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# **WORKS & SERVICES**

## **Reports**

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**WORKS & SERVICES REPORTS**

**13.0 REPORTS – WORKS & SERVICES**

**13.1 - ASSET MANAGEMENT**

Nil

**13.2 – CITY SERVICES - WASTE MANAGEMENT**

Nil

**13.3 – CITY SERVICES – AIRPORT MANAGEMENT**

Nil

**13.4 – CITY SERVICES – CONTRACT MANAGEMENT**

Nil

**WORKS & SERVICES REPORTS**

**13.5 – CITY SERVICES – PROPERTY MANAGEMENT**

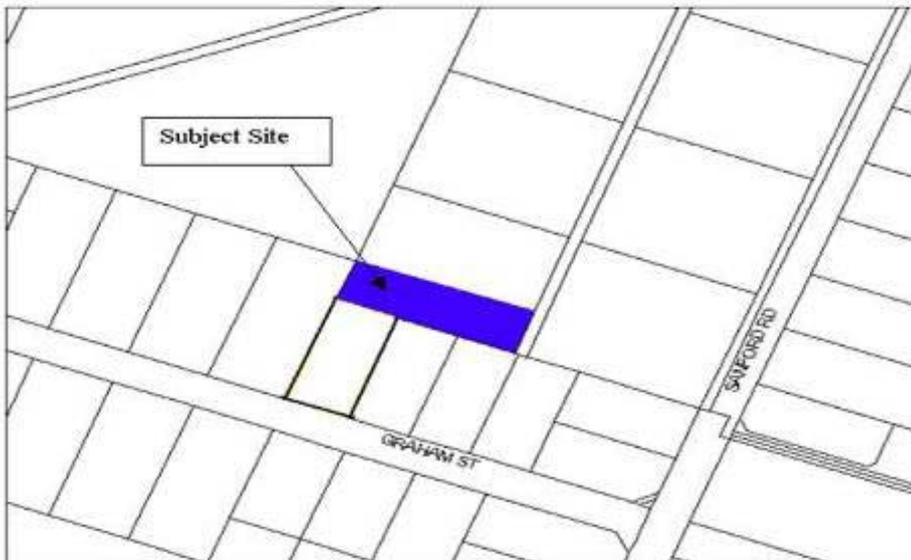
**ITEM NUMBER:** 13.5.1

**ITEM TITLE:** Request to Excise Portion of Reserve to Lease Land – North Road Sporting Complex – Reserve 18552 Barker Street, Centennial Park

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

**Executive Function:** Council setting strategic direction and overseeing the operational functions of the City.

- File Number or Name of Ward** : STR 047 (Frederickstown Ward)
- Summary of Key Points** : Request to excise a portion of reserve 18552, for the Crown to lease to Wauters Pty Ltd for storing building products, in conjunction with Lots 52–54 Graham Street, Centennial Park
- Land Description** : Portion of Reserve 48552 Barker Road, Centennial Park
- Proponent** : Department for Planning and Infrastructure - Harley Survey Group (on behalf of Wauters Pty Ltd)
- Owner** : Crown
- Reporting Officer(s)** : Executive Support Officer Grant Funding and Finance (S Pepper)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 25/05/08 - Item 13.5.1
- Bulletin Attachment(s)** : DPI letter dated 9 December 2008



**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**BACKGROUND**

1. At its May 2008 Council meeting, Council resolved –  
*“THAT Council:*
  - i) *Support the lease of 2405 m2 of land from Reserve 18552, immediately behind land owned by Wauters Pty Ltd at 52-54 Graham Street, Centennial Park for a period of five (5) years in compliance with:*
    - (a) Part 2 of Town Planning Scheme No. 1A; and*
    - (b) The Local Government Act 1995, section 3.59 (Disposition of Property).*
  - ii) *That any extension of this period be subject to future Council deliberations.”*
2. The reason for this decision was that the subject land will not be used for recreation purposes for the next five (5) years.

**DISCUSSION**

3. Details of the Council resolution were forwarded to the Department for Planning and Infrastructure (DPI) for consideration, as the site is owned by the Crown. In June 2008, after assessment of the proposal, DPI advised the request for a lease of portion of reserve 18552 was refused as the intended use was not consistent with the reserve purpose – “Recreation” and the zoning – “Parks and Recreation”.
4. The notification of refusal for the proposal was then forwarded to the proponent, Harley Survey Group who were acting on behalf of Wauters Pty Ltd.

**PUBLIC CONSULTATION / ENGAGEMENT**

5. No public consultation was conducted, in accordance with the Local Government Act leasing provisions, as the first proposal was refused by DPI.

**GOVERNMENT CONSULTATION**

6. The Department for Planning and Infrastructure has been involved in the initial request, and this subsequent proposal, which was presented directly to DPI by Harley Survey Group, and subsequently referred to Council for comment. DPI Perth have sought comment from their Regional Office (copy of letter in Bulletin), which advises it does not support the request.
7. The Department for Planning and Infrastructure has sought comment from its regional office (copy of letter in Bulletin), in which the Manager, Southern Region – Albany Office advises they do not support the proposal to excise portion of reserve 18552 and lease said land for non-recreational purposes as it is contrary to the identified statutory and strategic use of the land.

