350  
COUNCIL DATE: 25 September 2014  
REPORT DATE: 24 September 2014  
LOCATION/ADDRESS: Lot 10 (1) Redmile Road, York  
APPLICANT: Darry's Plumbing and Gas  
SENIOR OFFICER: M Keeble, CEO  
AUTHOR: C Murphy, SP  
DISCLOSURE OF INTEREST: Matthew Reid – Proximity  
APPENDICES: Appendix 1 – Site Plans  
Appendix 2 – Technical Drawing  
Appendix 3 – Flood Mapping  
Appendix 4 – Schedule of Submissions  
Appendix 5 – DA Assessment  
DOCUMENTS TABLED: Nil  
REPORT APPROVED BY THE CEO: Michael Keeble

OFFICER RECOMMENDATION

*“That Council:*

*Pursuant to clause 8.6 of the Shire of York Town Planning Scheme No. 2 GRANT planning consent for the development of a swimming pool and fencing at Lot 10 (1) Redmile Road, York subject to the following conditions:*

- 1. Development must substantially commence within two (2) years from the date of this decision*
- 2. The development shall take place in accordance with the stamped approved plans.*
- 3. Elevations and a schedule of colours and materials for the proposed fence to be prepared to the satisfaction of and approval by the local government prior to the commencement of works.*
- 4. A landscape plan for the purpose of screening the development from adjacent property boundaries to be prepared to the satisfaction of and approval by the local government prior to the commencement of works.*
- 5. The implementation of the landscape plan within six months of the completion of the development, and maintenance of screening landscaping thereafter.*
- 6. The applicant is to maintain the right of way and bridge access to the benefit of Lot 11 (3) Redmile Road, York. Any interruption to access is to be made good by the applicant.*
- 7. The applicant is to provide the owners and residents of Lot 11 (3) Redmile Road, York with 48 hours' notice prior to the use of the right of way and bridge access by heavy vehicles for the purposes of the development.*
- 8. If archaeological material or features are encountered during the construction of the proposed swimming pool, works shall cease and the State Heritage Office shall be notified immediately in order that consultation with an appropriately qualified archaeologist can be undertaken to assess the finds and provide advice on an appropriate course of action.*

**AMENDMENT WAS MOVED:**

**Moved: Cr Smythe**

**Seconded: Cr Wallace**

“That Council Amend the Officer Recommendation:

Defer the matter to allow the Chief Executive Officer to investigate the Set Back Policy and ramifications to Council should the pool be flooded.”

**CARRIED: 3/2**

**Advice Notes:**

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

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

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

**Note 4:** *This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.”*

**Summary:**

An application for planning consent to develop a swimming pool and fencing at Lot 10 (1) Redmile Road, York is presented for determination.

Key planning issues relate to a reduced setback, potential impacts on rural amenity, heritage value of the grounds, and potential impacts on shared access to a neighbouring property. It is recommended that these potential issues can be effectively managed through conditions on a planning consent.

**Background:**

On 25 August 2014, Darry’s Plumbing and Gas submitted a planning application on behalf of the landowners at Lot 10 (1) Redmile Road, York, for the construction of a swimming pool on a State listed property and with variation to the required setback.

The property is zoned General Agriculture and is located at the end of Redmile Road, adjacent to the Avon River. The property is a State listed heritage place known as “Bridge House and Grounds” and is therefore registered as a Category 1A place on the local municipal inventory list.

Department of Water mapping indicates that the majority of this property is affected by flooding. The map in Appendix 3 illustrates the extent of the flooding.

**Consultation:**

The proposal was advertised in accordance with Clause 8.3.2, 8.3.3(a) and 8.4 of the York Town Planning Scheme.

Notification was given to landowners of the surrounding properties as well as the relevant agencies for their comments i.e. the State Heritage Office and the Department of Water. Due to an administrative error, one landowner and the Department of Water were notified outside of the advertising period and therefore their comments were received a week later.

There were a total of four (4) submissions received of which can be viewed in Appendix 4. All comments have been considered during the assessment of this application.

**Statutory Environment:**

- Shire of York Town Planning Scheme No. 2
- Local Planning Policy *Heritage Precincts and Places 2009*

See Comments and Appendix 5 for further details.

**Policy Implications:**

There are no policy implications for Council associated with this report.

**Financial Implications:**

There are no policy implications for Council associated with this report.

**Strategic Implications:**

There are no policy implications for Council associated with this report.

**Voting Requirements:**

**Simple Majority Required:**                      **Yes**

**Site Inspection:**

**Site Inspection Undertaken:**                      **Not applicable**

**Triple bottom Line Assessment:**

**Economic Implications:**

There are no economic implications for Council associated with this report.

**Social Implications:**

There are no social implications for Council associated with this report.

