

MINUTES

**For the Ordinary Meeting of Council
Held on
Tuesday, 14 December 2010
7.00pm
City of Albany Council Chambers**

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I. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 7.02pm.

II. OPENING PRAYER

CEO Mr J Bonker read the opening prayer.

“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

ITEM 2.0: RESOLUTION

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR SWANN

THAT Standing Order 3.1 be SUSPENDED to allow recording of proceedings.

CARRIED 8-0

III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

7.02.59PM Councillor Sutton

Summary of key points:

- Great opportunity to move forward with the imminent appointment of new CEO
- Looking forward to a great 2011

7.03.29PM Councillor Wolfe

Summary of key points:

- Wished everyone a happy festive season
- Thanked those involved in the opening of the AEC
- Brilliant effort
- Showed Albany is heading in the right direction

7.03.55PM Councillor Leavesley

Summary of key points:

- Happy festive season to all
- Thanked staff for their efforts over the past year
- Attended gala opening of the AEC
- Wonderful showcase of local talent

7.04.49 PM Councillor Holden

Summary of key points:

- Endorsed comments for Councillors Wolfe and Leavesley regarding the opening of the AEC
- Thanked Sue Finlay for the production
- Artistic director really showed what the new theatre is capable of
- Fantastic production

7.03.05PM Councillor Wellington

Summary of key points:

- Happy festive season
- Looks forward to the next year
- Culmination of several things-opening of the AEC, appointment of new CEO
- Hoped that new year was less antagonistic
- Positive developments in the year ahead

7.06.49PM Councillor Swann

Summary of key points:

- AEC opening-brilliant and we should be proud of the performers and the AEC
- Annus horribilis for Albany
- Looking forward to a better 2011
- Congratulated John Bonker on the work he has done with Council over the last months
- Thanked staff and executive and fellow councillors
- To the community of Albany-have a wonderful Christmas

Councillor Hammond

Summary of key points:

- Heartsafe Project
- 9 defib units installed throughout the City
- Corporate citizenship has been overwhelming
- Support from the Weekender has been beyond expectation
- AEC opening was a fantastic success and surpassed all expectations
- Thanked executive for support in the past year
- Interesting year ahead

Mayor Evans presented his report.

MAYOR'S REPORT TO COUNCIL – 14th DECEMBER 2010

December is always a busy month with many school graduation and awards functions and business Christmas functions on top of the usual invitation and meeting commitments.

Since the last Council meeting on 16th November I have been engaged in the following:

- Attendance at dinner and tour functions co-ordinated in conjunction with the visit by Nichinan City, including a City hosted Civic Reception when we formally signed a Friendship Agreement between our two cities, on the 10th anniversary of the Agreement between our two Ports.
- Albany Senior High School Year 12 Awards.
- Luncheon co-ordinated by the State Records Commission which conducted a number of training sessions in Council's Civic Area for the community and Albany businesses.
- North Albany Senior High School Year 12 Award presentations.
- Woodbury Boston Primary School 30th Birthday.
- Presentation at Whaleworld by Impian Films updating on progress with their planned movie on Whaling.
- The City hosted the monthly and Annual General Meeting of the Great Southern Zone of WALGA on Friday, 26th November.
- Albany Launch of the PIAF 2011 programme in the AEC.
- Albany Tri-Service Cadet Units Graduation Parade
- Hawthorn House (Alzheimer Society) Breakfast where the City of Albany was thanked by the executives of Alzheimer WA for our assistance in them acquiring government land.
- State Library Board Meeting in Perth
- Great Southern Grammar Senior School Awards
- Australian Christian College Awards Evening
- Bethel School Awards
- The Welcome Wall Launch at WA Museum – Albany.
- In Perth I attended the "Gallipoli to Jerusalem" event commemorating the capture of Jerusalem by elements of the Australian 10th Light Horse, under Allenby. I was invited by The Hon. Bob Kucera to represent Albany, from where the majority of troops and their horses departed.
- I've deliberately left the best until last. The official opening of the Albany Entertainment Centre with a Civic Opening Function followed by the Gala Performance was for me the most significant event that has occurred in Albany for many years. Everyone involved in the planning of this function (and they are too numerous to mention for fear of singling out only a few) are to be congratulated and recognized for their fine efforts. It was wonderful too, that the many people who have worked for some 25 years towards achieving an Albany Entertainment Centre could be involved and recognized for their efforts.

What a fantastic evening, showcasing the fabulous talent that we have here in Albany. We should all be very proud of this iconic building and the many opportunities and doors that will open as a result of its completion.

The success of the venue depends on the united support of both local Government, state government and private enterprise. That I believe is the key to its long term sustainability.

ITEM 3.0: RESOLUTION

MOVED: COUNCILLOR HOLDEN

SECONDED: COUNCILLOR SUTTON

The Mayors Report be RECEIVED.

CARRIED 8-0

IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC

V. PUBLIC QUESTION AND STATEMENT TIME

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

Mr John O’Dea, Bushby Road

Summary of key points:

- Expressed dismay at the cost of flights between Albany and Perth
- Has a long history of involvement with the Albany Airport
- Unreliability of flights
- Urged council, staff and public to lobby government for better air service to Albany
- Thanked Mr Bonker for his service to council

Ms Vera Torr, Sussex Street, Albany

Summary of key points:

- Thanked Mr Bonker for his efforts as interim CEO
- Informed Council that she had sighted a kangaroo on North Road

Mr Neil Smithson, Smithson Planning, Albany

Mr Smithson’s tabled address is detailed at Appendix B. Summary of key points:

- Articles appearing in press regarding road toll
- Emailed relevant government agencies regarding Rainbow 2000
- Access to port

Mr Anthony Wood, 5 Cordillera Street, McKail

Summary of key points:

- Cull Road Subdivision
- Report should be made available to public
- Public is very sceptical about Council releasing information

Through the Mayor, Mr Bonker responded that the report is not yet available to Council. Mr Bonker said that he was disappointed that media have insinuated that the report is secret. At the appropriate time the information will be released.

Mr Eric Wake, Albany

Summary of key points:

- Congratulated Council on the opening of the AEC
- Addressed Council regarding Item 2.4
- 30 year lease is too long
- The partners of Redwood Corporate do not live in Albany
- Past record of Redwood Corporate has fallen far short of the measure that the people of Albany expect
- In a prime position, but by far the poorest park in Albany
- Unable to find ABN or ACN for Redwood Corporate
- What ABN or ACN do they trade under?
- Urged council to vote against the renewal of the lease

Mr George Vasiliu, 877 Frenchman Bay Road, Little Grove

Summary of key points:

- Addressed Council regarding Item 1.3
- Tabled Address

Ed Nelson, Albany Holiday Park, Albany

Summary of key points:

- Addressed Council regarding Item 2.4
- Not taking one side or the other
- Has concerns about the industry as it now stands
- Development has been undertaken with planning over 5-7 years
- Long term planning is essential
- Statewide and national influences on the tourism industry
- Legacy of GFC
- Very high increases in electricity, water and wages
- Fewer people travelling
- Higher running costs
- All caravan parks have faith in Albany and have long term view
- Expected that 30 year lease would encourage confidence to invest in the park
- Please take into account the facts and do not base decision on witch hunt
- Look at it in the long term and work with the owner

ITEM 5.0: RESOLUTION

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR LEAVESLEY

THAT Public Question and Statement Time be extended.

CARRIED 8-0

Ms Delma Baesjou, Ayton Baesjou Planning

Summary of key points:

- Addressed Council regarding Item 1.5 and 1.3
- Would like to proceed with formal advertising for Kalgan Town Site
- Document and plans for Big Grove ODP have been updated to reflect the Amended Officer Recommendation

Mr Jacob Chacko, Redwood Corporate Pty Ltd

Tabled address detailed at Appendix B. Summary of key points:

- Addressed Council regarding Item 2.4
- Has been a gruelling four weeks of negotiation
- Independent inspection of Rose Gardens Caravan Park showed no substantial complaints

Mr Neil Smithson

Summary of key points:

- Pressure on accommodation in the lead up to ANZAC
- Airport access
- Council must take strategic role in development

The Mayor closed Public Question and Statement Time at 7.46pm.

VI. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Mayor MJ Evans

Councillors:

Breaksea Ward	R Hammond
Frederickstown Ward	J Swann
Frederickstown Ward	D Wellington
Kalgan Ward	C Holden
Kalgan Ward	M Leavesley
West Ward	D Wolfe
Yakamia Ward	R Sutton

Staff:

Chief Executive Officer	J Bonker
E/Director Corporate & Community Services	WP Madigan
A/E/Director Works and Services	P Brown
ED Planning and Development Services	G Bride
Executive Manager Business Governance	S Jamieson
Assistant Business Governance Officer	J Williamson

Apologies:

Councillors:

Yakamia Ward	J Matla
Breaksea Ward	J Bostock
Vancouver Ward	D Bostock
West Ward	D Dufty
Vancouver Ward	R Paver

Staff:

Executive Director Works & Services	K Ketterer
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Members of the Media and Public

Three members of the media and approximately 30 members of the public were in attendance.

VII. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

ITEM 8.0: RESOLUTION

**MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR WOLFE**

THAT the minutes of the Ordinary Council Meeting held on 16 November 2010, as previously distributed, be confirmed as a true and accurate record of proceedings, pending the correction of Item 2.6-Motion 1 (Alternate Recommendation by Councillor Dufty), to include that the motion was moved by Councillor Dufty, seconded by Councillor Swann, but was not voted on.

CARRIED 8-0

CORRECTION NOTICE MINUTES OF 16 NOVEMBER 2010 OCM.

"In the Public Question and Statement Time for the ordinary meeting of council on 16 November 2010, the following bullet points were noted in the address to council by Mr Jacob Chako regarding Item 2.7 of the agenda:

- Have addressed AAA rating issues
- Park has to be four star rated

Mr Chako's address should be amended to read as follows:

"We have addressed the AAA Tourism issue, which is that the park had to be a four star park. There is no requirement of the lease, or the assignment, that the park had to be a four star park."

IX. DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest
Councillor R Hammond	1.2	Financial. The nature of the interest being that the rate payer has previously conducted business through a business of which Councillor Hammond is a registered owner. The extent of the interest is non current-recent business relationship is inter alia Albany Regional Booking Service and Stay Now. Councillor Hammond left the chamber and did not participate in the discussion or vote.
Councillor J Swann	1.3	Financial. The nature of the interest being that Councillor Swann is a legal advisor to one of the landowners. Councillor Swann left the chamber and did not participate in the discussion or vote.
Councillor R Hammond	1.3	Financial. The nature of the interest being that one of the ratepayers directly affected in the proposed development currently conducts business with an entity of which Councillor Hammond is the registered owner. Pursuant to section 5.68(i)(b) of the Local Government Act 1995, Council considered the extent of interest to be trivial. Councillor Hammond remained in the chamber and participated in the discussion and vote.
CEO J Bonker	2.1	Financial. The nature of the interest being that Mr Bonker's wife owns share in Caltex in excess of the prescribed limit.
Councillor R Hammond	2.4	Financial. The nature of the interest being that the Rose Gardens Caravan Park has previously conducted business through a business of which Councillor Hammond is the registered owner. Councillor Hammond left the chamber and did not participate in the discussion or vote.
Councillor M Leavesley	2.4	Impartiality. The nature of the interest being that Councillor Leavesley obtains income from the tourist industry. Councillor Leavesley remained in the chamber and participated in the discussion and vote.
Councillor J Swann	3.3	Financial. The nature of the interest being that Councillor Swann is legal advisor to one of the tenderers. Councillor Swann left the chamber and did not participate in the discussion or vote.

ORDINARY COUNCIL MEETING MINUTES– 14/12/2010

** REFER DISCLAIMER **

Name	Item Number	Nature of Interest
Councillor J Swann	3.5	<p>Financial. The nature of the interest being that Councillor Swann is a legal advisor to one of the tenderers.</p> <p>Councillor Swann left the chamber and did not participate in the discussion or vote.</p>

X. IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

Nil.

XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil.