**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**STATUTORY IMPLICATIONS**

8. The subject land is part of Crown Reserve 48552, which has a purpose of “Recreation” and the City of Albany has the Management Order for the Reserve, which includes power to lease up to 21 years.
9. The subject land is reserved under Scheme 1A as “Parks and Recreation” and thereby any development proposals need to be considered against Part 2 of Town Planning Scheme No. 1A. The following clauses are relevant to this proposal -
  - *“2.2 Except as otherwise provided in this part a person shall not carry development on land reserved under this Scheme, other than the erection of a boundary fence, without first applying and obtaining the written approval of Council.*
  - *2.3 In giving it’s approval to carry out development the Council shall have regard to the ultimate purpose for the reserve and shall in the case of land reserved for the purposes of a public authority confer with that authority before giving it’s approval.”*
10. The ultimate purpose for the reserve is “Recreation”, and the use ‘Builders Yard’ defined under the Scheme as *“means an area of land and a building or buildings used for the storage, assembly or dismantling of building materials”*, would be inconsistent with the ultimate purpose of the reserve.
11. Section 79 of the Land Administration Act 1997, states the Minister may lease Crown land for any purpose, by auction, public tender or private treaty, and determine the duration, conditions, rental, etc. If the said land was excised from reserve 48552, it would no longer be managed by the City, but under the control of the Minister.

**FINANCIAL IMPLICATIONS**

12. If the Council were to support the proposal for a lease for this area, DPI would handle the negotiations, and all costs would be borne by the applicant, which would include legal fees, survey costs, and rental. It should be noted, that Council will not receive any financial benefit from the commercial use of this site, as the land would be under the control of DPI.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

13. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan...

*Community Vision: Nil*

*Priority Goals and Objectives: Goal 4: Governance ... The City of Albany will be an industry leader in good governance and service delivery. Objective 4.2 The City of Albany will manage our municipal assets to ensure they are capable of supporting our growing community.*

*City of Albany Mission Statement: At the City of Albany we develop our people and provide best value in applying council and community resources.*

**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

14. The current request for a lease involves vested land within the parameters of the Strategy, and the leasing of any reserve land, would impact on the development of the Recreation Master Plan currently being developed by staff. The Recreation Strategy identified this land for recreation purposes which then could be leased to community groups. Therefore any proposal to lease it for commercial purposes would be contrary to this Strategy.

**POLICY IMPLICATIONS**

15. In late November 2008, Council received a new proposal from DPI – Perth office, which had been submitted by Harley Survey Group. The proposal is as follows –

- Excision of portion of reserve 18552 (approximately 2,358m<sup>2</sup>) with a lease to be granted under Section 79 of the Land Administration Act, for a term of 5 years for the purpose of storage of building products with no structures to be built;
- The proposed lease to be used in conjunction with adjoining freehold lots 52 – 54 Graham Street (owned by Wauters Pty Ltd), which is used as a base for a construction business;
- At the expiration of the 5 year lease, the land is to be re-included into the area of reserve 18552 (purpose – “Recreation”);
- If Wauters Pty Ltd seeks an extension for the initial lease, both the City and DPI must agree; and
- All costs related to the proposal to be borne by the applicant.

16. At its October 2008 Council meeting, Council adopted the Recreation Planning Strategy 2008 – 2013 which includes priorities such as –

- *“the City being responsible for feasibility, design, funding and construction of open public/community type facilities (to be identified in the Major Recreation Facility Master Plan), such as Leisure and Aquatic Centre Facilities, Major Sporting Grounds/Fields, Municipal Skate Parks, and Shared community group administration facility (similar to Lotteries House); and*
- *That a guiding document will be developed outlining process and providing guidance to groups intending to apply to lease land vested in Council, for the purpose of developing community sporting and recreation facilities.”*

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Council has two options relating to this request –

- 1) Advise Department for Planning and Infrastructure that it is not prepared to support the excision of portion of reserve 18552 for a lease with Wauters Pty Ltd, as the intended use is not compatible with the City’s Recreation Planning Strategy 2008 - 2013; and is also inconsistent with the zoning – “Parks and Recreation”; or
- 2) Advise the Department for Planning and Infrastructure that Council supports the excision of portion of reserve 18552 for leasing to Wauters Pty Ltd, for a period of five years, for storage of building products.

**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**SUMMARY CONCLUSION**

18. It is recommended that Council not support the excision of portion of recreation reserve 18552, to facilitate a commercial lease arrangement between the Crown and Wauters Pty Ltd for storage of building products, as it is contrary to the zoning for this area. With the adoption of the Recreation Strategy 2008 – 2013 in October 2008, and the direction for staff to prepare a Recreation Masterplan, that develops the actions of the strategy, the proposed leasing of any lands for non- recreational purposes, is at odds with Council's more recent direction.
19. The Recreation Masterplan will identify both short and long term opportunities for community groups with the development of sporting and recreation facilities on Council owned land and vested reserves.

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**ITEM NUMBER - 13.5.1. - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ADVISE the Department for Planning and Infrastructure that it is not prepared to support the excision of portion of reserve 18552 for a lease with Wauters Pty Ltd.**

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**WORKS & SERVICES REPORTS**