**Environmental Implications:**

There are no environmental implications for Council associated with this report.

**Comment:**

The development application assessment report is provided as Attachment 5 to this report.

Assessment of the application documentation and information provided in submissions received during advertising identified the following key planning issues relevant to the proposal:

- Potential impacts on rural amenity resulting from a reduced setback to Lot 12 Great Southern Highway, Balladong
- Heritage value of the subject land
- Potential impacts and interruptions to right of way access to the benefit of Lot 11 (3) Redmile Road, York

*Potential impacts on rural amenity*

The proposal, which is located within the General Agricultural zone, requires a setback of 15 metres pursuant to cl 4.14.3 of the scheme. The application proposes a setback of 2.18 metres to the boundary with the adjacent Lot 12 Great Southern Highway, Balladong (Balladong Farm). Cl 4.6 of the scheme enables Council to vary development standards where:

- a) It is consistent with orderly and proper planning of the locality and the preservation of the amenities of the locality; and
- b) It will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the locality, and the likely future development of the locality.

The applicant has provided justification for the reduced setback:

- a) The proposed swimming pool site is located outside the floodway and floodfringe that impacts the majority of the property;
- b) The proposed swimming pool site is located behind the house, outside the area of 'great archaeological significance' of the property to minimise impacts on heritage values;
- c) The proposed swimming pool site is located in an area not visible from the public realm
- d) The proposed development includes fencing consistent with the existing courtyard on the property; therefore will look like an extension of the existing brick court yard.

A submission on the application objected to the reduced setback on the basis that the development would impact on the amenity of the area, significantly impact on the rural outlook from the view of the Lot 12 Great Southern Highway, Balladong, and impact on the quiet enjoyment of Balladong Farm due to noise associated with use of the pool area.

It is recommended that there is limited opportunity to relocate the proposed swimming pool to a location that would impose lesser potential noise or visual impacts to the adjacent property. The justification provided by the applicant is considered sufficient to warrant discretion to vary development standards in this instance. It is not considered that a domestic swimming pool will result in significant noise impacts that would be inconsistent with other noises and levels experienced in the immediate locality. Potential amenity impacts to the neighbouring property can be managed through solid fencing and appropriate screening and landscaping, required as a condition on the planning consent.

#### *Heritage value of the subject land*

The property is a state listed place called "Bridge House and Grounds". Advice was sought from the Heritage Council; the Council concluded that the proposed works are to the rear of the site and are reversible, therefore would have minimal impact on the identified cultural significance of the site.

The Heritage Council has recommended a condition on the approval requiring that, in the event of encountering archaeological materials during development, works cease and advice is sought. It is recommended that it is appropriate to include the recommended condition on the planning consent.