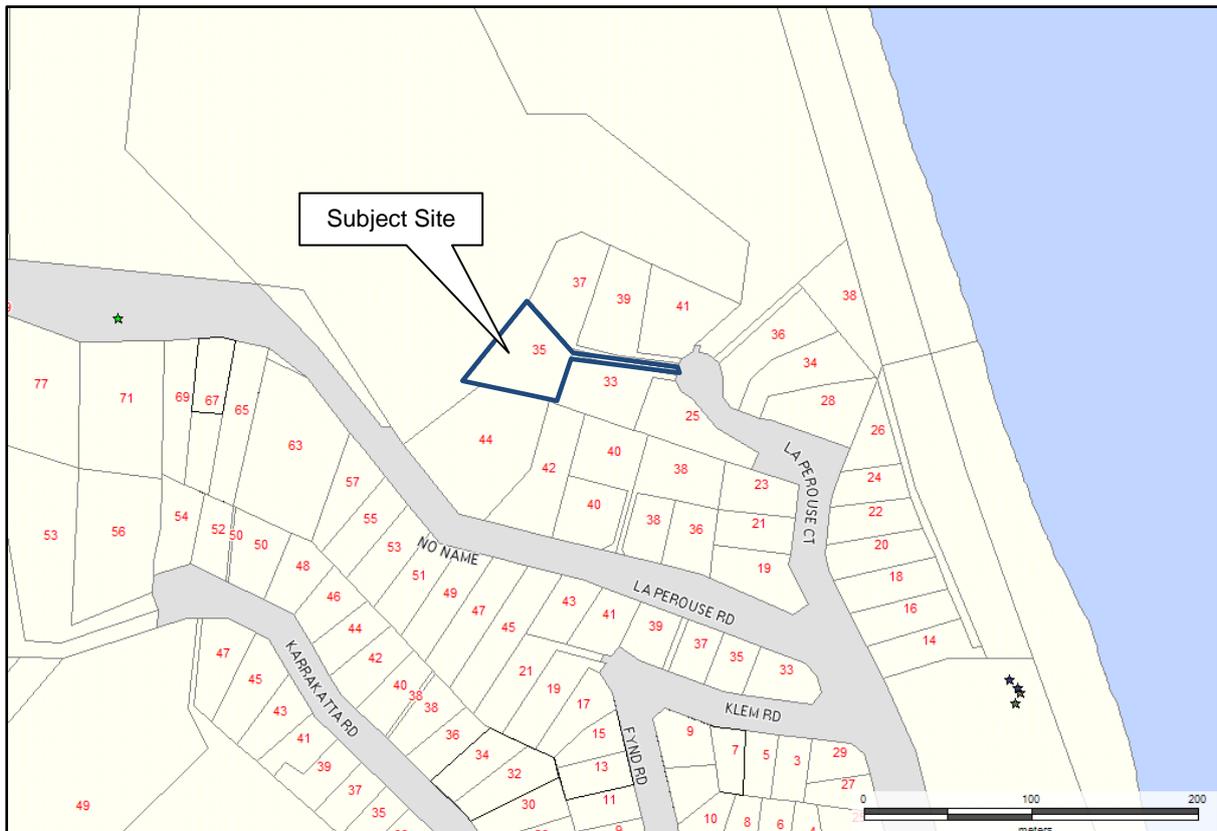
XII. ADOPTION OF RECOMMENDATIONS EN BLOC

Recommendations for the following items were carried en bloc:

- Item 4.6: Community Financial Assistance and Event Funding Program Policy and Committee Terms of Reference
- Item 4.9: Appointment of Chief Executive Officer
- Item 4.13: Audit Committee Minutes

**1.1: DEVELOPMENT APPLICATION – SINGLE HOUSE – 35 LA
PEROUSE COURT, GOODE BEACH**

- File Number (Name of Ward)** : A185773 (Vancouver Ward)
Land Description : Lot 656, 35 La Perouse Court, Goode Beach
Disclosure of Interest : Nil
Proponent : WA Country Builders
Owner : Jessamine Hui-Min Soderstrom
Business Entity Name : Nil
Previous Reference : OCM 15/04/03 - Item11.3.3
OCM 15/07/03 - Item 11.3.2
OCM 21/04/09 - Item 11.6.2
Attachment(s) : Nil
Appendices : Application for Planning Scheme Consent
Consulted References : A. Town Planning Scheme No. 3
B. Local Planning Policy – Building Envelopes within
Special Residential Area No. 8.
C. Reflective Building Materials in Goode Beach Policy
Reporting Officer(s) : Senior Planning Officer (J van der Mescht)
Responsible Officer(s) : E/Director Planning and Development Services (G Bride)



IN BRIEF

- A development application has been received for a single house at Lot 656, 35 La Perouse Court, Goode Beach.
- The application generally meets the requirements of Town Planning Scheme No. 3, the special provisions associated with the Special Residential Area No. 8 and the reflective building materials in Goode Beach policy.
- It is recommended that the development application be approved subject to conditions.

BACKGROUND

1. The subject site is an undeveloped parcel of land 2409m² in area, serviced by a cul-de-sac at the western end of La Perouse Court, Goode Beach. The land is within Special Residential Area No.8 of Town Planning Scheme No. 3.
2. At its meeting dated 15 April 2003 Council supported a revised subdivision guide plan for Special Residential Area No. 8, with the resolution including the following:

“iii) Require staff to refer all Planning Scheme Consents to Council for determination for lots 401 and 402.”
3. The proposed dwelling has been referred to Council for consideration in accordance with the above point of this resolution.

DISCUSSION

4. The site is undulating and comprises vegetated dunes. The building envelope that was defined in the subdivision guide plan was revised in Local Planning Policy *‘Building Envelopes within Special Residential Area No. 8’*, and is now located towards the west of the lot, with the majority of the envelope being on the higher ground between 9.25m AHD and 11m AHD.
5. The proposed dwelling will be located within the western side of the delineated building envelope on a levelled pad with a finished floor level (FFL) of approximately 11m AHD.
6. The proposed dwelling is 197m² in area, is a two storey building and has a wall (eaves) height of 5.492m, and an overall building height of 6.85m from the FFL.
7. The proposed skillion roof will be constructed with Colorbond in a colour known as Deep Ocean and the external walls will be cladded with a James Hardi Cladding painted in a colour that would be similar to the Colorbond colour known as Windspray.
8. This proposed development falls within the Goode Beach Reflective Building Materials Policy catchment. The colours and materials chosen have reflectance values below 50% and are therefore consistent with the requirements of the Policy.

9. The Special Provisions for Special Residential Area No. 8 includes a measurement of building heights and sets the maximum wall height at 5.6m and an overall building height of 9.1m above the site datum height.
10. The site datum height is determined by the average of the levels at the corners of the building envelope, or where the site datum cannot be determined by this formula Council shall determine the site datum height. In this case the designated building envelope for the subject land has five corners which are at the following levels:

A = 8.6m AHD
B = 8.4m AHD
C = 6.8m AHD
D = 8.6m AHD
E = 10m AHD
11. Adding the above points together and dividing by five equates to a site datum height of 8.48m AHD. This level is significantly lower than the natural ground level below the building footprint which ranges from 9.25m AHD at the eastern end to 11.16m AHD at it's western end.
12. When the policy was drafted in 2003, staff allocated a building envelope based on contour lines at 1 metre intervals, which did not accurately reflect the topography of the site in the north east and south east portions of the building envelope. The detailed feature survey lodged with the application contains contours at 0.25m intervals, which identifies these corners of the building envelope on the down slope off the plateau (rather than on the edge of the plateau as originally thought), having the effect of producing a significantly lower site datum height.
13. This delineation is considered an anomaly resulting from the level of data used at the time of preparing the policy. The matter of moving the building envelope away from sloping areas was discussed as part of the July 2003 Council report where the policy was adopted.
14. With the undulating topography of this site and the shape and position of the building envelope it is difficult to set a realistic datum that reflects the height values of the lot using the method contained in the special provisions of the Scheme. Using the calculated site datum height of 8.48m AHD, the maximum wall height allowable would be 14.08m AHD and the maximum overall height allowable would be 17.58m AHD. The proposed building has a wall height of 16.492m AHD (2.412m over) and an overall height of 17.85m AHD (0.27m over).
15. Despite the non-compliance, the measurement criteria in the Scheme clearly advocates for two storey development, and where the site datum allows, a third storey basement can be considered. The finished floor level of the dwelling is proposed at around 11m AHD, which at its worst point is 1.75m above natural ground level with the majority of fill under the building being between 500mm and 1000mm.

16. The floor level of the building could easily be reduced by 400mm to achieve a finished floor level (FFL) of 10.6m which would result in a more equal amount of cut and fill underneath the building footprint, rather than fill alone. The building would then be 2.012 metres above the wall height, but around 130mm below the maximum overall height specified in the Scheme.
17. A more accurate datum height could be calculated using the contour levels of the 4 corners of the building footprint which would produce a site datum height of 9.75m AHD. With a FFL of 10.6m AHD, this site datum would result in the wall being 0.742m over height, with the ridge being 1.4m under the maximum height limit set. Whilst the scheme does not identify this methodology as an alternative, it is worth Councillors keeping these figures in mind when considering whether to relax the scheme standard, as the use of this datum results in a more accurate representation of the variation involved.
18. It is staff's opinion that the design satisfies the scheme provisions and will not detract from the landscape in terms of the design, material, colours, location, scale and height. All other buildings constructed on La Perouse Court are two storey buildings of a similar or greater bulk and scale and with a revised FFL of 10.6m AHD there is minimum site disturbance through cut and fill will be promoted; the difference in this case is that the method of calculating the site datum height is unreasonable for the reasons mentioned above.
19. The application generally meets the requirements of Town Planning Scheme No. 3, the special provisions associated with Special Residential Area No. 8, the 'Reflective Building Materials in Goode Beach' Policy and the 'Building Envelopes within Special Residential Area No. 8' Policy.

PUBLIC CONSULTATION/ENGAGEMENT

20. As the proposal involves a relaxation of a Scheme requirement, as discussed in Paragraph 27 of the report, referral to adjoining landowners is proposed inviting comment on the variation. At the time of writing this report no comments have been received from adjacent landowners with the closing date being 10 December 2010. All responses received will be circulated to Councillors prior to the meeting.

GOVERNMENT CONSULTATION

21. No consultation is required.

STATUTORY IMPLICATIONS

22. The land is zoned 'Special Residential (Area No.8)' in Town Planning Scheme No.3, whereby a single house is a permitted use. The Special Provisions applicable to this zoning within the Scheme requires compliance with a range of provisions including building setbacks/envelopes, height, materials, colour, fire control and the provision of services.

23. At an 11m AHD FFL the proposal does not comply with the maximum building height provisions stipulated within the Scheme (Clause 13c of Special Residential Area No. 8), as the ridge of the building from the calculated site datum is 270mm over height, with the wall being 2.412m over height.
24. It is however recommended that through the application of a condition the FFL of the dwelling be reduced from 11m AHD to 10.6m AHD, which will mean the overall height is 130mm below the scheme requirement, and therefore the scheme relaxation would relate to the height of the wall only (which would be 2.012m over).
25. Clause 5.16 of Town Planning Scheme No. 3 does allow Council to relax a provision or standard within the Scheme. Where the variation of the Scheme is likely to affect any owners or occupiers in the general locality in the opinion of Council, the proposal should be referred to adjoining landowners prior to making it's decision on the variation. As the building is located at the western most end of the estate (adjacent to a bush reserve) the additional wall height of 2.012m above the height datum would not impact on the views of any resident of the ocean or the Albany town centre, which represent the main views of significance. If a more accurate datum was used as referred to in Paragraph 17, the relaxation would be in the vicinity of 700mm for the wall height, with the overall height of the building being well below the maximum height requirement.
26. Furthermore as pointed out in the discussion section of this report, the site datum calculation is up to 2.5 metres lower than the natural ground level underneath the building footprint; in order to comply with the height standard considerable cutting would be involved which would be at odds with the objectives of the zone, being to ensure minimal site disturbance through limited cut or fill.
27. Although staff are confident that the variation on wall height will not affect adjoining landowners, such landowners have been asked to make comment on the variation. The closing date for submissions is 10 December 2010, and any submissions received will be forwarded to Councillors prior to the Council Meeting.

STRATEGIC IMPLICATIONS

28. There are no strategic implications related to this item.

FINANCIAL IMPLICATIONS

29. There are no financial implications related to this item.

POLICY IMPLICATIONS

30. At its meeting dated 15th July 2003, Council resolved to adopt the policy entitled '*Building Envelopes within Special Residential Area No. 8*'. The policy was primarily

introduced to realign building envelopes, affected by minor changes in the subdivision layout.

31. The Policy also included provisions to ensure that development pays particular attention to:
 - the minimisation of erosion, soil and vegetation disturbance;
 - ensuring that building envelopes do not conflict with, or detract from, the landscape in terms of their design, location, scale, height or otherwise; and
 - minimising the impact of the development on the physical environment, particularly in terms of foreshore management, bushfire control, on-site effluent disposal and other servicing requirements.
32. The application generally meets the requirements of the policy as the proposal involves minimal cut or fill, is of a height and scale comparable to existing dwellings in the estate and the development footprint is considerable smaller than the allocated building envelope.
33. The development is also in compliance with the Goode Beach Reflective Building Materials Policy as the roof and external walls have solar reflective values below 50%.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

34. Council has the option to refuse the proposal, however this may prompt the proponent to lodge an appeal with the State Administrative Tribunal. This would have associated cost implications for the Council.
35. Council may wish to defer consideration of this item, especially if objections are received as part of the referral process.