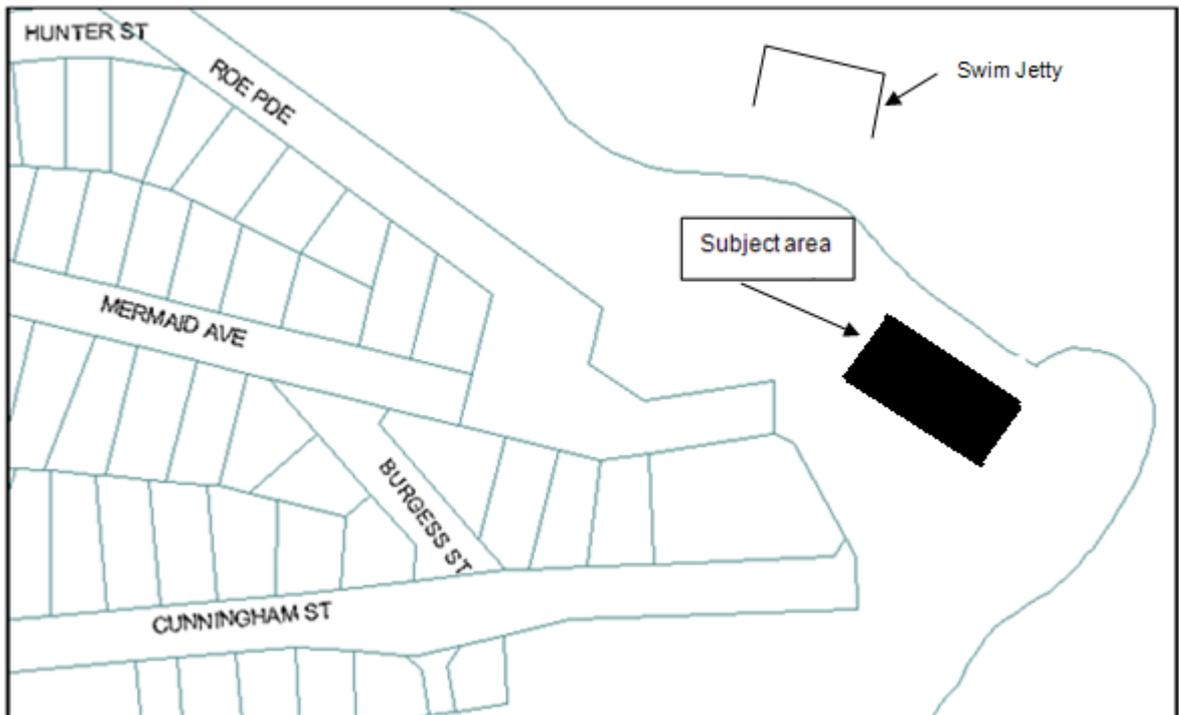
**ITEM NUMBER:** 13.5.2  
**ITEM TITLE:** Approve Surrender of Existing and Grant New Licence for Short Term Boat Hire on Portion of Reserve 22698 Emu Point Foreshore

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

**Executive Function:** Council setting strategic direction and overseeing the operational functions of the City.

- File Number or Name of Ward** : PRO 050 (Breaksea Ward)
- Summary of Key Points** : Consider surrendering Ronald William, Kathleen Lorraine and Kevin Alan Black’s trading as Emu Point Boat Hire existing licence for short term boat hire and issuing a new licence to Matthew Gaul and Natalie Machado for short term boat hire at Emu Point.
- Land Description** : Portion of Crown Reserve 22698
- Proponents** : Ronald William Black, Kathleen Lorraine Black and Kevin Alan Black
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil

**Maps and Diagrams**



**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

**BACKGROUND**

1. Ronald William Black, Kathleen Lorraine Black and Kevin Alan Black trading as Emu Point Boat Hire currently have a licence for short term boat hire situated on portion of Crown Reserve 22698 Emu Point.
2. Crown Reserve 22698 is under Management Order to the City of Albany with power to lease, sub lease or licence for the purpose of “Recreation and Associated Business Purposes” for up to 50 years.
3. Since 1 August 1995, Ronald W Black, Kathleen L Black and Kevin A Black have held a licence to operate a business on an area approximately 1122 square metres on the Emu Point foreshore for the purpose of boat hire, during the holiday periods and summer months.
4. The business hires dinghies, kayaks, pedal boats and pedal bikes to residents, tourists and visitors to the area for short term at a half hourly and hourly rate.
5. The City received a request from the current licensees to surrender their licence subject to the granting of a new licence to the new buyers of Emu Point Boat Hire, Mr M Gaull and Ms N Machado.

**DISCUSSION**

6. The current licence for short term boat hire was granted 1 October 2007 for period of 6 years expiring on 30 September 2013 with an option for a further term of 6 years.
7. The licence does not give exclusive use of the area to the licensee but allows for public use of the area; however it provides the licensee with security of tenure at the site to enable the operation of a business.
8. As the current licence is not assignable or transferable negotiations between the parties, the current licensees and prospective buyers has resulted in a request to surrender the existing licence, with a new licence being issued in its place.
9. It is proposed the new licence be for a period of 6 years, commencing on 27 February 2009, with an option for a further term of 6 years if mutually agreed to by the City including a clause allowing the licence to be assigned or transferred with written consent of Council.
10. All terms and conditions will be negotiated in line with Council Policy, “Property Management – Leases” for these types of licence agreements.

**PUBLIC CONSULTATION / ENGAGEMENT**

11. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
12. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.

**WORKS & SERVICES REPORTS**

Item 13.5.2. continued

13. The proposed new licence will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

**GOVERNMENT CONSULTATION**

14. As this is Crown land Ministerial approval is required.

**STATUTORY IMPLICATIONS**

15. Section 18 (1) of the Land Administration Act 1997 states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on Crown land.
16. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
17. The proposed new licence will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

**FINANCIAL IMPLICATIONS**

18. All costs associated with the preparation of the documentation will be borne by the proponents.
19. The new licence rental will as determined by current market valuation provided by an independent Certified Practising Valuer in line with Council Policy. Rental for the intervening years shall increase in accordance with Consumer Price Index (CPI) annually for the term of the licence.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

20. This item directly relates to the following elements from the Albany Insight – Beyond 2020 Corporate Plan:

*“Community Vision:*

*Nil.*

*Priority Goals and Objectives:*

*Goal 4: Governance... The City of Albany will be an industry leader in good governance and service delivery.*

*Objective 4.2... The City of Albany will manage our municipal assets to ensure they are capable of supporting our growing community.*

*City of Albany Mission Statement:*

*At the City of Albany we are accountable and act as a custodian with respect to Council Assets.”*

**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

**POLICY IMPLICATIONS**

21. The recommendation complies with Council Policy “Property Management – Leases” adopted in 2007.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

22. Council has the following options in relation to the request:
- a. Approve the current licensees request to surrender the existing licence, and
  - b. Grant a new licence in its place to the buyers, or
  - c. Decline the request..
23. Should Council not support the request to surrender the existing licence then the business may cease to operate.