#### *Potential interruptions to a right of way access to the benefit of Lot 11 (3) Redmile Road*

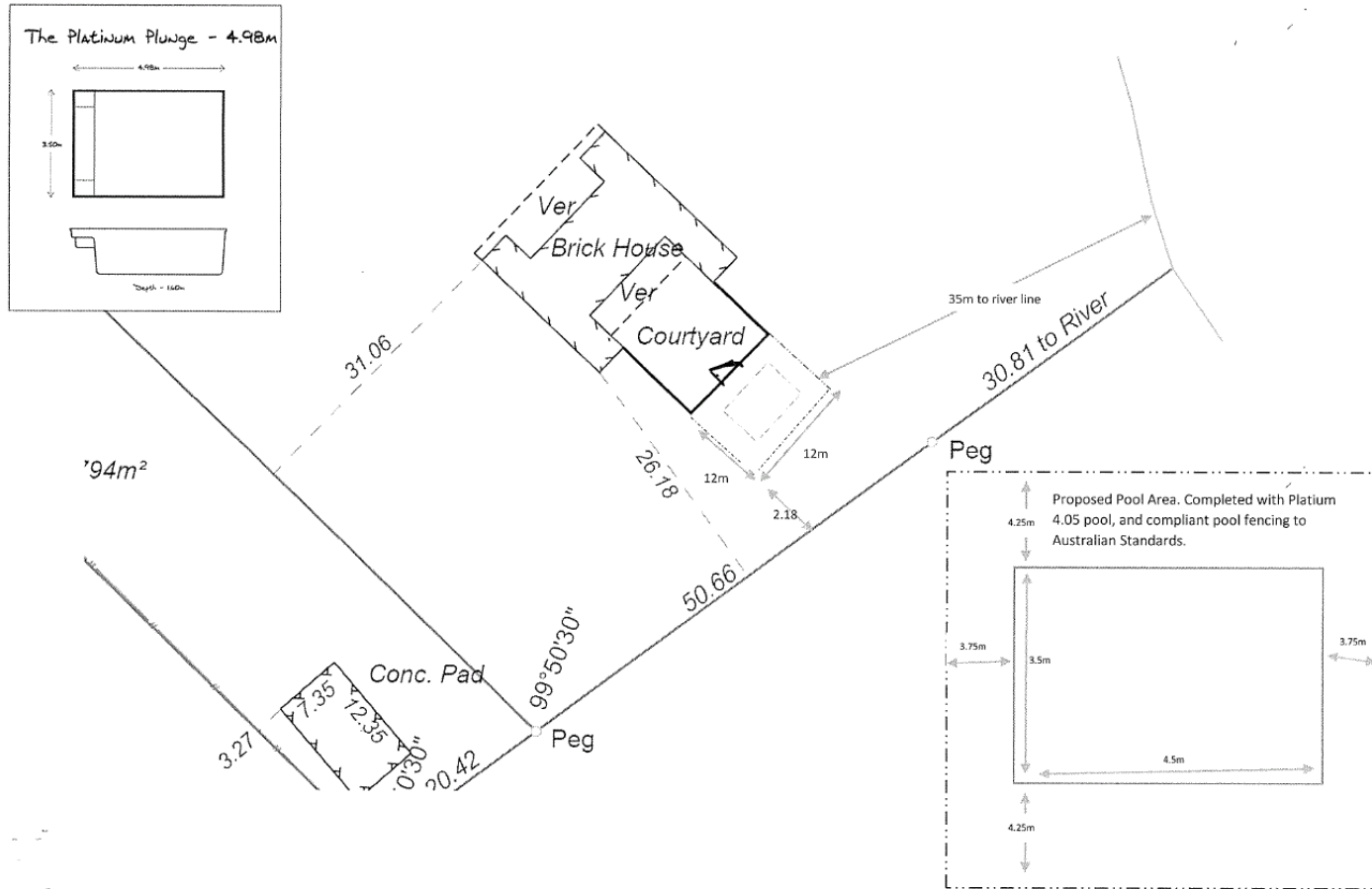
Currently, Lot 10 (1) Redmile Road is affected by a right of way easement to the benefit of Lot 11 (3) Redmile Road. The right of way includes access to Redmile Road across an aging timber bridge.

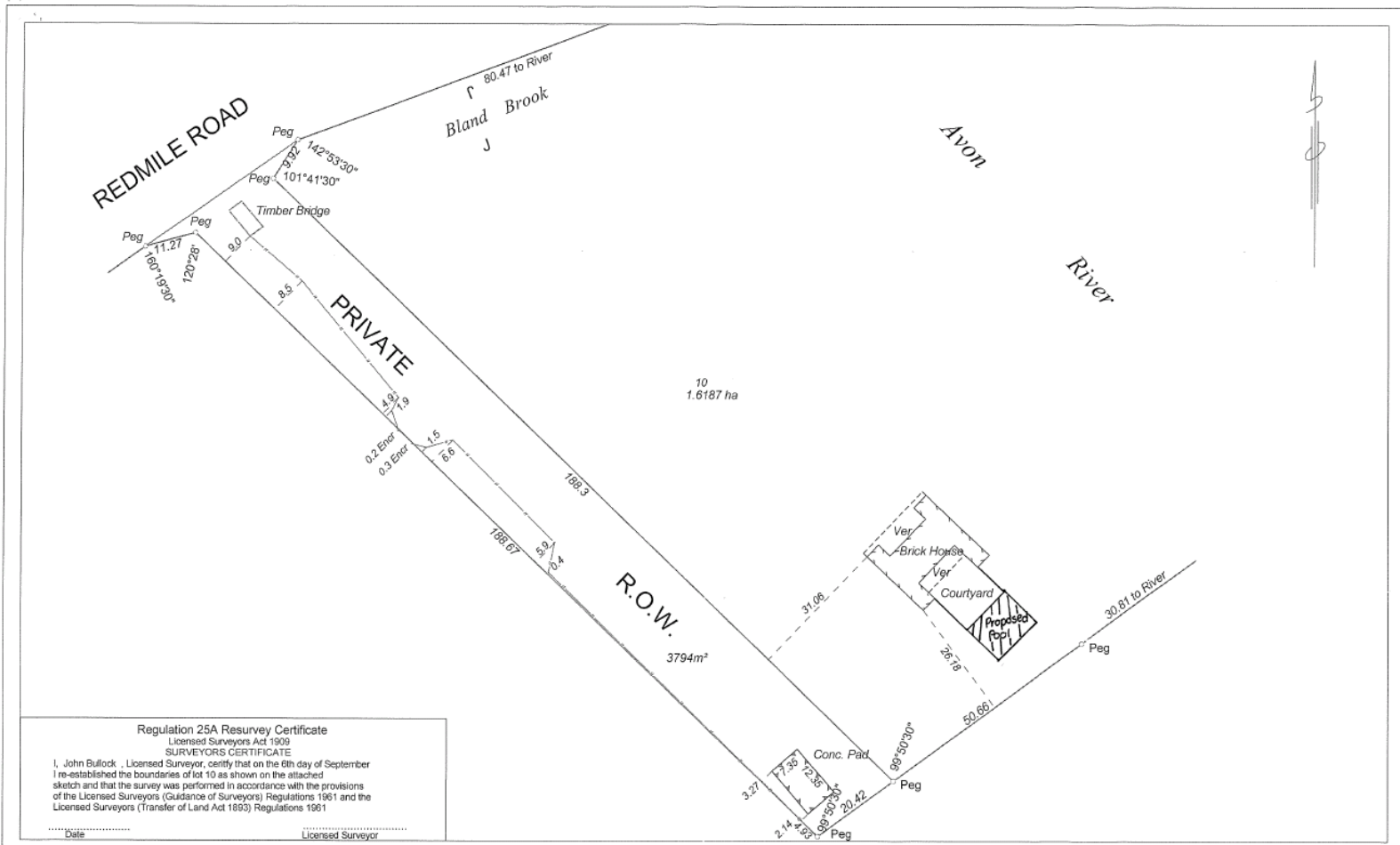
The owner of Lot 11 (3) Redmile Road has raised concerns that delivery of the swimming pool and construction materials may impact on the structural stability of the timber bridge access, which has required maintenance works in the recent past. It is noted that the applicant would also be impacted by any loss of access as a result of the bridge failing. The applicant does not have any alternative road access; it is noted that Lot 11 (3) has frontage (although without constructed access) to Parker Road off Avon Terrace.