SUMMARY CONCLUSION

36. The application proposes a single residential dwelling of a two-storey design with a skillion roof that in staff's opinion meets the objectives of the Scheme and the provisions of the two policies referred to in the report. It is considered that the development will not detract from the landscape in terms of the design, material, colours, location, scale and height.
37. It is recommended that Council supports the variation to the scheme in relation to the calculation of building height in this instance acknowledging that:
 - with a FFL of 10.6m AHD being applied through a planning condition, the overall height of the building would comply with the Scheme, with the relaxation applying to wall height only;
 - the corners of the building envelope, particularly the south-east corner, produces a site datum height up to 2.5 metres below the natural ground level underneath the building footprint,

- the scale and bulk of the dwelling is compatible with existing dwellings in Special Residential Area No. 8, and will not result in excessive cut and fill; and
- the variation to wall height would have no additional impact on the views of existing residents or the adjacent sites of the ocean and/or the Albany town centre.

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION

1. **THAT Council for the purposes of Clause 5.16 of the Scheme AGREES to vary the Scheme standard for the wall height from 5.6m to 7.612m from the site datum height, as it relates to Special Residential Area No. 8, Provision 13(c).**
2. **THAT a Notice of Planning Scheme Consent for a Single House at Lot 656, 35 La Perouse Court, Goode Beach, be ISSUED, subject to the following conditions:**
 - A. **The finished floor level of the dwelling is to be set at a maximum of 10.6m AHD.**
 - B. **All runoff from impervious surfaces being contained within the property and disposed of to Council's satisfaction.**
 - C. **The access-way is to be constructed and drained at the applicants cost to the satisfaction of Council.**
 - D. **The extent of all areas disturbed by earthworks shall be minimised. Any disturbed areas shall be stabilised with vegetation, mulch, brush matting or other means approved by Council following the practical completion of the construction phase.**
 - E. **The applicant shall maintain the stabilised soil surface over a period of two summers from the date of practical completion of the construction phase.**
 - F. **The installation of an alternative effluent disposal system that is designed for long term usage.**

ITEM 1.1: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

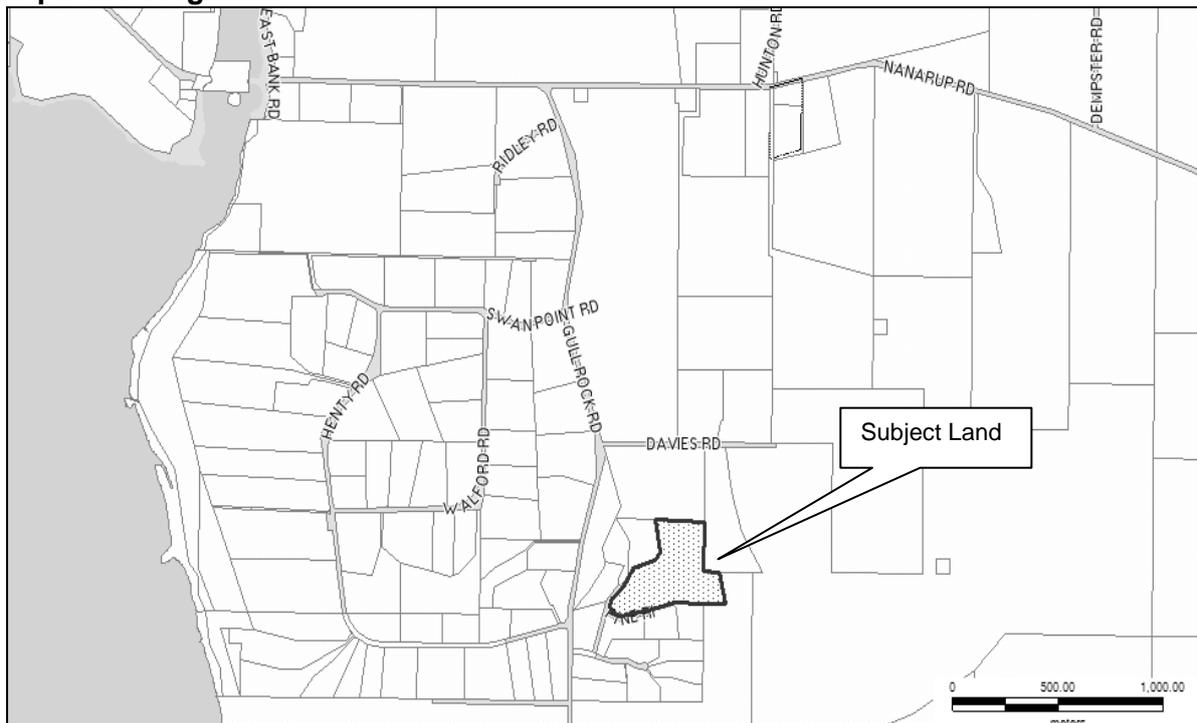
CARRIED 8-0

1.2: INITIATION OF SCHEME AMENDMENT - LOT 600 PINE RISE, KALGAN

Councillor Hammond declared a financial interest and left the Chamber at 7.54PM.

File Number (Name of Ward)	: AMD 275 (Kalgan Ward)
Land Description	: Lot 600 Pine Rise, Kalgan
Disclosure of Interest	: Nil
Proponent	: Harley Global
Owner	: P & S Liddiard
Business Entity Name	: Nil
Previous Reference	: Nil
Attachment(s)	: Subdivision Guide Plan (with recommended modifications)
Appendices	: Scheme Amendment document (AMD 275)
Consulted References	: Albany Local Planning Strategy
Reporting Officer(s)	: Assistant Planning Officer (T Gunn)
Responsible Officer	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider a Scheme Amendment to rezone Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone.
- The proposal is consistent with the Albany Local Planning Strategy and it is recommended that the amendment be initiated by Council.

BACKGROUND

1. Amendment No. 275 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zone to the 'Special Rural' zone. Under the proposal the subject lot will be added to adjacent Special Rural Zone No. 6, which provides for a range of development and land use controls over the area known as Swan Point.
2. The document includes a subdivision guide plan that proposes to subdivide the subject land into three lots, with all lots meeting the minimum lot size requirement of 2 hectares as per the provisions of Special Rural Area No. 6.
3. The lot is just over 12.7 hectares in area, and is located approximately 12 km north-east of the Albany City Centre. The lot is currently accessed via Nanarup and Gull Rock Roads.
4. The lot is mostly surrounded by Special Rural lots that form part of Special Rural Area No.6. The lot is also bordered by two agricultural rural lots, with the northern rural lot currently being used for a turf farm. An 'A' Class Reserve (Reserve 28690) set aside for the purposes of "*Conservation of Flora*" is also located to the east of the site.

DISCUSSION

5. The lot includes a valley with an associated watercourse which feeds a total of three dams. The land slopes upward to the north-east, gradually getting steeper as it reaches the corner of the northern and eastern boundaries.
6. The majority of the site is currently zoned 'Special Use' Area No.14, which allows for the following additional tourist uses;
 - Freshwater fish production and sale.
 - Holiday Chalets – short stay accommodation.
 - Restaurant.
 - Cultural use.
 - Private Recreation.
 - Shop and Office incidental to the primary uses.
 - Dwellings for manager and staff; and
 - Ancillary tourist facilities.
7. A dwelling stands along the south-eastern corner of the lot, with a chalet located on proposed Lot B and several other outbuildings also located on the property. The limited tourist related uses on the site have ceased; the proponent has stated that these uses are not viable or sustainable due to the lack of exposure to a main tourist route and the surrounding development and land uses.

8. The site currently has a dual zoning as there is a 1 hectare pocket of land located in the south-eastern corner of the site which is zoned rural, and the Scheme Amendment proposes to rectify this anomaly.
9. The subject site is currently connected to power and telecommunications services. Reticulated water and sewer is not available and an effluent disposal system will need to be provided on site which is similar to surrounding properties.
10. In terms of vehicular access, proposed Lot A will be accessed via a battleaxe driveway from Valley Pond Heights. Access to Lot B will be via the existing crossover that services the Valley Ponds homestead and access to Lot C will be via a new crossover at the end of the cul-de-sac of Pine Rise.
11. There are two main strips of vegetation on the site, one is the native vegetation belt which runs from south-west to north-east on the top half of the site, with the other being the introduced pine tree belt that follows the southern boundary line. There is also native vegetation loosely scattered across the site. Given the vegetation that currently exists on site and to ensure adequate fire safety measures are in place it would be a requirement that any buildings constructed on proposed Lot A would be built to the requirements of AS 3959-2009 '*Construction of Buildings in Bushfire Prone Areas*'. This has been proposed through the insertion of a new clause, being Clause 10.8 within Special Rural Area No. 6.
12. There has been some discussion in relation to the location of the strategic firebreak (SFB) which had been identified inside the adjacent reserve. This proposal would rely on the DEC and surrounding landowner to maintain fire safety measures for this development, which is not considered appropriate. In discussions with the proponent and Council's Emergency Services Coordinator a more acceptable location would be to have the SFB on the subject lot, running along the eastern and northern boundary lines and following the driveways of proposed Lots A and C through to Valley Pond Heights and Pine Rise. It is recommended that the SFB be modified as per the attachment at the rear of this report.
13. Directly to the north of the site is a rural property and the land is currently used as a turf farm. Although the ALPS designates the site for rural residential purposes in the future, there may be a land use conflict between proposed Lot A and the turf farm in terms of noise, odours, dust etc, from the farming practises (pesticides and machinery) in the interim period. It is therefore recommended that a new clause be inserted into the special provisions for Special Rural Area No. 6 requiring the placement of a Section 70A Notification on the title at the time of subdivision for the subject land to make potential purchasers of Lot A aware that they may be affected by emissions associated with the rural activity on Lot 21 Davies Road, Kalgan.
14. The area has been identified as being suitable for 'Rural Residential' development in the Albany Local Planning Strategy (ALPS). The proposal seeks to rezone the lot to create an extension to Special Rural Area No.6, in keeping with the objectives of Section 8.3.5 of the ALPS.

15. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the ALPS.

PUBLIC CONSULTATION/ENGAGEMENT

16. Should Council initiate the amendment and the Environmental Protection Authority (EPA) decides not to assess the proposal, the Amendment will be advertised to all affected and surrounding landowners.

GOVERNMENT CONSULTATION

17. Should Council initiate the Amendment and the EPA decides not to assess the proposal, the Amendment will be referred to all relevant Government agencies for comment, including the Department of Water (DOW) for a formal response.

STATUTORY IMPLICATIONS

18. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
19. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
20. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
21. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.
22. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

FINANCIAL IMPLICATIONS

23. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

24. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
25. Section 8.3.1 – *Strategic Settlement Direction* sets the following Strategic Objective:

“Facilitate and manage sustainable settlement growth for the urban area in the City of Albany”.

This objective is supported by a set of aims that have been devised to contain the spread of fragmented urban and rural living areas in the City. They are as follows:

- *Providing for growth in urban areas, rural townsites and rural living areas as designated in ALPS.*
- *Minimising the development footprint on the landscape to help protect biodiversity and the environment.*
- *Promoting energy conservation.*
- *Providing greater housing choice.*
- *Minimising journey length from home to work/school/services and encouraging the use of public transport, cycling and walking.*
- *Reducing government expenditure on servicing current and future populations.*

26. Section 8.3.5 – *Rural Living* sets the following Strategic Objective:

“In the long term encourage the efficient use of existing rural living areas, based on land capability to maximise their development potential.”

The ALPS expands on this by stating that: “The strategy’s objectives for Rural Living areas are to:

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 5, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

Existing Rural Residential areas in the ALPS are mainly on the fringe of the proposed Future Urban area.

Existing Special Rural and Special Residential zones in the City’s current Town Planning Scheme are fragmented and located within or next to rural areas on the periphery of the Albany urban area, along the King and Kalgan Rivers and around Princess Royal and Oyster Harbours. These zones are at different stages of development and not required to be connected to reticulated sewerage. Some of the outer areas, such as Millbrook and most of Gull Rock, are also not connected to reticulated water”.

27. Overall, the proposal is considered to be consistent with the ALPS on the basis that:

- The proposal will not create additional rural town sites;
- The subject land is not productive agricultural land, does not have known regionally significant natural resources, and although the property is adjacent to a vegetated reserve the proponent has undertaken an analysis of the fire risk relevant to the proposal (which is acceptable as long as the future building is constructed to AS3959);
- The proposal seeks to add one additional dwelling over the subject land which will be on the higher portion of the lot where sufficient clearance from the water table has been observed;
- The proposal is designated in the ALPS as Rural Residential.

POLICY IMPLICATIONS

28. There are no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

29. Council has the following options in relation to this item, which are:
- To resolve to initiate the Scheme Amendment without modifications;
 - To resolve to initiate the Scheme Amendment with modifications; or
 - To resolve not initiate the Scheme Amendment.
30. A resolution to initiate an Amendment to a Town Planning Scheme adopted by resolution of a Local Government must be referred to the Environmental Protection Authority (EPA) for assessment.
31. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.

SUMMARY CONCLUSION

32. The proposal seeks to rezone the lot from the 'Special Use' and 'Rural' zone to the 'Special Rural' zone which will be a small addition to existing Special Rural Area No. 6. It is considered that this would remove uses of the land that are poorly planned and undefined in the Scheme, and will allow the consolidation of existing Special Rural development in the area, which is considered to be in keeping with the objectives of Section 8.3.5 of the ALPS.
33. Staff recommend that the Scheme Amendment be initiated subject to the following modifications:
- A. The realignment of the strategic firebreak as shown on the attachment to the rear of this report.