**SUMMARY CONCLUSION**

24. The Emu Point Boat Hire business, being located on the Emu Point foreshore, provides a service to tourists and visitors by offering recreational facilities for both children and adults in a locality considered to be sheltered and relatively safe.
25. The proposed request to surrender the existing licence and the issuing of a new licence for short term boat hire at Emu Point is recommended.

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**ITEM 13.5 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT – SIMPLE MAJORITY**

**THAT Council APPROVES the request from Ronald William Black, Kathleen Lorraine Black and Kevin Alan Black for surrender of the existing licence for short term boat hire on approximately 1122 square meters of portion of Reserve 22698 Emu Point, in compliance with Council’s Policy “Property Management – Leases”, with:**

- i) all costs associated with the preparation of the surrender of licence be met by the proponent.

**AND**

**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

**THAT Council subject to section 3.58 of the Local Government Act 1995 and section 18 of the Land Administration Act 1997 GRANT a new licence to Matthew Brian Gaull and Natalie Elizabeth Machado for short term boat hire on 1122 square metres of a portion of Reserve 22698 Emu Point, the licence to include terms and conditions being in compliance with Council’s Policy “Property Management – Leases”, and:**

- i) the licence term being 6 years commencing 27 February 2009, with a further term of 6 years;**
  - ii) the licence have the ability to be assigned or transferred;**
  - iii) the rent will be as determined by current market valuation provided by an independent certified practicing valuer prior to the commencement of the licence, with CPI increases annually ; and**
  - iv) all costs associated with the preparation of the new licence be met by the proponent.**
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**WORKS & SERVICES REPORTS**

**13.6 – CITY WORKS – CAPITAL WORKS**

Nil

**WORKS & SERVICES REPORTS**

**13.7 - CITY WORKS – RESERVES, PLANNING & MANAGEMENT**

**ITEM NUMBER:** 13.7.1

**ITEM TITLE:** Proposal to excise portion of reserve land for Bluff Street road reserve

**Executive Function:** Council setting strategic direction and overseeing the operational functions of the City.

<b>File Number or Name of Ward</b>	:	SER 086; 2145-07 (Frederickstown Ward)
<b>Summary of Key Points</b>	:	Proposal to excise portion of Reserve 24409 for road reserve.
<b>Land Description</b>	:	Crown Reserve 24409
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	Crown
<b>Reporting Officer(s)</b>	:	Executive Support Officer Grant Funding and Finance (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Bulletin Attachment(s)</b>	:	Nil

**Maps and Diagrams:**

Refer map at the end of this report.

**BACKGROUND**

1. A request has been received to resolve legal access to Lot 71 Bluff Street as the current arrangements encroach on a Crown reserve number 24409 rather than the dedicated road reserve.

**DISCUSSION**

2. Staff have investigated various options for legal access with the developer and have determined the most appropriate method of access involves the excision of a portion of reserve 24409, with the resultant land being dedicated as road reserve.
3. The current road reserve for Bluff Street in this area has a steep incline with a rock base. Added to the terrain issues, there are safety concerns with the “T” intersection of Nelson, Bathurst and Bluff Streets. Should the current alignment be extended, safety would be further downgraded due to poor visibility.
4. The intersection has been identified by Main Roads in its 2009/2010 Blackspot Program for funded works. Investigations have highlighted poor sight distances and forward delineation which require the installation of guide posts, road marking and signage, no left-in turns to Bluff St. The re-location of a power stay pole.
5. The proposed re-alignment by way of excision of the reserve, would not impact on reserve management, as the roadway follows the fire and emergency access recommendations for Bluff Rock as detailed in the City Mounts Management Plan adopted in 2006.
6. The cost of constructing the new road would be borne by the developer/landowner as part of the subdivision process.

**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

**PUBLIC CONSULTATION / ENGAGEMENT**

7. Staff have liaised with the landowner, to investigate the various options for legal access to lot 71 Bluff Street as the current road reserve alignment from Bathurst Street is not considered to be a safe access way.

**GOVERNMENT CONSULTATION**

8. Any variation to a road alignment requires the approval of the Department of Planning and Infrastructure to dedicate the resultant land as a public road.

**STATUTORY IMPLICATIONS**

9. Section 51 of the Land Administration Act, 1997, -

*“Cancellation, etc of reserves generally.*

*Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.”*

10. Under the Land Administration Act 1997, section 56, Dedication of Roads –

(1) *If in the district of a local authority –*

- (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under care, control and management of the local government;*
  - (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*
    - (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
    - (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*
- or*
- (c) *land comprises a private road of which the public has had uninterrupted use for a period not less than 10 years,*

*and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.*

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

11. Not applicable/legislative requirement

**POLICY IMPLICATIONS**

12. Not applicable.

**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

13. Council has the following options in relation to the proposal:
- a) i. seek approval for the excision of portion of Reserve 24409, for road reserve purposes, and
    - ii. seek approval to dedicate the resultant land as road reserve for access to lot 71 Bluff Street, or
  - b) approve construction of a legal access to lot 71 Bluff Street, using the current Bluff Street road reserve.