The applicant is responsible for ensuring that access remains and, if impacted, is made good for the beneficiaries of the right of way. Appropriate conditions on the planning consent can formalise this requirement, and ensure access is maintained. It is recommended that additional

conditions on the planning consent should require that appropriate notice is provided to the owners of Lot 11 (3) Redmile Road prior to the use of the right of way by heavy vehicles.

# APPENDIX 1 – SITE PLANS



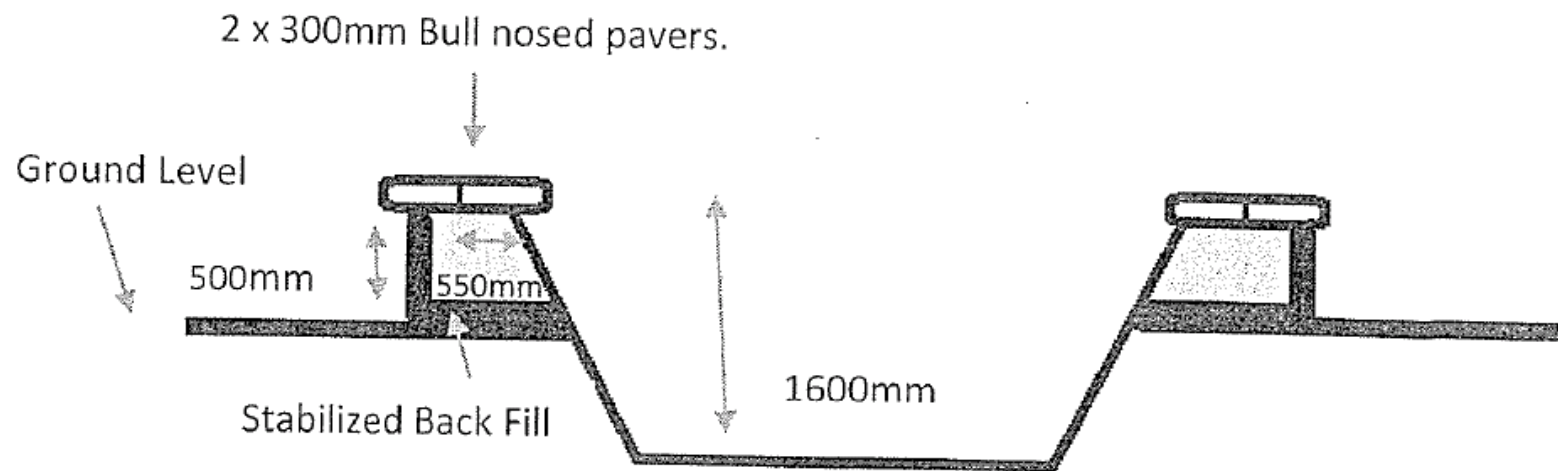


Regulation 25A Resurvey Certificate  
 Licensed Surveyors Act 1909  
 SURVEYORS CERTIFICATE:  
 I, John Bullock, Licensed Surveyor, certify that on the 6th day of September I re-established the boundaries of lot 10 as shown on the attached sketch and that the survey was performed in accordance with the provisions of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and the Licensed Surveyors (Transfer of Land Act 1953) Regulations 1961  
 Date: ..... Licensed Surveyor: .....