- B. A new clause being added into Special Rural Area No. 6 requiring the lodgement of a Section 70A notification at the time of subdivision advising potential purchasers of Lot A that they may be affected by emissions associated with the rural activity on Lot 21 Davies Road, Kalgan.

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council in pursuance of Section 75 of the *Planning and Development Act 2005* and Regulation 25(1)(c) of the *Town Planning Regulations 1967* resolves to INITIATE Amendment No. 275 to Town Planning Scheme No. 3, subject to the modifications as detailed in Paragraph 33 of the above report, for the purposes of:

- 1) Rezoning Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone;
- 2) Remove 'Special Use Zone No.14' from Schedule III of the Scheme Text;
- 3) Modifying Schedule I – Special Rural Zones – to include reference to Lot 600 Pine Rise, Kalgan in 'Special Rural' Area No. 6; and
- 4) Amending the Scheme Maps accordingly.

ITEM 1.2: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR LEAVESLEY
SECONDED: COUNCILLOR SUTTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

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

Councillor Hammond returned to the chamber at 7.55PM.

1.3: PROPOSED OUTLINE DEVELOPMENT PLAN FOR BIG GROVE

Councillor Swann declared a financial interest and left the Chamber at 7.56PM.

File Number (Name of Ward)	: ODP003 (Vancouver Ward)
Land Description	: Various lots – Refer Attachment 1.
Disclosure of Interest	: Nil
Proponent	: RPS & Chappell Lambert Everett
Owner	: Various owners – Refer Attachment 1.
Business Entity Name	: Refer Attachment 1.
Previous Reference	: OCM 18/08/09 – Item 11.3.4 (AMD 279) OCM 20/01/09 – Item 13.2.3 (AMD 284)
Attachment(s)	: Attachment 1 – Summary of land included in Outline Development Plan (ODP) Attachment 2 – Outline Development Plan (Map Only)
Appendices	: Contour Plan, Vegetation Types & Condition Plan, Opportunities and Constraints Plan, Landowner Consultation
Consulted References	: Town Planning Scheme No. 3 Albany Local Planning Strategy (2010) Residential Design Code Policy (2007) WAPC SPP 2.6 – State Coastal Planning Policy Planning for Bushfire Protection (FESA)
Councillor Lounge Reporting Officer(s)	: Complete ODP Report (available on disc by request)
Responsible Officer	: Liz Bushby, Gray & Lewis Landuse Planners : E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- An Outline Development Plan has been lodged with supporting documents seeking Council's support for advertising.
- The applicant has had ongoing discussions with the Department of Environment (DEC) regarding vegetation and fauna. It is recommended that the ODP be referred to DEC for formal comments and advice, which will assist the City to finalise assessment of the ODP.
- A traffic report is being compiled and will be required prior to finalisation of any ODP.
- This report recommends that the Council adopt the ODP for the purpose of initiating public advertising and formal consultation.

BACKGROUND

Location

1. The area known as 'Big Grove' is located 6.5 kilometres south east of the Albany city centre across Princess Royal Harbour. The subject land is approximately 120 hectares in area comprising of over 28 private lots.

Relevant Scheme Amendments & initial EPA advice

2. The western and eastern portions of the Big Grove Outline Development Plan (ODP) area were rezoned to 'Residential Development' zone under Amendment 279 and Amendment 284 to the City of Albany Town Planning Scheme No 3 ('the Scheme').
3. Both Scheme Amendments were referred to the Environmental Protection Authority (EPA) who advised that they did not require formal environmental assessment.
4. The EPA provided general advice on vegetation, fauna, coastal setbacks and foreshore reserve, water quality and contamination for Amendment 279. The EPA specifically advised that:
 - a. In the event that any Ringtail possums or other significant fauna species are found on the site prior to any development, advice should be sought from DEC regional office, and that advice should be complied with.
 - b. It is expected residential development will not proceed unless it is serviced by reticulated sewer.
 - c. Liaison is required with the Department of Water to ensure development would comply with the priority 2 protection area requirements.
 - d. A Preliminary Site Investigation (PSI) should be carried out due to contamination potential from historical land uses.
 - e. It was noted that the coastal setbacks and foreshore reserve work was undertaken to fulfil the requirements of State Planning Policy 2.6, and that there are some anomalies as some portions of foreshore reserves are zoned 'Rural' and some are zoned 'Parks and Recreation'. EPA expressed a view that all

foreshore reserves should be zoned 'Parks and Recreation' (however the Minister supported the amendment without additional reservations).

5. In regards to Amendment 284 the EPA advised that remnant vegetation and fauna were not assessed. The EPA advised that the area covered by Amendment 284 (eastern portion of Big Grove) contained significantly more native vegetation in excellent and very good condition than Amendment 279.
6. The EPA recommended that the ODP be modified in liaison with relevant authorities including DEC and Department for Planning so that:
 - a. key vegetation associations, fauna habitat and ecological linkages are retained where possible;
 - b. the length of direct road frontage between the east boundary of Lot 2 and reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;
 - c. Coastal setback and foreshore width to be to the satisfaction of WAPC taking into account ecological values, recreational needs, and management of physical processes.
 - d. Visual amenity from Torndirrup National Park and the Albany township are not unduly affected.
7. Both amendments have been gazetted. The fact that both Amendments have been approved by the Minister for Planning indicates that the land has been deemed suitable for some form of residential development.

Current zoning, lot areas and landowners

8. The majority of private lots within the ODP are zoned 'Residential Development' under the Scheme with the exception of Lot 6 which is still zoned 'Rural', and Lots 17-18 which are zoned 'Motel' (refer Attachment 1).
9. The objective of the 'Residential Development' zone is '*to facilitate the orderly and equitable development for residential purposes of areas where the existing subdivisional pattern, multi ownership, or other factors make this objective unobtainable by the normal methods of subdivision and development.*'
10. Even though Lot 6 is still zoned 'Rural' under the Scheme, the applicant has been requested to include it in the ODP area. A notation has been included on the ODP noting that Lot 6 (central to the ODP) would require a scheme amendment, and that the landowner is non-participating.
11. In the longer term Lot 6 may change ownership, and any future landowner could apply to rezone it to 'Residential Development' consistent with the western and eastern sections of the ODP. It is therefore logical to strategically plan for future re-zoning and subdivision of Lot 6.

Surrounding zoning

12. Land abutting Princess Royal Harbour (foreshore area) and land to the immediate east is reserved as 'Parks and Recreation' under the Scheme.
13. The majority of land to the south is zoned 'Rural' with the exception of Lot 19 and a portion of Lot 18 specifically zoned 'Special Site' as a caravan park under the Scheme. The Scheme reserves land to the west as 'Public Purpose', and Frenchman Bay Road as 'Important Regional Road'.

DISCUSSION

Description of Outline Development Plan

14. 'Peet Tri-State Syndicate Limited' (Peet) and 'P & B Corporation' have significant landholdings in the area and have commissioned the ODP.
15. A summary of the densities proposed in the ODP is detailed below;
 - a. The majority of the ODP area is proposed with an 'R20' coding. A minimum of 450m² and average of 500² per dwelling applies to R20 under the Residential Design Codes ('R-Codes').
 - b. Larger rural residential lots are proposed in water protection (priority 2) areas and most contain existing dwellings.
 - c. Larger 'R10' densities are proposed along the western and eastern boundary of the ODP with an area for fire protection. For R10 densities a minimum of 875m² and average of 1000m² applies under the R-Codes.
 - d. Medium densities of 'R30' and 'R40' are proposed adjacent to areas of open space, a proposed school and near the foreshore.
 - e. A primary school and Village Centre (R40-60) are proposed adjacent to Frenchman Bay Road on a main entry road.

Projected lot yield and population

16. The applicant has advised that there is strong market demand for larger lots between 550m² and 750m². At this stage they do not anticipate that there will be a high demand for smaller lots.
17. It should be noted that the areas per dwelling/lot under the Residential Design Codes ('the Codes') are minimums, and developers/owners may choose to subdivide with larger lots if desired to cater for market demand.

18. The table below summarises the ‘projected’ lot yield as anticipated by the developer(s) based on market demand for larger lots, and the potential maximum yield permissible under the Codes.

Lot type	Net Residential Area (hectares)	Average Lot size in m ² (applicant projection)	Total yield (applicant projection)	Average Lot size (as per R Codes)	Total yield (based on R Codes)
R10	5.33ha	1500	35	1000	53
R20	48.5ha	670	721	500	967
R30	5.97ha	400	149	300	199
R40	2.48ha	300	82	220	112
Rural Residential	3.29ha	N/A	4	N/A	4
Total			991	Total	1335

Table 1 – Potential lot yields

19. The applicant was required to include figures on the maximum potential yield under the Codes as the City does not have control over implementing the lesser densities suggested once an ODP is approved by the WAPC.
20. Ultimately the lot yield will be examined by the developer/owners having regard for the costings at detailed design and subdivision stage. The projected lot yield may be increased to reduce the cost of development per lot. In addition, the market may change as staging of future subdivision occurs.

Traffic

21. No traffic report had been submitted as part of the ODP report and as a consequence detailed assessment of the road layout has not been undertaken.
22. The applicant has been advised that the ODP should be supported by a detailed traffic report and that it needs to be submitted and assessed by the City prior to any finalisation of any ODP. To expedite processing, it has been agreed to allow the traffic report to be developed during advertising of the ODP (subject to support by Council). It is understood that the traffic report has been substantially progressed.
23. On receipt of the traffic report the City’s Engineering Department will be able to provide comments on the adequacy of the road layout and design. The traffic report will have to be referred separately to the Department of Transport as the ODP abuts an ‘Important Regional Road’. MRWA comments should also be obtained.
24. The applicant has been advised that their traffic consultant should do two assessment scenarios:

- a. The 'projected' yield and lower densities suggested by the developer(s) as based on market demand, and
 - b. The 'worst case scenario' being the 'maximum' yield based on the R Code averages. It should take into account potential yield associated with the Village Centre and Mixed Use node.
25. This will allow a comparison to see how different the traffic recommendations are between the 'lower' densities/ larger lot sizes and the 'maximum' lot yield. Lesser requirements may be applicable if lower densities are pursued by the developer(s) at subdivision stage.
26. The City has identified that there may be a need for road widening of Frenchman Bay Road, and this is a significant issue that needs to be resolved once a traffic report has been completed as;
- a. If the City requires road widening to be accommodated to the north then it impacts on the proposed open space areas and the ODP design would require modification. The impact on vegetation may also need to be considered.
 - b. If road widening is to be accommodated to the south, it may not occur for some time as all of the land is zoned 'Rural'. Any southern road widening may be more difficult to implement.

Open Space

27. In accordance with the Western Australian Planning Commission (WAPC) 'Liveable Neighbourhoods' an application for a structure plan approval must be accompanied by a public open space schedule identifying the total site area, less deductions, the gross subdivisible area, the 10 percent public open space contribution and the restricted use public open space allocation.
28. Open space may be provided in the form of land, cash in lieu of open space, or a combination of both.
29. The primary focus of the ODP is on the foreshore, however this is supported by a series of secondary local parks and areas of vegetation retention spread throughout the ODP. A major corridor has been provided between remnant vegetation to the east of the ODP, through Lot 1 and to the foreshore. A 5 metre POS strip has been provided along Frenchman Bay Road and open space is linked with pedestrian and bicycle paths.
30. The WAPC may allow inclusion of 'restricted open space' provided it is useable for recreational purposes. Restricted open space can include urban water management areas such as swales and detention areas provided that;
- a. The area is not subject to inundation more frequently than a one year average recurrence interval rainfall event and does not present a safety hazard;
 - b. The area of the swale is contoured, unfenced and grassed and / or landscaped;
 - c. The area forms part of an appropriate management plan.

31. The applicants have provided a detailed open space schedule which demonstrates that there is an overprovision of open space based on the developable ODP area.
32. Overall 9.89 hectares of open space is required and the ODP allows for 11.59 unrestricted open space and 13.48 gross open space. A summary of open space is included below;

Owner	Lot No.	Area (ha)	Total Deductions	Nett Developable Area	POS required (ha)	Nett POS provided (ha)	Total provided (credited – includes unrestricted & restricted POS)
Peet	Various	57.49	8.86	48.63	4.86	5.41	5.41
Visiliu	2	9.43	0.34	9.09	0.91	1.23	1.23
Campbell	2	2	0	2	0.2	0.06	0.06**
P & B	Various	20.46	1.03	19.43	1.94	2.93	2.93
Kirby (Rural)	6	9.39	0.56	8.83	0.88	0.76	0.76**
Hillis	10	2.86	0.26	2.6	0.26	0.32	0.32
Leckie	12	2.32	0.2	2.12	0.21	0.08	0.08**
Kelly	17	1.36	0.06	1.30	0.13	0.07	0.07**
Stean	303	2.5	0	2.5	0.25	1.14	1.14
Roberts	9000	2.4	0	2.4	0.24	0.17	0.17**

Notes: - ** balance to be paid as cash in lieu
- Does not include POS for rural residential lots in P2 area

33. The majority of the existing lots will independently meet the 10% open space requirements in the form of land. There is a shortfall of open space based on individual lot areas for Lot 2 (Campbell), Lot 12 (Leckie), Lot 17 (Kelly) and Lot 9000 (Roberts). In these cases the balance of the open space will be required to be provided in the form of cash in lieu at subdivision stage – it is recommended that this be included as a notation on the ODP.