**SUMMARY CONCLUSION**

14. Should Council choose to use the current Bluff Street road reserve to allow construction of the legal access, there is an increased possibility of safety issues arising, as the four-way intersection would create greater traffic congestion.
15. It is recommended that the portion of reserve 24409 be excised for road reserve purposes to allow legal access to lot 71 Bluff Street. The proposed alignment provides a safer option for traffic movement. In addition, the portion of land is currently used as the fire and emergency access for Bluff Rock, any encroachment onto the reserve would be minimal.

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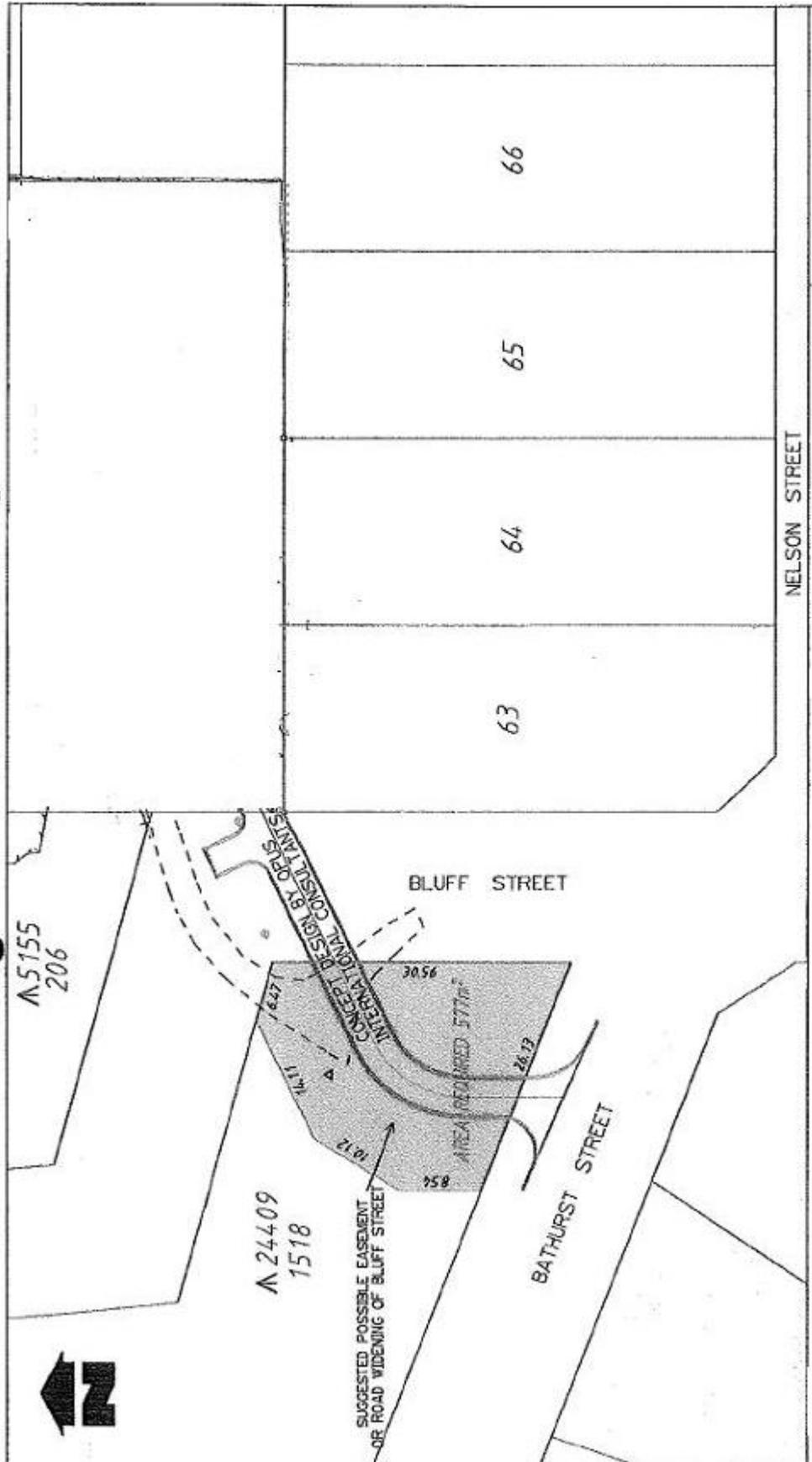
**ITEM NUMBER – 13.7.1 - OFFICER RECOMMENDATION**  
**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**THAT Council AGREES to –**

- i) seek **APPROVAL** for the excision of portion of Reserve 24409, as per drawing number DWG246A, from the Department of Planning and Infrastructure for road reserve purposes, in accordance with section 51 of the Land Administration Act; and
  - ii) seek **APPROVAL** to dedicate the resultant land as road reserve, in accordance with section 56 of the Land administration Act.
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Item 13.7.1 continued



**WORKS & SERVICES REPORTS**

**ITEM NUMBER:** 13.7.2  
**ITEM TITLE:** Request to use road reserves – Installation of a slurry and return water pipeline for Southdown Magnetite Project

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

**Executive Function:** Council setting strategic direction and overseeing the operational functions of the City.

<b>File Number or Name of Ward</b>	: SER 208 (Kalgan Ward)
<b>Summary of Key Points</b>	: Request for approval to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port.
<b>Land Description</b>	: Various road reserves
<b>Proponent</b>	: Grange Resources Ltd
<b>Owner</b>	: Crown
<b>Reporting Officer(s)</b>	: Executive Support Officer Grant Funding and Finance (S Pepper)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 18/07/06 - Item 13.7.2 OCM 15/05/07 - Item 11.2.3
<b>Bulletin Attachment(s)</b>	: Letter and drawings from Grange Resources Ltd dated 17 December 2008

**Maps and Diagrams:**

Nil.