**JOHN BULLOCK & ASSOCIATES**  
 12b PEPLER AVENUE  
 SALTER POINT 6152  
 Email: jbawa@bigpond.com  
 Phone: 9450 7188 Fax: 9450 7199  
 Surveyor: JLB Date: 8.9.2005

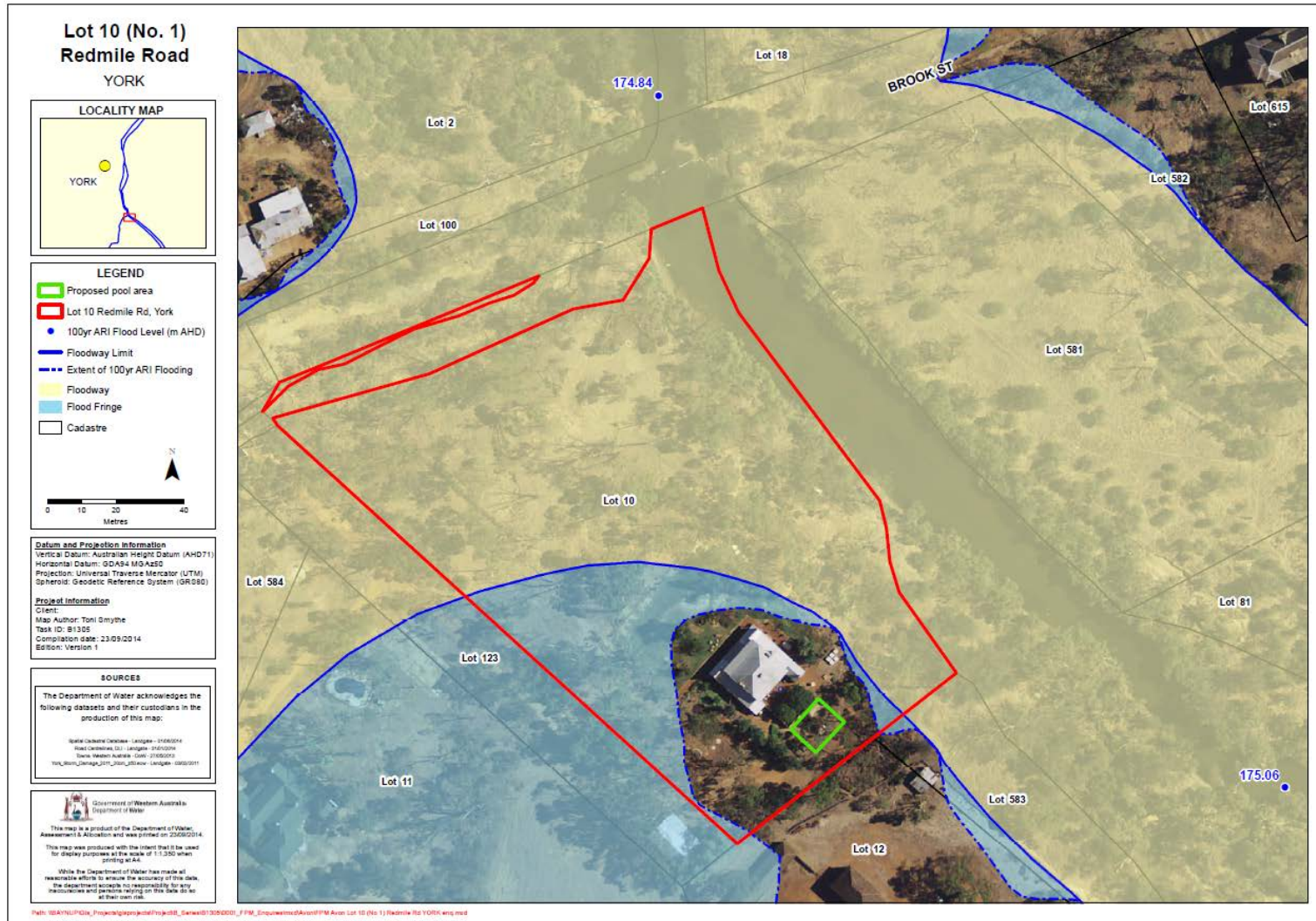
**RE-ESTABLISHMENT SURVEY** Scale: 1:750 @ A3  
 Datum: Horiz: Assumed Vert: A.H.D.  
**LOT 10 ON DIAGRAM 13503**  
**REDMILE ROAD, YORK**  
 Job No: 3440  
 Data File: Checked By: Date: Approved By: Date: Drawing: 3440R\_01\_060905

