

6.3: COUNCIL INFORMATION PAPER – ALBANY VISITORS CENTRE

- Proponent** : City of Albany
- Attachments** :
 - Email dated 28 January 2011
 - Email dated 10 February 2011
 - Email dated 21 February 2011
 - Email dated 22 February 2011
 - Email dated 14 March 2011
 - Item 2.5 OCM 15 March 2011
 - Media Statement dated 24 March 2011
 - Email correspondence between the CEO and Mr Hammond dated 25 March 2011 and 26 March 2011
 - CEO File Note 28 March 2011
- Declarations of Interest** :
 - Councillor Hammond-Financial
 - Councillor Leavesley-Impartiality
 - Councillor Sutton-Impartiality
- Responsible Officer(s)** : Acting Executive Director Corporate Services (P Wignall)

IN BRIEF

- Delegation is sought for the CEO to formally communicate with Mr Ray Hammond (in his capacity of Director of Albany Inbound Pty Ltd and Tayson Pty Ltd) to determine which assets he is offering to transfer to the City and to conclude that transfer upon receipt of such information.

8.41PM Councillor Hammond, having declared a financial interest, left the Chamber.

**ITEM 6.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

- (i) THAT Council delegate to the CEO all future formal communication and negotiation with Mr Ray Hammond (in his capacity as Director of Albany Inbound Pty Ltd and Tayson Pty Ltd), requesting that:
- He provide a list of assets that he offers to the City of Albany on termination of the Albany Inbound Pty Ltd (AI) contract, including in that list the legal owner of each asset and the sale value of each asset being offered. That list should be provided by close of business on 6 April 2011.
 - He commits to holding that offer open until close of business on 12 April 2011.
 - Should he receive a formal offer to purchase from another entity before 13 April 2011, that he provide to the City written evidence of such offer and that he gives the City the first option to purchase the assets at the same price as the other offer, up until 10AM on 13 April 2011.
 - He agrees to provide no comment to the media in relation to the transfer of assets and termination of the AI contract without the prior written approval of the CEO.
- (ii) THAT Council approve the purchase of AI and Tayson Pty Ltd (Tayson) assets relating to the AI business, (including the StayNow database and brand) immediately upon receipt of the above information, subject to the parties concluding a legal contract to effect the purchase and transfer and on the condition that:
- Appropriate arrangements can be agreed by the parties regarding:
 - Assumption of all AI employee liabilities by the City from AI
 - Intellectual property transfer, including domain names, licenses and other similar intellectual property assets
 - Transfer of the benefit of forward sale contracts currently held by AI
 - Mr Hammond and any associated person provide adequate “restraint of trade” assurances.
 - The sale price of the StayNow database and brand is \$2,000 or less, and
 - All other assets are sold at written down value (for equipment) or cost (stock/merchandise).
 - Each party bear their own legal costs, with the City’s lawyers providing the draft contract to AI.
- (iii) Pursuant to Local Government (Administration) Regulations 1996 Clause 10 and Standing Order Clause 6.1 Council revoke Item 2.5 (1) (vi.) from the Ordinary Council Meeting on 15 March 2011.

ITEM 6.3: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR WOLFE**

THAT the Responsible Officer Recommendation be ADOPTED.

**CARRIED 7-3
ABSOLUTE MAJORITY**

Record of Vote

Against the Motion: Councillors Leavesley, D Bostock and J Bostock

BACKGROUND

1. At the Ordinary Council Meeting on 15 March 2011, Council approved the termination of the City's contract with AI subject to a number of conditions, including the adoption of a Business Plan for the Albany Visitors Centre for the period following the contract termination.
2. On Thursday 24 March 2011, a media statement appeared in the Weekender Newspaper in which Mr Hammond was quoted that he was undecided about selling the StayNow database and brand.

GOVERNMENT CONSULTATION

3. Nil

PUBLIC CONSULTATION / ENGAGEMENT

4. Nil

STATUTORY IMPLICATIONS

5. Nil

STRATEGIC IMPLICATIONS

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

“Albany’s City Centre will be...3.2 A vibrant cultural hub stimulated by attractive inner city residential and tourist accommodation.

The City of Albany will... 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities.”

POLICY IMPLICATIONS

7. Nil

ALTERNATE OPTIONS

8. Nil

SUMMARY CONCLUSION

9. Nil

Consulted References	Nil
File Number (Name of Ward)	(All Wards)
Previous Reference	OCM 15 March 2011 – Item 2.5

Councillor Hammond, having declared a financial interest, left the Chamber and did not participate in the discussion or vote.

Councillors Leavesley and Sutton, having declared an impartiality interest, remained in the Chamber and participated in the discussion and vote.