**BACKGROUND**

1. Grange Resources Ltd are proposing the construction and operation of an open pit magnetite mine approximately 90 km east of Albany. The magnetite will be magnetically separated and pumped as a slurry via a buried pipeline approximately 105 km to the berth facilities at the Albany Port.
2. One pipeline will be required to pipe the slurry to the Port and a second to return the recycled water to the mine from the Port. Both pipes will use the same route, which has been sited mainly on cleared farmland, but will also require access along and across public roads into Albany. Grange Resources Ltd have also requested an optic fibre cable/communications cable to be included in the pipeline corridor.
3. A number of road crossings and road reserves have been identified in the proposed pipeline corridor and will require both the Department for Planning and Infrastructure and Council approval to enable the project to develop.

**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

**DISCUSSION**

4. Council has been briefed on the initial proposal and subsequent updates have been provided by Grange, to ensure Council is abreast of the development. Previous Council items have addressed easement approvals across various Council owned lands, to allow the pipeline alignment to reach the Albany Port.
5. With most of the negotiations for pipeline access completed, Grange has been able to identify those road reserves, where either road reserve access or crossings are requested. Copies of drawings for the various road reserves involved, detailing the dimensions of the works, are included in the Bulletin.
6. The two roads involving more detailed assessment are –
  - Drawbin Road – where the pipeline is to travel 700 metres down the centre of the road reserve as the landowner is unwilling to negotiate easement, and also there is good remnant vegetation that would be removed, if a different alignment were chosen;
  - Cuming Road – where the pipeline is to travel 1,239 metres along the northern side of the road reserve.
7. Both these proposals have been assessed by the Engineering staff and are supported, subject to Council involvement/advice in the development of the works.
8. The road reserves are Crown land and the legal requirements for the use of the road reserves are the responsibility of Department for Planning and Infrastructure (DPI), who can approve easements with the following types of conditions (this information has been relayed to the applicant) –
  - An Aboriginal heritage assessment;
  - Flora investigation;
  - Clearing requirements assessed;
  - Public utility approvals sought;
  - Applicant to pay all survey costs;
  - Crown to apply its various conditions;
  - Crown seeks local authority conditions;
  - Details of pipe condition, usage patterns, etc
  - Minimum of \$10 million public liability cover by an approved insurer;
  - Indemnification of the Crown, local authority, and public utilities from any claims relating to the provision and operation of the private irrigation pipe;
  - Rental assessment determined by the Department for Planning and Infrastructure's Valuation Services section;
  - All legal costs paid by the applicant; and
  - Caveat registered on property/ies to protect Crown interests.

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Item 13.7.2 continued

9. Should Council support these requests, the type of conditions recommended for referral to the Crown for an easement are –
- Pipe to be installed at a depth of 750mm on road reserve;
  - Pipe alignment to be 1.5metres from property boundaries;
  - Appropriate signage along the length of the road reserve affected by the pipe installation, advising of the private pipe location;
  - Re-instate the site where the pipe is laid, to Council's satisfaction;
  - Applicant is responsible for any road reserve damage related to the irrigation pipe installation, operation or malfunction; and
  - A caveat be lodged on property/ies to protect Council's interests.
10. Once DPI has approved the easements for the pipeline corridor on the various road reserves, Council would then be able to apply its Local Law - Activities in Thoroughfares and Public Places and Trading Local Law 2001, to protect its interests regarding the installation of the road crossings.

**PUBLIC CONSULTATION / ENGAGEMENT**

11. Grange Resources Ltd have liaised and/or negotiated with affected landowners to enable appropriate easements to be granted in the proposed pipeline corridor, to enable the slurry pipeline to be sited on appropriate cleared farmland.

**GOVERNMENT CONSULTATION**

12. Where Crown land access is required, Grange have been liaising with the appropriate government instrumentality involved, including Department for Planning and Infrastructure, Department of Indigenous Affairs, Albany Port Authority, Western Power, etc.

**STATUTORY IMPLICATIONS**

13. Under the Land Administration Act, Section 144, the Minister may grant easements –
- (1) *Subject to this section, the Minister may –*
    - (a) *With the consent of every management body of the relevant Crown land and of every person having any interest, right, title or power in respect of that land, grant to any person an easement, in on ,over, through or under that Crown land for a specified purpose or any other purpose the Minister thinks fit; and*
    - (b) *In that grant express that easement to be subject to specified conditions and the payment of specified consideration.*
  - (2) *The grantee of an easement may, with the consent of any management body or lessee of the relevant Crown land, apply to the Minister for the easement to be varied or cancelled.*
  - (2a) *An easement may be granted under this section despite the fact that the characteristics of the easement do not satisfy all of the characteristics that must be satisfied for an easement to be created under the common law.*