APPENDIX 2 – TECHNICAL DRAWING





# APPENDIX 3 – FLOOD MAPPING



**APPENDIX 4 – SCHEDULE OF SUBMISSIONS**

No.	Date Received	Name	Description of Affected Property	Summary of Submission	Officer's Comment
<b>Public Submissions</b>					
1.	11-Sep-14	Silvia and William Davidson	Western neighbour	<p><i>"... Bridge House Lot (10) 1 Redmile Road only has one entrance and that is over a small ageing timber bridge located at Redmile Road.</i></p> <p><i>The owners of Bridge House, ... own the bridge, and the land which is Lot 123. Balladong House owns a Right of Way easement which traverses this bridge and for the full extent of Lot 123. Our easement, is on title but was wrongly deemed abandoned ... from 2005 to 2011. On the 11<sup>th</sup> of February 2011 a judgement was delivered by Justice Hall in the Supreme Court of Western Australia validating our original easement...</i></p> <p><i>Our ROW easement over Lot 123 and the bridge gives access to services such as rubbish collection, mail deliveries and water and electricity metre reading.</i></p> <p><i>The following needs attention prior to any major development, such as the one in question, taking place on Lot 10.</i></p> <p><i>On the 26<sup>th</sup> July 2014 a hole, one metre deep by three metres wide appeared in the gravel at the bridge. It was pure luck that nobody drove into the open gap. This obstruction was reported to the Shire. Emergency repairs were carried out by the Shire for the safety of the ... care taker who would have unknowingly crossed the bridge and driven into the hole which was only visible through a small opening at the surface of the gravel. We were told this hole occurred due to lack of adequate compaction. It was said that the base of the bridge requires work as the problem without expert attention will occur again. In October 2008, following a heavy downpour a dam broke upstream causing Bland Brook to break its banks, which left the bridge and the</i></p>	<p>Upheld in part.</p> <p>Potential issues with access can be managed through conditions of consent.</p>

				<p><i>Redmile Road section of Lot 123 submersed by water... For any development to take place behind the Elkington house which borders Balladong Farm, a bridge maintenance programme, completed by the Elkingtons should be put into place and supervised by the Shire. Workers involved in the construction of a large swimming pool, extensive paving and fencing need to cross this bridge with safety. Clear weight limits should be sign posted at the entrance to the bridge at Redmile Road.</i></p> <p><i>We also need to know that our entrance from Redmile Road is not compromised by this development.</i></p> <p><i>Redmile road is the main historic entrance to Balladong House (Lot 11). Our ROW easement from Redmile Road also leads to various other entrances to our house and paddocks along Lot 123. In 2007, ten truckloads, each containing six cubic metres of free fill, were delivered to Lot 10. This fill was used to significantly raise the natural ground level at the front of Bridge House, which was then grassed. This bridge requires legal limits placed on it which will support all future loads.</i></p> <p><i>We require full unobstructed access from Redmile Road at all times and indeed from any part of Lot 123. (Justice Hall, 2011)."</i></p>	
2.	19-Sep-14	Matthew Reid (Director) on behalf of Kittochside Nominees	Southern neighbour	<p><i>"As the trustee of the Reid Property Trust, Kittochside Nominees expresses its objection to the proposed development application to construct a swimming pool within the 15m setback at the above property.</i></p> <p><i>The Trust purchased the property for the peaceful enjoyment of the amenity by the beneficiaries of the Trust. The amenities being the open rural outlook and the historic buildings and general quiet and peaceful nature of the property...</i></p> <p><i>Kittochside's reason for objecting the proposed development are:</i></p> <ul style="list-style-type: none"> <li><i>•That the development will significantly impact the amenity of the area by concentrating construction against the boundary</i></li> </ul>	<p>Upheld in part.</p> <p>Potential issues associated with amenity can be managed through conditions of consent.</p>