Drainage

34. A Local Water Management Strategy (Coffey Environments) has been submitted and will be referred to the Department of Water during advertising.
35. Drainage has also been examined by Wood and Grieve engineers. Detailed drainage will be re-examined at subdivision stage and the level of detail provided is considered sufficient to support the ODP for advertising, and for assessment of open space provision.

36. The ODP has been divided into a number of drainage catchments. There have been some discussions with the applicant over drainage for Lot 7 as;
 - a. Drainage Catchment E shows drainage being to the north and includes the southern portion of Lot 7 and Lot 6. Drainage is being directed to POS area J which is located on Lot 6.
 - b. Given that Lot 6 is zoned 'Rural' it is unlikely to develop in the short to medium term. Unless an agreement is reached with the owner of Lot 6 the drainage will need to be re-examined so it is self contained for development of Lot 7.

37. There has been some informal liaison by the applicant with their engineers who indicated that whilst the drainage location on Lot 6 was their preference, the POS area 'F' in the north of Lot 7 should have sufficient area to cater for drainage of Lot 7. An alternative is temporary drainage infrastructure until Lot 6 is re-zoned and developed.

38. The drainage concern over Lot 7 is not considered to be an impediment to advertising of the ODP, however it is recommended that Wood and Grieve examine the capacity of POS area 'F' in more detail and provide additional drainage information for Lot 7 as;
 - a. Greater assurances are required to ensure the ODP sufficiently caters for drainage at this broad planning level. It is recognised that detailed design will be undertaken at subdivision, however the ODP should depict POS and drainage areas that allow the owners to develop as independently as possible.
 - b. In the event that the owner of Lot 6 lodges a strong objection, then the plan may require modification to address their concerns. Staff would have high regard for any submission by the owners of Lot 6 considering their land remains 'Rural' under the Scheme.

Proposed School site

39. The ODP includes a school site and the applicant has liaised with the Department for Education and Training (DET). It is understood that DET is satisfied with the school size and location, however the ODP will be referred to DET formally for comment.

40. The school site will be designed so that there is no access from Frenchman Bay Road. As the school will service a wider catchment, it is considered desirable that it be visible from the main road. There are likely to be two drop off points, a kiss and ride area to the north and bus parking along the main boulevard entry road.

Priority 2 (P2) Protection Area (South Coast Water reserve)

41. The western portion of the ODP is affected by a P2 area adjacent to Frenchman Bay Road.

42. Preliminary liaison has been undertaken with the Department of Water (DOW) who advise that they support the creation of lots to recognise existing houses, no new vacant lots, and also support open space for protection of the P2 area.

43. The creation of 'rural residential' sized lots for the existing dwellings on Lots 302, 9, and 4 are therefore generally supported.
44. There is a southern portion of Lot 10 in the P2 area shown as a 'lot' which is vacant. This area may be better placed as open space, and specific comment on this should be obtained from DOW. The ODP may need to be amended to address any issues raised by DOW.

Proposed Village Centre

45. The ODP includes a Village Centre adjacent to the proposed primary school. Development within the Village Centre may comprise residential and / or commercial uses (in accordance with the Residential and Local Shopping Zone provisions of the Scheme), shall be restricted to 3 storeys in height and shall be required to accord with a Detailed Area Plan approved for the site.
46. The ODP is seeking a variation to the City of Albany Residential Design Code Policy which includes specific criteria relating to the Village Centre and Big Grove area as summarised in the table below:

Policy criteria	Officer Comment
The village centre shall generally be located centrally within comprehensive developments. They shall in no circumstance be closer than 20m to any existing property outside the development.	The proposed Village Centre meets the 20 metre requirement however is not located centrally to the site. Its location adjacent to Frenchman Bay Road does have other planning benefits such as; <ul style="list-style-type: none"> – From a commercial perspective it allows for the centre to capitalise on passing trade. – It will create a main street character on the entrance road into the estate. – The location still allows for the Village Centre to service the proposed Big Grove community. – The location adjacent to the primary school will also allow for convenience. Parents picking up children may also attend the village centre. <p>A similar variation was supported for the Emu Point commercial centre. It is recognised that commercial exposure is necessary to maximise viability.</p>
The village centre shall be set back from the coastal reserve far enough to ensure the development does not adversely impact on the reserve.	The applicant has advised that MP Rogers and Associates undertook a separate assessment under the State Coastal Planning Policy for the PER, and development setbacks comply.
Buildings shall incorporate non-residential uses on a substantial proportion of the ground floor and be adaptable to changes in land use.	Detailed Area Plans will be required and will allow for adaptable spaces.
Public parking will be provided to service	Some on street carparking has been provided on the

<p>the centre.</p>	<p>ODP, and the further on-site parking will be required to comply with the Scheme and R-Codes (unless otherwise approved by Council).</p> <p>Any future Detailed Area Plan (DAP) will require parking to comply with Residential Design Codes and City of Albany Residential Design Code Policy.</p> <p>It is recommended that any future DAP also refer to the car parking requirements under Appendix III of the Scheme for commercial development.</p>
<p>Buildings with larger footprints (over 500sq m) shall be articulated to break down their perceived bulk and establish a scale appropriate for the locality.</p>	<p>This will be addressed at the DAP stage.</p>
<p>The fourth floor of any building shall comprise a maximum of 60% of the footprint of lower floors.</p>	<p>A maximum of three storeys is proposed.</p>

Foreshore Reserve

47. The foreshore reserve has been based on modelling and methodology outlined in a 'setback assessment' document. The general methodology was agreed to in writing by the Department of Planning in September 2009.
48. It is understood that the Department of Planning is reviewing the State Coastal Planning Policy. Having regard that the issue has already been substantially progressed and addressed by the applicant, it is not anticipated that the review will impact on the ODP.
49. It should be noted that the foreshore areas on the ODP are greater than those reflected by 'Parks and Recreation' reservations under the Scheme.
50. Four of the lots (Lots 16, 20, 21 and 109) contain existing dwellings within the proposed foreshore reserve area. Under Section 8.5.1 (Retained Lots) of the ODP it is intended that a homestead lot (encapsulating the dwelling) can be created for these four lots without the need to give up the entire foreshore reserve at this initial stage. To further clarify this position it is recommended that the following amendments are made:
 - a. Section 8.5 being amended to include a minimum lot size requirement of 1 hectare for the homestead lot to ensure that there is sufficient development potential to promote further subdivision of the homestead lot, so that the entire future foreshore reserve envisaged on the ODP can be taken at that time inclusive of the requirement to demolish all structures;

- b. Section 8.5 being amended to include the requirement that as part of the creation of the homestead lot, a notification is required to be placed on the title, advising that the dwelling is located within the physical processes setback as detailed within the Big Grove ODP and that the dwelling may be subject to damage in the future as a result of such processes, and that any further subdivision of the homestead lot will necessitate the ultimate foreshore reserve being ceded free of cost to the crown with all structures being demolished;
 - c. Section 8.5 being amended to state that as part of the creation of the homestead lot where there is a portion of land harbour side of the dwelling which is identified as proposed foreshore reserve on the ODP, the WAPC may require this portion to be ceded at this stage to ensure that any linkage opportunities are secured.
 - d. Section 9.9 (Foreshore Reserve) being amended to make it clear that in the case of the four lots with existing structures within the proposed foreshore reserve, the ceding of the foreshore can be delayed to a future stage of subdivision subject to complying with the provisions of Section 8.5.
51. It is important to note that staff have liaised with the Western Australian Planning Commission (WAPC) who are supportive of the above changes to clarify the process for all parties involved.

Fire Management

52. A Fire Management Strategy for the ODP was developed in accordance with 'Planning for Bushfire Protection' Edition 1 by a professional fire consultant (in consultation with the City and FESA).
53. In summary the strategy advised as follows;
- a. The road layout meets the requirements however each subdivision stage will need to have two egress points (to Frenchman Bay Road).
 - b. The western and eastern boundaries of the site (adjoining areas of remnant vegetation) need to be provided with a 40 metre setback to incorporate a 20 metre building separation zone and 20 metre hazard separation zone.
 - c. Building separation zones and hazard separation zones should be provided at subdivision stage.
 - d. A more detailed Fire Management Plan will be provided at the subdivision stage.
54. Since development of the broad Fire Strategy, new 'Edition 2 – Planning for Bushfire Protection' guidelines have been released.
55. Gray & Lewis has liaised with the Fire Consultant who has indicated that the existing overall Fire Management Strategy is still considered sufficient for the ODP, and the new Edition 2 guidelines will be used for the more detailed Bush Fire Management Plans for subdivision. In any event, the ODP will be referred formally to FESA seeking their advice.

56. The ODP incorporates low densities along the western and eastern ODP boundaries with a 40 metre setback to remnant vegetation, with the exception of the R40 area on the northern part of Lot 2. In order to comply with the fire management strategy it is recommended that the ODP be modified prior to advertising to;
- a. Extend the 40 metre fire protection boundary along the eastern boundary of the ODP to the north in accordance with the recommendation of the Fire Management Strategy. The 40 metre fire setback should be located along the entire length of the eastern ODP boundary.
 - b. Extend the lower R10 density along the eastern boundary directly north over a portion of Lot 2. Larger lots adjacent to the higher fire risk areas are required as the R40 density is considered undesirable adjacent to remnant vegetation.
 - c. Advise the owner of Lot 2 that (i) the modifications are being required by the City for fire safety and in accordance with the Fire Management Strategy applicable to the ODP, and (ii) no densities exceeding R10 or any lesser fire setback adjacent to the eastern boundary of Lot 2 will be considered unless the owner gains written approval from FESA during the advertising period. This is considered an individual landowner matter and should not impede progression of the ODP.

Vegetation and Fauna

57. The City is placed in a difficult position in considering environmental issues such as vegetation and fauna largely because;
- a. It does not have the expertise required to undertake a full analysis. Extensive information has been lodged by the applicant however cannot be assessed by Gray & Lewis as it requires environmental expertise.
 - b. These matters are largely under the jurisdiction of the Department of Environment and Conservation (DEC).
 - c. The EPA did not assess these issues 'up front' as part of Amendment 284 however noted that a future subdivision application could be formally referred to EPA for comment.
 - d. The EPA suggested as part of Amendment 284 that these matters be addressed by the ODP in consultation with DEC and other relevant authorities such as the Department of Planning.
 - e. The onus has been placed on the applicant to address these issues. It is understood that they have had extensive discussions with DEC (which the City has not been party to).
 - f. These matters therefore have to be considered as part of the ODP process.
58. The ODP includes areas of remnant vegetation and potential fauna habitat. It is noted that;
- a. On behalf of the applicant, Coffey Environments conducted vegetation surveys of the subject land in October 2006, September 2007 and November 2007. Additional survey work was conducted in 2009 to respond to advice from the EPA on the scheme amendment.
 - b. Fauna studies were also undertaken in 2006 (Level 1 fauna assessment) and 2007 which identified some potential for a limited number of significant species to be present or to utilise the site, including Carnaby's and Baudin's Cockatoos, Western Archaeid Spiders, Carpet Pythons, White-bellied Sea Eagles (in the

- karri stands on Lots 1 and 110) and the Rainbow Bee-eater. In consideration of Amendment No. 284 the EPA recommended that specific fauna surveys be conducted and include Western Ringtail Possum; Mains Assassin Spider; and the Carpet Python.
- c. The applicant has indicated that as result of recent negotiations with the DEC it was that noted there were some areas of interest for Western Ringtail Possum (WRP) habitat on Lots 1 and 7 and the northern portion of Lot 109 Frenchman Bay Road, Big Grove.
59. The applicant has indicated that they discussed a methodology for additional fauna survey work (February 2010) with the DEC (Albany), followed the agreed methodology, however that DEC were not satisfied and have since not provided any alternative agreed study methodology.
60. In the ODP report it notes that Coffey Environmental “*considers that Western Ringtail Possums (WRP) are present in low numbers in the ODP area, where there is suitable habitat.*” They have made a number of recommendations to manage any fauna movements, which appear to have been incorporated into the ODP design. Some measures include;
- a. Retention of areas of very good to excellent quality vegetation in the foreshore area, POS Areas A, B & C that provide suitable WRP habitat.
 - b. The Foreshore Management Plan proposes that existing vegetation be retained and that most of the existing cleared areas of foreshore be replanted with local native plant species, including peppermint, which would be suitable as WRP habitat. This corridor is 80m by 1.3km long.
 - c. Retention of vegetation and replanting of a 5m vegetated buffer (with peppermints included) along Frenchman Bay Road.
 - d. Retention of trees and understorey, where possible, within other areas of POS.
 - e. Introduction of landscaping incentives for new landowners which prescribe the use of local native plant species, with a focus on Peppermint trees and local understorey species.
 - f. Streetscaping to provide linkage at the road reserve level, with a focus on the planting of peppermint trees.
61. Council needs to be aware of the DEC’s formal position so an informed decision can be made on the ODP design as part of the planning process.
62. It is recommended that the ODP be formally advertised and referred to DEC Perth as;
- a. At this stage there appears to be some dispute over methodology utilised. It is the City’s understanding that DEC Albany has not accepted all of the findings of numerous studies undertaken by the applicant.
 - b. DEC should provide the Council with direct advice and comments, so that environmental issues can be properly considered as part of the ODP. To resolve this issue an independent assessment of the ODP report and attachments by DEC Perth branch would assist to provide Council with all of the information.
 - c. If there are any outstanding environmental issues, they need to be addressed by the ODP. Until Council has formal advice from DEC, then it is difficult to consider whether the ODP does adequately address issues raised by the EPA.
63. Gray & Lewis and City officers have met with representatives from RPS and Peet and Company to discuss the environmental issues. Whilst it is open to Council to require these matters to be resolved with DEC prior to advertising, Gray & Lewis recommends

advertising to ascertain DEC's formal position. Once the ODP is advertised the City may have input into any further environmental discussions.