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Item 13.7.2 continued

- (3) *The Minister may, on receiving an application under subsection (2) –
    - (a) By order or other instrument vary or cancel the relevant easement; or
    - (b) Refuse the application.*
  - (4) *In this section –  
“specified purpose” means for –
    - (a) The provision of pipes, conduits, cables, transmission lines, and other services;
    - (b) The provision of any structure, plant, or equipment;
    - (c) The provision of access for carrying out of any works and the performance of any maintenance that is necessary for, or ancillary or incidental to, giving effect to any of the purposes referred to in paragraph (a) or (b);
    - (d) A prescribed purpose.*
14. Under the Local Government Act 1995, Local Government (Uniform Local Provisions) Regulations 1996 Schedule 9.1, clause 8, section 17 - Private works on, over, or under public places –
  - (1) *A person who constructs anything on, over, or under a public thoroughfare or other public place that is local government property without first obtaining written permission from the local government commits an offence.*
  - (2) *A local government may –
    - (a) grant permission to construct anything on, over, or under a public thoroughfare or other public place that is local government property; and
    - (b) impose conditions in respect of the permission, which may include a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction.*
  - (3) *It is a condition of the permission that the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.*
  - (4) *A person who fails to comply with a condition of the permission commits an offence.*
  - (5) *A person who constructs anything in accordance with permission under this section is required to –
    - (a) maintain it; and
    - (b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.*
  - (6) *A person who fails to comply with sub regulation (5) commits an offence.*
  - (7) *The penalty for an offence under sub regulation (1), (4), or (6) is \$1,000.*
15. Should Council agree to the proposed pipe crossings under roads under the care, control and management of the Council, it would be appropriate to have a legal agreement prepared, addressing both parties obligations, and to protect all party's interests. All costs would be borne by the applicant.

**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

16. Under the City of Albany's Activities in Thoroughfares and Public Places and Trading Local Law 2001, a permit is required to allow the installation and maintenance of a pipe on a verge, and various conditions applied, to protect Council's interests

**FINANCIAL IMPLICATIONS**

17. Should Council agree to the request for any road crossings, there will be financial implications, as the proposed works will require Council design, approval and works supervision, and supervision of any ongoing maintenance for both the pipe and potential road deterioration. Costs for any proposed road crossings have not been investigated, as the project detail is not yet available from the applicant.
18. Should easements be granted by the Crown, the legal costs, establishment costs (survey, etc) and any such rental fees determined by the Crown, would be payable by the applicant.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

19. This item directly relates to the following elements from the Albany Insight – Beyond 2020 Corporate Plan:

*“Community Vision:*

*Nil.*

*Priority Goals and Objectives:*

*Goal 4: Governance... The City of Albany will be an industry leader in good governance and service delivery.*

*Objective 4.2... The City of Albany will manage our municipal assets to ensure they are capable of supporting our growing community.*

*City of Albany Mission Statement:*

*At the City of Albany we are accountable and act as a custodian with respect to Council Assets.”*

**POLICY IMPLICATIONS**

20. There are no policy implications relating to this item.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

21. The Council has two options regarding this request –
  - 1) Support the request to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port; or
  - 2) Decline the request.
22. The project would provide Albany with a new economic opportunity to expand its business base and also provide more work opportunities for the region.

**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

**SUMMARY CONCLUSION**

23. In view of the financial opportunity the project offers for the region, Council support the request to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port.
- 

**ITEM NUMBER - 13.7.2 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT – SIMPLE MAJORITY**

**THAT Council:**

- i) **SUPPORTS**, the requests to utilise various road reserves in the Albany area, namely Drawbin, Kojaneerup, Kojaneerup West, Pfeiffer, Palmdale, Mindijup, Deep Creek, Penn, Jordan, Coronia, Fuller, Clinton, Churchlane, Millbrook, Hazzard, Hawley, Parker Brook, Gunn, and Cuming Roads (as per the drawings in the Bulletin) to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port; and
- ii) **SUPPORTS** the proposals to cross the above listed roads, to facilitate the proposed slurry pipeline request, with all costs being borne by the applicant, in accordance with the provisions of the Local Government Act 1995, Local Government (Uniform Local Provisions) Regulations 1996 Schedule 9.1, clause 8, section 17 - Private works on, over, or under public places and the issuing of permits in accordance with the City of Albany's Activities in Thoroughfares and Public Places and Trading Local Law 2001.
-

**WORKS & SERVICES REPORTS**

**13.8 – WORKS & SERVICES COMMITTEES**

**ITEM NUMBER: 13.8.1**

**ITEM TITLE: Asset Management & City Services Strategy and Policy Committee Meeting Minutes – 2<sup>nd</sup> December 2008**

**File Number or Name of Ward** : MAN 236 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Acting Executive Director Works & Services (P Brown)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Nil

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**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 13.8.1 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Asset Management & City Services Strategy and Policy Committee held on Thursday 2<sup>nd</sup> December 2008 be RECEIVED (copy of minutes follows this report).**

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**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 13.8.2 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 5.3 – Pathways feedback from Councillors - Asset Management Plan – Pathways**

**THAT the Asset Management Plan – Pathways be taken to the January 2009 Ordinary Council Meeting for APPROVAL.**

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**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

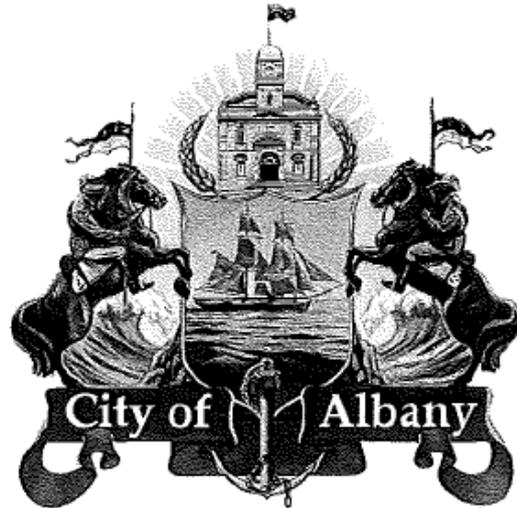
**ITEM 13.8.2 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 5.4 – Other Business – Flood Events**

**THAT the Committee record a note of thanks for the Acting Executive Director of Works & Services Peter Brown and his team for the wonderful job they were doing in connection with the recent flooding.**

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# **MINUTES**

## **ASSET MANAGEMENT AND CITY SERVICES STRATEGY AND POLICY COMMITTEE MAN236/AM806963**

**Held on  
Tuesday 2<sup>nd</sup> December 2008  
6.00pm**

**Margaret Coates Board Room**

**WORKS & SERVICES REPORTS**

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**WORKS & SERVICES REPORTS**

COMMITTEE MEETING MINUTES – 02/12/2008

\*\* REFER DISCLAIMER \*\*

**1.0 DECLARATION OF OPENING**

The Chairperson Councillor Des Wolfe declared the meeting open at 6.05pm.