				<p><i>of the two properties. This will have a significant impact on the rural outlook from the Trust's property thus reducing a key amenity of the locality.</i></p> <ul style="list-style-type: none"> <li><i>•That the development will significantly impact on the quiet enjoyment of the property. The allowing of development within the 15 metre setback will impact on the quiet enjoyment of the peaceful rural environment that currently exists. Swimming pool areas are typically places that people congregate to socialize and enjoy each other's company. This enjoyable pastime is often noisy and will significantly impact on the quiet rural nature of the Trust's property Balladong Farm. It is our understanding that purpose of the 15 meter setback specified in York's planning scheme exists to ensure that owners of property within a rural zoning keep development away from boundaries to minimize any impact on their neighbours' quiet enjoyment of their property. Kitochside's objection is to the location of the development within the 15 meter setback.</i></li> </ul> <p><i>Definitions and interpretations:</i></p> <ul style="list-style-type: none"> <li><i>•It is our interpretation of the local planning scheme that a 15 meter setback is required.</i></li> <li><i>•Amenity – In real property and lodging, amenities are any tangible or intangible benefits of a property, especially those that increase its attractiveness or value of that property.</i></li> <li><i>•Quite enjoyment is a right to the undisturbed use and enjoyment of real property by a tenant or landowner, the right to enjoy and use premises in peace and without interference. “</i></li> </ul>	
<b>Agency Submissions</b>					
3.	10-Sep-14	State Heritage Office		<p><i>... We received the following information: The referral for the proposed development has been considered in the context of the identified cultural significance of Bridge House &amp; Grounds and the following advise is given: Findings</i></p> <ul style="list-style-type: none"> <li><i>•The proposal is for a new swimming pool, located to the</i></li> </ul>	<p>Noted.</p> <p>The condition of consent will be included on the approval.</p>

				<p>rear of the dwelling.</p> <ul style="list-style-type: none"> <li>•We note that the house is not visible from the main road, and is accessed from a private road.</li> <li>•We note that the proposed fencing is to be constructed of corrugated iron with timber/brick piers to comply with Australian standards.</li> <li>•The swimming pool is outside the area of 'great archaeological importance' but the edge of it is in the area of 'moderate archaeological importance' identified in the 1998 Conservation Plan.</li> <li>•The setting of the place is classed as having considerable significance, particularly the relationship to the topography, road network, Avon River and Bland's Brook.</li> <li>•The proposed works are to the rear of the site and area reversible. They will have minimal impact on the identified cultural significance of the place.</li> </ul> <p>Advice</p> <p>The proposed development, in accordance with the plans submitted, is supported subject to the following condition:</p> <p>1.If archaeological material or features are encountered during the construction of the proposed swimming pool, works shall cease and the State Heritage Office shall be notified immediately in order that consultation with an appropriately qualified archaeologist can be undertaken to assess the finds and provide advice on an appropriate course of action..."</p>	
4.	23-Sep-14	Toni Smythe Department of Water		<p>"The Department of Water in carrying out its role in floodplain management provides advice and recommends guidelines for development on floodplains with the object of 21inimizing flood risk and damage.</p> <p>The Avon River Flood Study shows that a portion of the lot is affected by flooding during major river flows with the 100 year ARI flood level estimated to be ~175 m AHD (see attached plan). Based on our floodplain management strategy for the area:</p> <ul style="list-style-type: none"> <li>• Proposed development (i.e. filling, building, etc) that is</li> </ul>	Noted.

				<p><i>located outside of the floodway is considered acceptable with respect to major flooding. However, a minimum habitable floor level of 0.5 m above the appropriate 100 year ARI flood level is recommended to ensure adequate flood protection.</i></p> <ul style="list-style-type: none"><li><i>Proposed development that is located within the floodway and is considered obstructive to major flows is not acceptable as it would have a detrimental impact upon the existing flooding regime. No new buildings are acceptable in the floodway.</i></li></ul> <p><i>The proposed pool area is located outside of the floodway and consequently is considered acceptable with respect to major flooding.</i></p> <p><i>Please note that this advice is related to major flooding only and other planning issues may also need to be addressed.”</i></p>	
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## APPENDIX 5 – DA ASSESSMENT

### DA ASSESSMENT REPORT

DA No. P933  
Address: Lot 10 (1) Redmile Road, York  
Proposal: Swimming Pool and Fencing

#### 4.6 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

**Except for development in respect of which the R Codes apply under this Scheme, if a development the subject of an application for planning consent does not comply with a standard prescribed by the Scheme with respect to minimum lot sizes, building height, setbacks, site coverage, car parking, landscaping and related matters, the local government may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit. The power conferred by this clause may only be exercised if the local government is satisfied that: AMD 9 GG 17/10/03**

- a) **approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;**

The majority of Lot 10 is influenced by the floodway and flood fringe of the Avon River, with only a small portion of the lot available for domestic development. To accommodate the proposed pool outside the floodway/floodfringe and also outside the 15 metre setback would require the removal of vegetation.

- b) **the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.**

Minor development, though has potential to impact rural character and amenity as viewed by the neighbouring property. The neighbouring property has raised concerns that there will be visual (impacted rural outlook) and noise impacts as a result of the development in close proximity to the boundary.

The proposed swimming pool will not be visible from public realm therefore will have limited impact on the scenic values of the district and the views from roads.

Whilst the property is zoned General Agricultural, the property – and surrounding properties – reflect a rural residential character, therefore it is reasonable to utilise discretion in relation to the location and experience of domestic and residential activities.