64. It is recommended that the applicants be advised that;
- a. Support for the ODP is only for the purpose of proceeding with public advertising. It should not be construed as support for all areas proposed as residential. Council will need to have regard for any advice by DEC (on issues such as vegetation retention and fauna habitat).
 - b. It is recommended that the applicants liaise directly with DEC during advertising and resolve any outstanding matters, as the City would likely adhere to any advice provided by DEC.
 - c. If substantial modifications to the ODP are required to address submissions received during advertising, then Council reserves the right to consider a second advertising period.
 - d. Council reserves the right to undertake a complete review and assessment of the ODP once it has key stakeholders submissions, a traffic report and advice from relevant authorities such as DEC and Department of Water.

PUBLIC CONSULTATION / ENGAGEMENT

65. It's important to note that the applicant has undertaken separate consultation with landowners within the ODP area and a summary of that consultation is attached to the rear of this report.
66. Whilst most landowners have been able to have their concerns addressed and the plan modified wherever possible, the owner of Lot 2 has expressed ongoing concerns relating to:
- (a) the extent of the foreshore reserve and the methodology used to determine it, despite the setback being mapped by a coastal engineer (MP Rogers and Associates) with the findings accepted by the coastal branch of the Department of Planning;
 - (b) the impact of fire separation buffers on development potential (lot yields), which have been recommended by an experienced fire consultant (Fire Plan WA); and
 - (c) the extent of the vegetation protection area as established by the environmental consultant (Coffey Environments).
67. The applicant has advised that they are unable to resolve the remaining issues raised by the owner of Lot 2 as they relate to recommendations by experienced consultants in their respective fields; who standby their assessments. The owner of Lot 2 has been advised that he may wish to liaise with the government agencies responsible for assessing these issues, including the Department of Planning (coastal branch), FESA and the Department of Environment and Conservation, and/or employ consultants to challenge the findings.
68. Should Council adopt the ODP for the purposes of advertising all landowners within and adjacent to the ODP, including the owner of Lot 2, will be invited to make formal

comment on the draft ODP. As per Recommendation 4 representation will be made to the owner of Lot 2 as part of the advertising period.

GOVERNMENT CONSULTATION

69. Gray & Lewis has undertaken preliminary consultation with the Department of Water.

STATUTORY IMPLICATIONS

70. Clause 3.4 of the Scheme requires all 'Development Zones' to be subject to an ODP, and Clause 5.5 outlines the requirements for an ODP.

FINANCIAL IMPLICATIONS

71. The City will become responsible for ongoing maintenance of roads and public areas.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

72. Any adopted ODP would guide future subdivision and development in Big Grove estate.

POLICY IMPLICATIONS

73. The City of Albany Residential Design Code Policy has been discussed in the body of this report.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

74. Council has a number of options available including;
- A. Option 1 – Defer advertising of the ODP pending written confirmation from DEC that environmental issues have been addressed. This option is not recommended as advertising will allow the applicant (and City) to consider public submissions and any DEC recommendations concurrently.
 - B. Option 2 – Support the ODP in its current form for the purpose of proceeding with public advertising. This option is not recommended as modifications are considered necessary to address fire management.
 - C. Option 3 – Support the ODP for advertising subject to modifications as discussed in this report (and outlined in the recommendation).

SUMMARY CONCLUSION

75. Gray & Lewis (in consultation with the City) has had extensive discussions with the applicant and considers the ODP is sufficiently developed to stage where formal advertising can be conducted. This will provide an opportunity for the wider community and key stakeholders to lodge submissions on the proposal.

76. It is recommended that Council adopt the ODP for the purpose of initiating formal public advertising.

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

1. The Outline Development Plan (ODP) for Big Grove (16 November 2010 – Plan No. 3066-4-009I.dgn) be ADOPTED for the purposes of advertising subject to the following modifications;
 - A. Extending the 40 metre fire protection boundary along the eastern boundary of the ODP to the north in accordance with the recommendation of the Fire Management Strategy. The 40 metre fire setback should be located along the entire length of the eastern ODP boundary and be shown on Lot 2.
 - B. Extending the lower R10 density along the eastern boundary directly north over a portion of Lot 2. Larger lots adjacent to the higher fire risk areas are required and the R40 density is incompatible with the Fire Strategy.
 - C. Section 8.5 (Retained Lots) and Section 9.9 (Foreshore Reserve) being amended in the following manner:
 - (i) Within Section 8.5 include a minimum lot size requirement of 1 hectare for the homestead lot to ensure that there is sufficient development potential to promote further subdivision of the homestead lot, so that the entire future foreshore reserve envisaged on the ODP can be taken at that time inclusive of the requirement to demolish all structures;
 - (ii) Within Section 8.5 include the requirement that as part of the creation of the homestead lot, a notification is required to be placed on the title, advising that the dwelling is located within the physical processes setback as detailed within the Big Grove ODP and that the dwelling may be subject to damage in the future as a result of such processes, and that any further subdivision of the homestead lot will necessitate the ultimate foreshore reserve being ceded free of cost to the crown with all structures being demolished;
 - (iii) Within Section 8.5 state that as part of the creation of the homestead lot where there is a portion of land harbour side of the dwelling which is identified as proposed foreshore reserve on the ODP, the WAPC may require this portion to be ceded at this stage to ensure that any linkage opportunities are secured at this time.
 - (iv) Within Section 9.9 (Foreshore Reserve) outline that in the case of the four lots with existing structures within the proposed foreshore reserve, the ceding of the foreshore can be delayed to a future stage of subdivision subject to complying with the provisions of Section 8.5.
2. The applicant be ADVISED as follows:
 - A. The modifications outlined above are required to the ODP prior to formal advertising.
 - B. A Traffic Report is required to be submitted to the City during advertising and will need to be assessed by the City's Engineering Department. The traffic report will also be referred to Department of Transport and Main Roads WA

for comment. The comment period for these authorities may be extended if the Traffic Report is not completed prior to formal advertising period.

- C. The Traffic Report shall consider (1) the projected lot yields proposed by the developer and (2) the 'worst case' scenario and maximum traffic numbers based on the lot yields permissible under the Residential Design Codes, including some allowance for traffic associated with the Village Centre and Mixed Use node.
- D. The City has identified that there may be a need for road widening of Frenchman Bay Road, and this is a significant issue that needs to be resolved once a traffic report has been completed. Council has the option of pursuing widening to the north which would affect the ODP design and open space areas.
- E. Council will not consider formal adoption of an ODP for Big Grove unless it is satisfied with the traffic report results and that road widening has been addressed.
- F. Prior to final approval, a notation should be included on the ODP to clearly state that cash in lieu will be required at subdivision stage for lots that do not provide 10% open space in land.
- G. There has been concern that the drainage for Lot 7 relies on adjacent Lot 6 which is still zoned 'Rural'. During formal advertising the City requests that Wood and Grieve examine the capacity of POS area 'F' in more detail and provide additional drainage information for Lot 7 as;
 - (i) Greater assurances are required to ensure the ODP sufficiently caters for drainage at this broad planning level. It is recognised that detailed design will be undertaken at subdivision, however the ODP should depict POS and drainage areas that allow the owners to develop as independently as possible.
 - (ii) In the event that the owner of Lot 6 lodges a strong objection, then the plan may require modification to address their concerns. High regard will be given to any submission by the owners of Lot 6 considering that their land remains 'Rural' under the Scheme.
- H. There is a vacant lot shown in the P2 area on existing Lot 10. This is being referred to the Department of Water for advice, and may be required to be converted to open space. Further advice will be provided once comments from DoW are obtained.
- I. It is highly recommended that the proponent consider updating the Fire Management Strategy to reflect the new Edition 2 'Planning for Bushfire Protection Guidelines' as it will likely assist at subdivision design stage. The City will be gaining advice on the Fire Management Strategy from FESA.
- J. Support for the ODP is only for the purpose of proceeding with public advertising. It should not be construed as support for all areas proposed as residential. Council will need to have regard for any advice from DEC (on issues such as vegetation retention and fauna habitat).
- K. It is recommended that RPS liaise directly with DEC during advertising and resolve any outstanding matters, as the City would likely adhere to any advice provided by DEC.

- L. If substantial modifications to the ODP are required to address submissions received during advertising, then Council reserves the right to consider a second advertising period.
 - M. Council reserves the right to undertake a complete review and assessment of the ODP once it has key stakeholders submissions, a traffic report and advice from relevant authorities such as DEC and Department of Water.
3. All persons owning land in the ODP area, the owners of Lot 6, and surrounding / nearby owners be ADVISED of the Council decision and invited to lodge a submission during public advertising.
4. The owner of Lot 2 be ADVISED that (i) the modifications are being required to the ODP by the City for fire safety and in accordance with the Fire Management Strategy applicable to the ODP, and (ii) no densities exceeding R10 or any lesser fire setback adjacent to the eastern boundary of Lot 2 will be considered unless the owner gains written approval from FESA during the advertising period. This is considered an individual landowner matter and should not impede progression of the ODP.
5. The ODP be formally referred to the following authorities seeking specific advice;
- A. DEC Perth – Advise that the City seeks a specific and independent assessment of the environmental information provided on vegetation and fauna for the proposed ODP in light that there has been some ongoing debate between the applicant and DEC Albany branch. The City requires the DEC's formal position on the ODP and any issues that need to be taken into account as part of the planning process. DEC should note that the City has been placed in a difficult position as these matters were not assessed by the EPA at the scheme amendment stage, and the City seeks to ensure that environmental issues are carefully considered as part of the ODP process.
 - B. FESA – Advise that a Strategic Fire Strategy has been lodged as part of the ODP however was undertaken prior to the new Edition 2 'Planning for Bushfire protection' being released. The applicant proposes to conduct detailed Fire Management Plans at the subdivision stage. Council seeks FESA's advice that this arrangement is acceptable and would appreciate comments on the proposed 40 metre fire setback (for a 20 metre building separation zone and 20 metre fire hazard separation zone).
 - C. DOW – Advise the Department of Water that the ODP appears to include a vacant lot in the southern portion of Lot 10 which is in the P2 area. Clarification is sought as to whether this is supported by the Department or whether it should be shown as open space. As the applicant has lodged a Water Management Strategy general advice on the strategy is also required. It should be noted that the City has requested the applicant review drainage for Lot 7 as it currently relies on Lot 6 which is still zoned 'Rural'.
 - D. Department of Transport and Main Roads WA – advise that a traffic report is being prepared by the applicant and will be forwarded for specific comment

as soon as possible. Seek specific comment on proposed road layout and potential need for road widening to Frenchman Bay Road.

- E. General referrals to Department of Education and Training, Water Corporation, Department of Planning – Coastal Branch, Department of Planning – Albany office, Western Power, Telstra, Department of Health, Department of Indigenous Affairs, Department of Housing and Works, Department of Mines and Petroleum and Department of Agriculture and Food.
6. The Outline Development Plan be ADVERTISED for public comment for an extended period of 42 days (in lieu of 28 days) to allow additional consultation during the upcoming Christmas and New Year period.

ITEM 1.3: MOTION 1

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR HOLDEN

THAT Councillor Hammond's Financial Interest in Item 1.3, pursuant to section 5.68(1)(a)(i)(ii)(l) of the *Local Government Act 1995*, be declared trivial, and that Councillor Hammond remain in the Chamber and participate in the discussion and vote for Item 1.3.