**2.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Attendances:

Chairperson

D. Wolfe

Councillors

K. Stanton

D. Price

J. Walker

J. Bostock

R. Buegge arrived 6.30pm

Observer

J. Matla

Acting Executive Director of Works & Services

P. Brown

PA to Acting EDWS (minutes)

F. Buswell

Apologies/Leave of Absence:

Mayor

M.J. Evans

Councillors

D Wiseman

**3.0 CONFIRMATION OF PREVIOUS MEETING MINUTES**

**MOVED: COUNCILLOR STANTON  
SECONDED: COUNCILLOR WALKER**

**THAT the Minutes of the Asset Management and City Services Strategy and Policy Committee Meeting of 6<sup>th</sup> November 2008 as previously distributed be confirmed as a true and accurate record of proceedings.**

**MOTION CARRIED 5-0**

**4.0 DISCLOSURE OF INTEREST**

Nil.

**5.0 ITEMS FOR DISCUSSION**

**5.1 Strategic Waste Management Plan Update**

The Acting Executive Director of Works & Services Peter Brown stated that a draft Strategic Waste Management Plan will be circulated to all Councillors next week for the Councillor's information. The Department of Environment & Conservation (DEC) have a funding grant that will contribute \$7,000 towards a Waste Strategy with the money being spent on waste minimisation, the funding deadline is March 2009. To achieve this milestone, the City must have a Council adopted Waste Management Strategy in place.

**WORKS & SERVICES REPORTS**

COMMITTEE MEETING MINUTES – 02/12/2008

\*\* REFER DISCLAIMER \*\*

**5.2 Asset Management Improvement Strategy**

The Acting Executive Director of Works & Services Peter Brown advised that the WAAMI programme was aimed at a 2 year timeframe and including identifying and mapping all assets, including;

1. Pathways – Endorsed by this Committee and being presented to the January 2009 Council Meeting
2. Roads – currently being worked on and will have ready for February 2009.
3. Buildings – under review but with work still to do on this area.
4. Drainage – is being picked up on GIS and is being used on a daily basis to identify what stage and when funding is needed and also assess for any gaps.
5. Reserves – building on existing works in the WAAMI context.

Several Councillors again identified areas that had major drainage problems i.e. around the Lake Seppings area. Peter Brown stated that Lake Seppings had a management plan in place which addressed any developments within the area and in regards to the other areas they were also being prioritised.

Peter Brown stated it was important to communicate the Asset Management Strategy to the community marking out the roles and responsibilities and to obtain feedback on what to target regarding the Communities wants and needs. Peter Brown advised that the Officer recommendation was to advertise for public comment and circulate to key stakeholders and Council.

**5.3 Pathways feedback from Councillors**

This Strategy had been circulated at the previous meeting and the Acting Executive Director of Works & Services asked for comments back from the Councillors as this item was being put forward to the January 2009 OCM. General comments from Councillors were how were problems picked up regarding pathways and how were they assessed for their condition. Peter Brown advised that an Officer would undertake an evaluation of the footpath looking at the current condition and they also take into account public feedback regarding the footpaths in their area. Again this document would be put out for public comment, regarding the linking of certain pathways and a dedicated pathway Strategy. Other funding sources would be looked at.

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR BUEGGE**

**THAT the Asset Management Plan - Pathways be taken to the January 2009 Ordinary Council Meeting for approval.**

**MOTION CARRIED 6-0**

**WORKS & SERVICES REPORTS**

**5.4 Other Business – Flood Events**

The Acting Executive Director of Works & Services thanked the Committee for their support and advised that there would be a bbq at the Depot on the 19<sup>th</sup> December 2008 as a thank you to the staff that had put in an extraordinary effort during the recent storm. He also advised that the City were focusing on identifying funding from the Government and FESA in regards to the damage sustained to the infrastructure. The Councillors generally agreed that the money should go to fixing the ongoing drainage issues. Peter Brown advised that previous flood studies had identified areas in the past and they were being put into the Asset Management Plan – Drainage.

**MOVED: COUNCILLOR PRICE  
SECONDED: COUNCILLOR WALKER**

**THAT the Committee record a note of thanks for the Acting Executive Director of Works & Services Peter Brown and his team for the wonderful job they were doing in connection with the recent flooding.**

**MOTION CARRIED 5-0**

**6.0 AGENDA ITEMS FOR NEXT MEETING**

**6.1 Strategic Waste Management Plan – feedback from Councillors**

**6.2 Roads project – Asset Management Plan.**

**7.0 TIME AND DATE OF NEXT MEETING**

The next meeting of the Committee is scheduled for **6.00pm on Tuesday 6<sup>th</sup> January 2009** in the **Margaret Coates Boardroom**.

**8.0 CLOSURE OF MEETING**

The meeting closed at 7.05pm.