There is limited opportunity to relocate the proposed swimming pool development to a location that would impose lesser potential noise or visual impacts to the adjacent property due to the presence of the floodway/floodfringe.

It is not considered that a domestic swimming pool will result in significant noise impacts that would be inconsistent with other noises and levels experienced in the immediate locality. Potential amenity impacts to the neighbouring property can be managed through solid fencing and appropriate screening and landscaping

#### 8.5 MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT

**The local government in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application:**

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

The following minimum setbacks are required in the general agricultural zone

Front : 15.0m

Rear : 15.0m

Side : 15.0m

The proposed swimming pool will be a 12 metre by 12 metre structure, with a setback of 2.18 metres at it closest. As noted above this variation in setbacks is to accommodate the development outside the floodway/floodfringe and avoid the removal of vegetation.

Clause 4.15.2 of the scheme states developments are to have regard to the scenic value of the district and views from the roads. The proposed swimming pool will not be visible from public realm therefore will have limited impact on the scenic values of the district and the views from roads.

A fence constructed of brick/timber pillars and corrugated iron is proposed. No elevations have been provided for this.

- (b) **The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought.**  
See above discussion in relation to managing potential impacts on the amenity of the immediate location.
- (c) **Any approved statement of planning policy of the Commission.**  
Not applicable
- (d) **Any approved environmental protection policy under the *Environmental Protection Act 1986*.**  
Not applicable
- (e) **Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State.**  
Not applicable
- (f) **Any Planning Policy adopted by the local government under clause 8.8, any policy for a designated heritage precinct adopted under clause 5.1.3, and any other plan or guideline adopted by the local government under the Scheme.**  
Nil.
- (g) **In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve.**  
Not applicable – the land is not reserved.
- (h) **The conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 5.1.2, and the effect of the proposal on the character or appearance of a heritage precinct.**  
The subject land forms part of the listed heritage site “Bridge House & Grounds”. Advice was sought from the Heritage Council in relation to impacts of the proposed development on the cultural and heritage significance of the site.  
The Heritage Council advised that the proposed works are to the rear of the site, and are reversible, concluding that the proposed development would have minimal impact on the identified cultural significance of the place.  
The Heritage Council recommend the following condition:  
‘If archaeological material or features are encountered during the construction of the proposed swimming pool, works shall cease and the State Heritage Office shall be notified immediately in order that consultation with an appropriately qualified archaeologist can be undertaken to assess the finds and provide advice on an appropriate course of action.’
- (i) **The compatibility or a use or development with its setting.**  
The proposed pool will be fenced utilising a style and material consistent with existing development on the site. The pool is consistent with the use of its setting as a domestic envelope within a larger rural lot.
- (j) **Any social issues that have an effect on the amenity of the locality.**  
Not applicable
- (k) **The cultural significance of any place or area affected by the development.**  
See above (h)
- (l) **The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment.**  
The proposed development is located outside the floodway and flood fringe and will not disturb natural vegetation. It is not considered that the proposal will impact on the environment.



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

The proposed development is located outside the floodway and flood fringe.

- (n) The preservation of the amenity of the locality.**

See above (response to clause 4.6 of the scheme)

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

The proposed pool will be fenced utilising a style and material consistent with existing development on the site. It will appear as an extension of existing domestic structures, therefore will have a minor impact on adjoining land.

Impacts associated with a reduced setback can be managed through screening with appropriate soft landscaping.

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

Access to the site is via a small, ageing timber bridge located at Redmile Road. The access to the site is a right of way to the benefit of the adjoining Lot 11 (3) Redmile Road.

The owners of the adjoining lot have raised concerns about the structural integrity of the timber bridge, and potential impacts of the proposed development on their access from Redmile Road. In the event that access to the property is interrupted, alternative access for the adjoining neighbours could potentially be maintained from Parker Road.

It is noted that the applicant would be impacted by any loss of access as a result of the bridge failing, and should be responsible for ensuring that access remains and, if impacted, is made good for the beneficiaries of the right of way. Appropriate conditions on any approval can formalise this requirement, and ensure access is maintained.

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

Nil.

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

Not applicable

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

Not applicable

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

Not applicable

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

Not applicable

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

The application in its current form does not incorporate landscaping, which should be provided to ensure adequate screening of the development as viewed from the adjacent Balladong Farm.

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

Nil.

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

Nil.

- (y) Any relevant submissions received on the application.**  
Submissions have been discussed above.
- (z) The potential impacts of noise, dust, light, risk, and other pollutants on surrounding land uses.**  
Discussed above
- (aa) The comments or submissions received from any authority consulted under clause 7.4.**  
Discussed above
- (bb) Any other planning consideration the local government considers relevant.**  
Nil.

## **11. CLOSURE**

*Cr Duperouzel closed the meeting at 4.25pm.*