CARRIED 7-0

ITEM 1.3: AMENDED RESPONSIBLE OFFICER RECOMMENDATION

1. The Outline Development Plan (ODP) for Big Grove (16 November 2010 – Plan No. 3066-4-009I.dgn) be ADOPTED for the purposes of advertising subject to the following modifications;
- A. Extending the 40 metre fire protection boundary along the eastern boundary of the ODP to the north in accordance with the recommendation of the Fire Management Strategy. The 40 metre fire setback should be located along the entire length of the eastern ODP boundary and be shown on Lot 2.
- B. Extending the lower R10 density along the eastern boundary directly north over a portion of Lot 2. Larger lots adjacent to the higher fire risk areas are required and the R40 density is incompatible with the Fire Strategy.
- C. Section 8.5 (Retained Lots) and Section 9.9 (Foreshore Reserve) being amended in the following manner:
- (i) Within Section 8.5 include a minimum lot size requirement of 1 hectare for the homestead lot to ensure that there is sufficient development potential to promote further subdivision of the homestead lot, so that the entire future foreshore reserve

envisaged on the ODP can be taken at that time inclusive of the requirement to demolish all structures;

- (ii) Within Section 8.5 include the requirement that as part of the creation of the homestead lot, a notification is required to be placed on the title, advising that the dwelling is located within the physical processes setback as detailed within the Big Grove ODP and that the dwelling may be subject to damage in the future as a result of such processes, and that any further subdivision of the homestead lot will necessitate the ultimate foreshore reserve being ceded free of cost to the crown with all structures being demolished;
- (iii) Within Section 8.5 state that as part of the creation of the homestead lot where there is a portion of land harbour side of the dwelling which is identified as proposed foreshore reserve on the ODP, the WAPC may require this portion to be ceded at this stage to ensure that any linkage opportunities are secured at this time.
- (iv) Within Section 9.9 (Foreshore Reserve) outline that in the case of the four lots with existing structures within the proposed foreshore reserve, the ceding of the foreshore can be delayed to a future stage of subdivision subject to complying with the provisions of Section 8.5.

- D. Section 2.0 (Land Tenure and Legal Description) being amended to identify Karen Saare as the owner of Lot 17 Panorama Road, Big Grove.
- E. Section 6.0 (Landowner Consultation) being amended for Lot 9 Panorama Road to reflect the following comments:

“Attended 2009 Owners Forum. Raised the issue that the easement along Panorama Road (benefiting Lot 9) is in conflict with proposed road access associated with the development. Had other queries in relation to development potential, and whether Panorama Road would be widened.”

- 2. The applicant be **ADVISED** as follows:
 - A. The modifications outlined above are required to the ODP prior to formal advertising.
 - B. A Traffic Report is required to be submitted to the City during advertising and will need to be assessed by the City’s Engineering Department. The traffic report will also be referred to Department of Transport and Main Roads WA for comment. The comment period for these authorities may be extended if the Traffic Report is not completed prior to formal advertising period.
 - C. The Traffic Report shall consider (1) the projected lot yields proposed by the developer and (2) the ‘worst case’ scenario and maximum traffic numbers based on the lot yields permissible under the Residential Design Codes, including some allowance for traffic associated with the Village Centre and Mixed Use node.

- D. The City has identified that there may be a need for road widening of Frenchman Bay Road, and this is a significant issue that needs to be resolved once a traffic report has been completed. Council has the option of pursuing widening to the north which would affect the ODP design and open space areas.**
- E. Council will not consider formal adoption of an ODP for Big Grove unless it is satisfied with the traffic report results and that road widening has been addressed.**
- F. Prior to final approval, a notation should be included on the ODP to clearly state that cash in lieu will be required at subdivision stage for lots that do not provide 10% open space in land.**
- G. There has been concern that the drainage for Lot 7 relies on adjacent Lot 6 which is still zoned 'Rural'. During formal advertising the City requests that Wood and Grieve examine the capacity of POS area 'F' in more detail and provide additional drainage information for Lot 7 as;**
- (i) Greater assurances are required to ensure the ODP sufficiently caters for drainage at this broad planning level. It is recognised that detailed design will be undertaken at subdivision, however the ODP should depict POS and drainage areas that allow the owners to develop as independently as possible.**
 - (ii) In the event that the owner of Lot 6 lodges a strong objection, then the plan may require modification to address their concerns. High regard will be given to any submission by the owners of Lot 6 considering that their land remains 'Rural' under the Scheme.**
- H. There is a vacant lot shown in the P2 area on existing Lot 10. This is being referred to the Department of Water for advice, and may be required to be converted to open space. Further advice will be provided once comments from DoW are obtained.**
- I. It is highly recommended that the proponent consider updating the Fire Management Strategy to reflect the new Edition 2 'Planning for Bushfire Protection Guidelines' as it will likely assist at subdivision design stage. The City will be gaining advice on the Fire Management Strategy from FESA.**
- J. Support for the ODP is only for the purpose of proceeding with public advertising. It should not be construed as support for all areas proposed as residential. Council will need to have regard for any advice from DEC (on issues such as vegetation retention and fauna habitat).**
- K. It is recommended that RPS liaise directly with DEC during advertising and resolve any outstanding matters, as the City would likely adhere to any advice provided by DEC.**
- L. If substantial modifications to the ODP are required to address submissions received during advertising, then Council reserves the right to consider a second advertising period.**
- M. Council reserves the right to undertake a complete review and**

assessment of the ODP once it has key stakeholders submissions, a traffic report and advice from relevant authorities such as DEC and Department of Water.

N. Prior to Council considering final approval of the ODP the applicant is to investigate the access easements over the titles of Lot 9 and 10 Panorama Road, to identify their alignment in relation to the Panorama Road Reserve (survey overlay plan) and whether they would have any impact on the delivery of the proposed road network, and if so, how this issue will be addressed.

3. All persons owning land in the ODP area, the owners of Lot 6, and surrounding / nearby owners be **ADVISED** of the Council decision and invited to lodge a submission during public advertising.
4. The owner of Lot 2 be **ADVISED** that (i) the modifications are being required to the ODP by the City for fire safety and in accordance with the Fire Management Strategy applicable to the ODP, and (ii) no densities exceeding R10 or any lesser fire setback adjacent to the eastern boundary of Lot 2 will be considered unless the owner gains written approval from FESA during the advertising period. This is considered an individual landowner matter and should not impede progression of the ODP.
5. The ODP be formally referred to the following authorities seeking specific advice;
 - A. DEC Perth – Advise that the City seeks a specific and independent assessment of the environmental information provided on vegetation and fauna for the proposed ODP in light that there has been some ongoing debate between the applicant and DEC Albany branch. The City requires the DEC’s formal position on the ODP and any issues that need to be take into account as part of the planning process. DEC should note that the City has been placed in a difficult position as these matters were not assessed by the EPA at the scheme amendment stage, and the City seeks to ensure that environmental issues are carefully considered as part of the ODP process.
 - B. FESA – Advise that a Strategic Fire Strategy has been lodged as part of the ODP however was undertaken prior to the new Edition 2 ‘Planning for Bushfire protection’ being released. The applicant proposes to conduct detailed Fire Management Plans at the subdivision stage. Council seeks FESA’s advice that this arrangement is acceptable and would appreciate comments on the proposed 40 metre fire setback (for a 20 metre building separation zone and 20 metre fire hazard separation zone).
 - C. DOW – Advise the Department of Water that the ODP appears to include a vacant lot in the southern portion of Lot 10 which is in the P2 area. Clarification is sought as to whether this is supported by the Department or whether it should be shown as open space. As the applicant has lodged a Water Management Strategy general advice on the strategy is also required. It should be noted that the City has

requested the applicant review drainage for Lot 7 as it currently relies on Lot 6 which is still zoned 'Rural'.

- D. Department of Transport and Main Roads WA – advise that a traffic report is being prepared by the applicant and will be forwarded for specific comment as soon as possible. Seek specific comment on proposed road layout and potential need for road widening to Frenchman Bay Road.
- E. General referrals to Department of Education and Training, Water Corporation, Department of Planning – Coastal Branch, Department of Planning – Albany office, Western Power, Telstra, Department of Health, Department of Indigenous Affairs, Department of Housing and Works, Department of Mines and Petroleum and Department of Agriculture and Food.

- 6. The Outline Development Plan be ADVERTISED for public comment for an extended period of 42 days (in lieu of 28 days) to allow additional consultation during the upcoming Christmas and New Year period.

ITEM 1.3: RESOLUTION (Amended Responsible Officer Recommendation)

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR WELLINGTON

THAT the Amended Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

Staff Reason (G Bride):

This amended recommendation corrects landowner details and includes a more specific description of the outstanding concern from the owner of Lot 9 relating to an existing easement on his title. A similar easement also exists over Lot 10, and it is considered appropriate that this issue is investigated by the applicant during the advertising process.

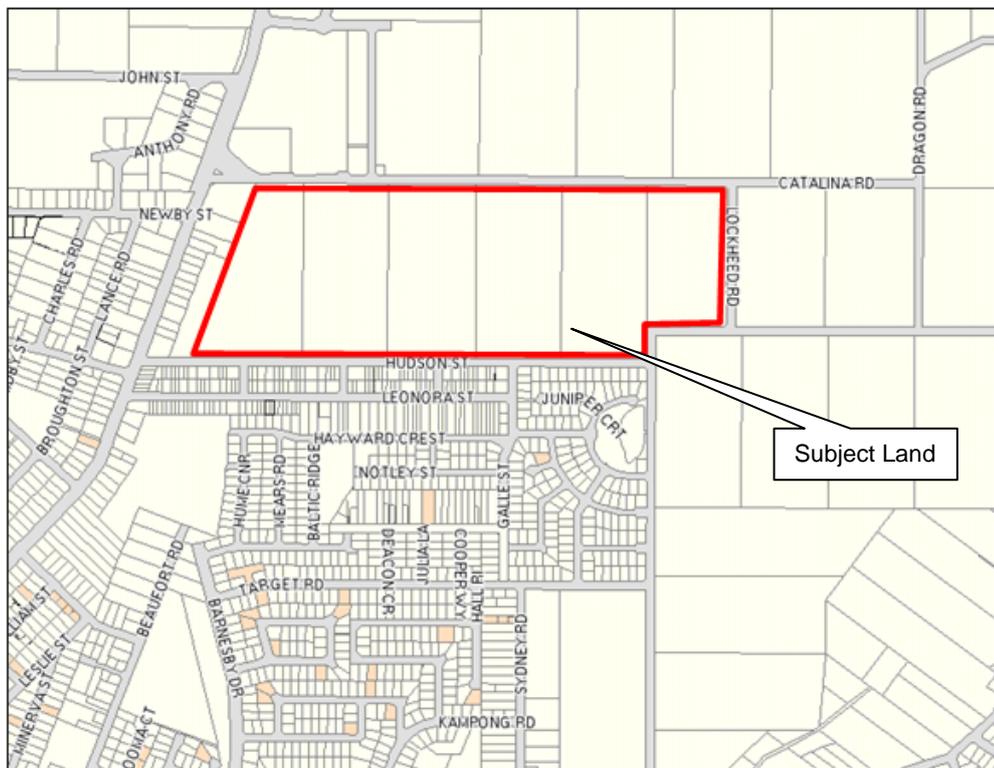
Councillor Swann declared a financial interest in this item and was not present in the chamber during the discussion and vote.

Councillor Hammond declared a financial interest in this item which, pursuant to section 5.68 (1)(a)(i)(ii)(l) of the *Local Government Act 1995*, was declared trivial by Council. Councillor Hammond remained in the chamber and participated in the discussion and vote. Councillor Hammond disclosed the extent of the interest, and advised that the proponent could not in any way be construed as anything other than a very small and occasional user of Councillor Hammonds services, and consequently income derived from the relationship is of a negligible nature.

Councillor Swann returned to the Chamber at 7.57PM.

**1.4: PROPOSED OUTLINE DEVELOPMENT PLAN FOR LOTS 30 TO 35
CATALINA ROAD, LANGE**

- File Number (Name of Ward)** : ODP005 (Yakamia Ward)
Land Description : Lots 30 to 35 Catalina Road, Lange
Disclosure of Interest : Nil
Proponent : Dykstra Planning
Owner : AF & MF Pierce, N & A Lionetti, WG & ID Steinert, PE & L Pockock, CRS & TA Powell and Amaroo Limousin Stud Pty Ltd
Business Entity Name : N/A
Previous Reference : OCM 15/12/2009 Item 13.5.1
Attachment(s) : Catalina Road ODP (plan only) & Local Water Management Strategy (opportunities and constraints map)
Appendices : Catalina Road ODP (report minus appendices)
Consulted References : Town Planning Scheme No. 3
Draft Yakamia District Structure Plan
Draft Transport Model
WAPC Liveable Neighbourhoods document
Albany Local Planning Strategy
Councillors Lounge : Appendices to Catalina Road ODP
Reporting Officer(s) : Senior Project Planner (A Nicoll)
Responsible Officer : E/Director Planning and Development Services (G Bride)
Maps and Diagrams:



IN BRIEF

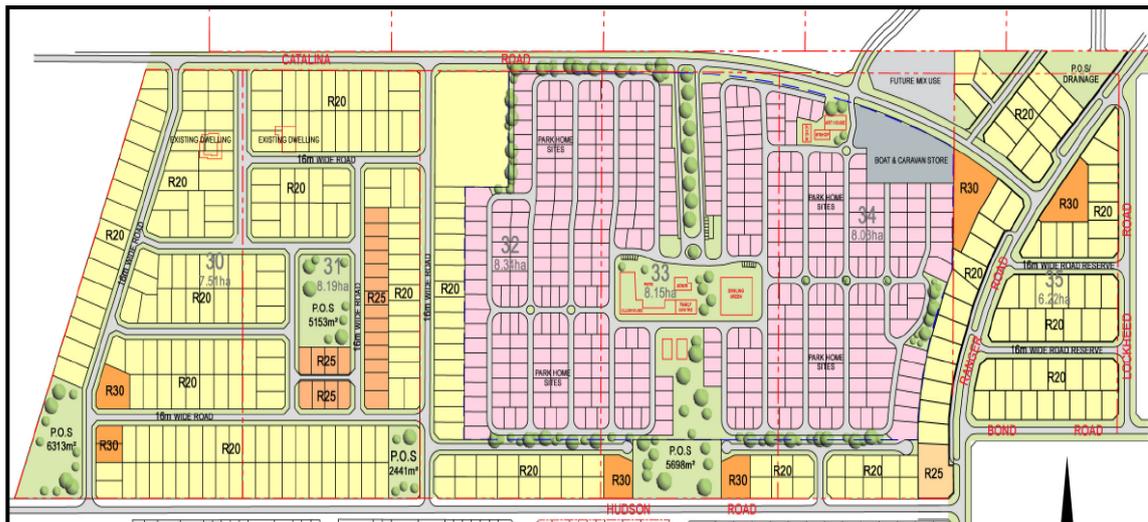
- An application has been received for an Outline Development Plan (ODP) over Lots 30 - 35 Catalina Road, Lange, which are zoned “Residential Development” under Town Planning Scheme No.3.
- It is recommended that the ODP is supported with modifications.

BACKGROUND

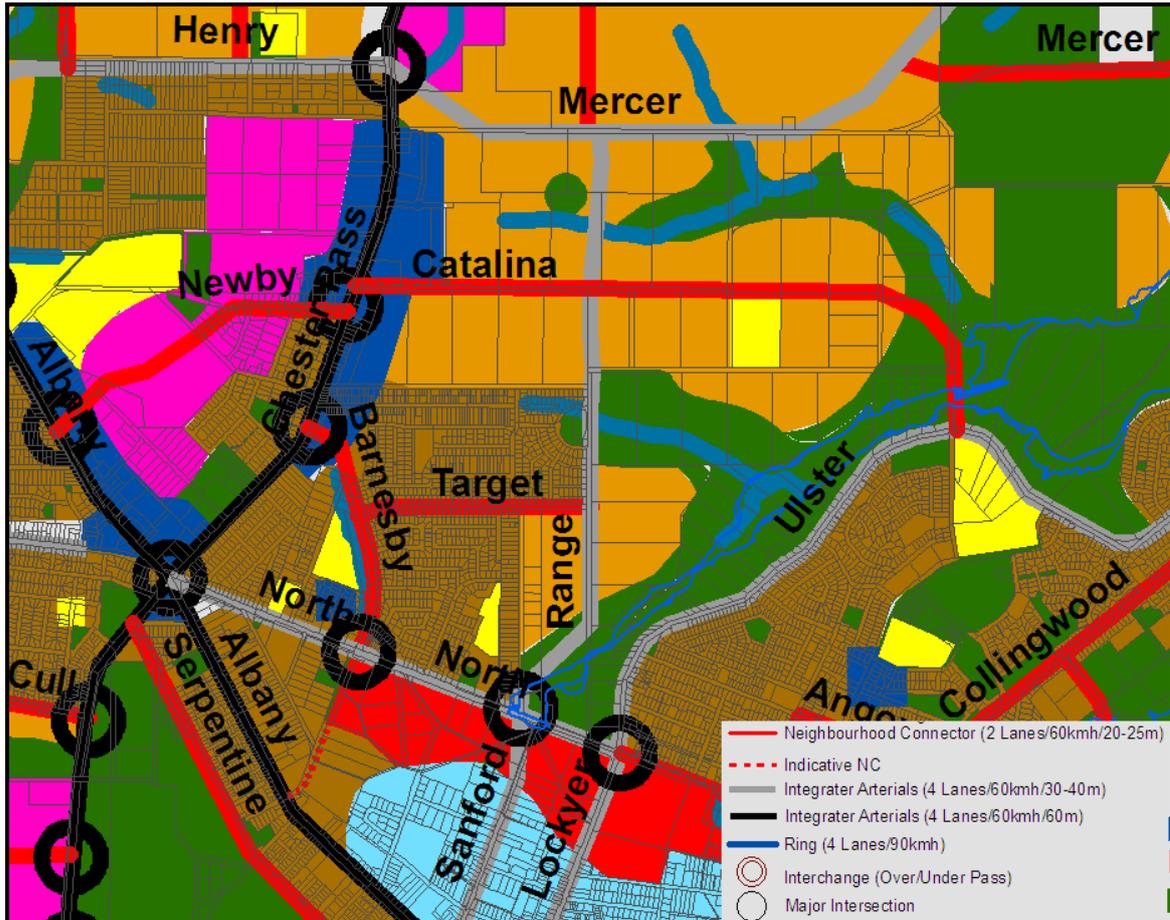
1. Council has previously considered an ODP over the subject land at it’s meeting dated 15 December 2009. At this meeting Council resolved:

“That Council DEFER its consideration of the Structure Plan until such time as Amendment 280 has been gazetted, a first draft of the Albany Transport Model has been received and appropriate modifications to the proposed structure plan have been made to reflect those reports.”

2. The original ODP that was presented to Council, included a proposed Lifestyle Village and Range Road diverting in a north-west direction through the subject land (refer plan below).



3. In relation to Council’s December 2009 resolution, Amendment No. 280 to Town Planning Scheme No. 3, which sought to rezone the subject land from “Rural” to “Residential Development”, has been gazetted. The re-zoning process concluded that the land is unconstrained in terms of environmental attributes and is suitable for residential development.
4. The first draft of the Albany Transport Model has also been completed. The ‘Model’ indicates Catalina Road as a ‘Neighbourhood Connector’ (2 lanes) and proposed Range Road as an ‘Integrator Arterial’ (4 lanes) as per the exert map below. The Model indicates a revised alignment of Range Road along a true north-south axis through the subject land, and a continuation of Catalina Road from Chester Pass Road, ultimately through to Ulster Road.



- As the revised ODP is consistent with Albany Transport Model, and has been informed by the preparation of a Local Water Management Strategy and Traffic Impact Statement, the ODP is recommended to be released for the purposes of advertising. The ODP is shown below (a larger A4 plan is attached to the rear of this item and the ODP document can be viewed in the Appendices Booklet).



DISCUSSION

6. The ODP has been designed taking into account planning, transport and water management principles defined in the following respective documents; WAPC Liveable Neighbourhoods document (2007), DOW Stormwater Management Manual (2004) and the WAPC Transport Assessment Manual (2006).

Description of Outline Development Plan

7. The ODP proposes a lot yield of around 500 lots with a variety of lot sizes ranging from a density of R20 (ie. 500m² lots) through to areas of R30 and R40 (250m² to 333m² lots) where there is high amenity adjacent to the linear park and close proximity to retailing outlets at the Brooks Garden Shopping Centre.
8. Whilst the density provisions are generally supported it appears that additional opportunities to increase densities are available. Specifically it is recommended that some additional pockets of R40 should be considered in the north-west portion of the ODP which is directly opposite the Brooks Garden shopping centre. These additional areas are identified on the revised ODP as recommended by staff (as attached).
9. The ODP proposes a public open space network that is equally distributed and follows the natural valley of the subject land, creating opportunities for the incorporation of water sensitive drainage design within linear Public Open Space (POS) areas, as identified in the Local Water Management Strategy (LWMS) submitted with the ODP.
10. The breakdown of POS as it relates to each lot within the ODP is identified in the following table. In total the ODP delivers 8.8% public open space over the subject land (which excludes areas designated for drainage as identified in the LWMS), meaning there is a physical shortfall of 1.2%, which can be made up with cash-in-lieu contributions, where individual subdividers cannot deliver the minimum 10% provision. Council's Works and Services Department has provided considerable input into the location of the proposed POS areas and are satisfied with the amount and distribution of the open space proposed. The fact that most landholdings have provided an even spread of POS across land parcels negates the need for a complicated POS contribution scheme.

Lot No.	Lot Area	POS/Drainage	Drainage	POS Less than 50% Drainage	Variation POS
30	7.51 Ha	5420m ²	2500m ²	4170m ²	-3340m ²
31	8.19 Ha	11268m ²	1600m ²	10468m ²	+2278m ²
32	8.34 Ha	11024m ²	Nil	11024m ²	+2684m ²
33	8.15 Ha	6326m ²	1100m ²	5812m ²	-2338m ²
34	8.03 Ha	4248m ²	2250m ²	3123m ²	-4907m ²
35	6.22 Ha	6950m ²	1400m ²	6250m ²	+30m ²
Sub Totals	46.44 Ha	4.5273 Ha	0.885 Ha	4.0848 Ha (8.8%)	0.5592 Ha (1.2%)

11. The ODP supports the subdivision of land initially into homestead lots, the purpose being to retain the original homesteads and to create a development parcel for potential developers. Staff have viewed the proposed homestead lots and believe any interim subdivision proposal to retain the homesteads is unlikely to prejudice the ultimate delivery of the ODP, however it is recommended that the homestead lot identified for Lot 34 does not include any portion of the future road reserve associated with Range Road.
12. At the western boundary of the ODP a 15m setback and 2m high masonry wall are proposed to buffer the residential lots from the existing industrial uses adjacent to Chester Pass Road. The wall, in combination with the development setback will ensure that the impacts of noise and visual amenity are mitigated. It is recommended that a provision be placed within the ODP which requires at the time of subdivision that an acoustic engineers report be submitted to certify that the noise mitigation measures are suitable, and where further noise attenuation measures are required as part of the dwelling's construction; this information will need to be included within a Detailed Area Plan (DAP) with appropriate notifications placed on the title of relevant lots.
13. The ODP includes a requirement for the development of Detailed Area Plans (DAP's) at the time of subdivision to facilitate a high design standard for R30/R40 areas and development adjacent to the areas of POS which is supported by staff.

Traffic

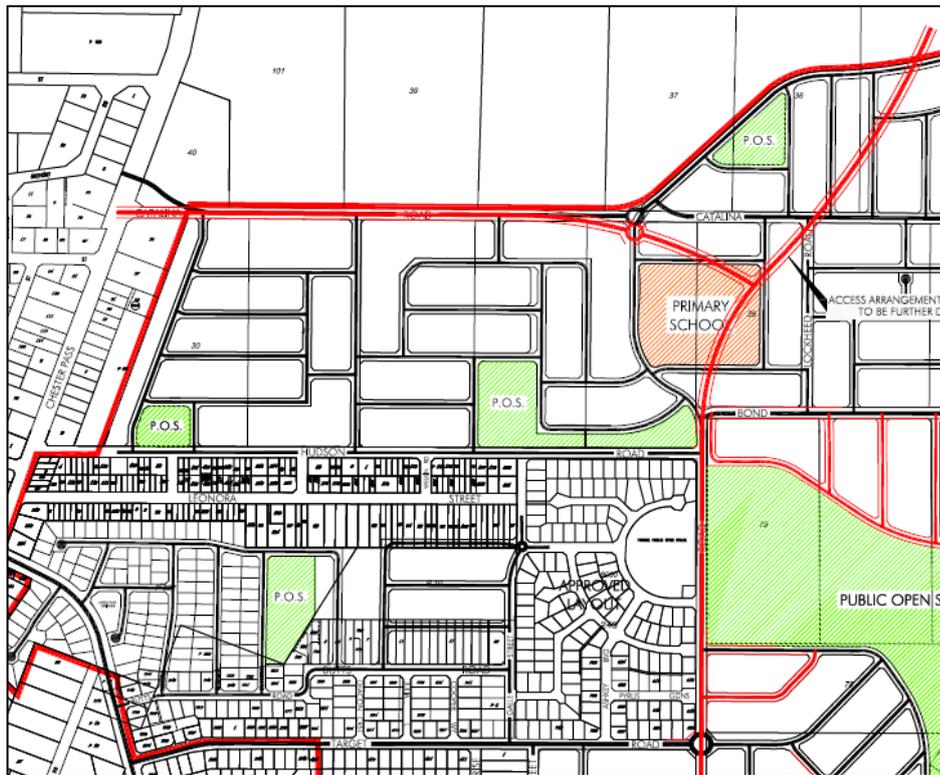
14. In terms of the WAPC Transport Assessment Guidelines (Volume 2 – Structure Plans), the traffic impact statement has addressed the relevant criteria, in terms of anticipated traffic volumes, distribution, pedestrian movement and cross sections for Range Road.
15. The traffic impact statement identifies that the ODP will generate 4,500 vehicular trips per day (based on 9 trips per dwelling per day multiplied by 500 dwellings). The consultant engineer has advised that the internal road network has been designed to ensure that 70% of these trips are directed towards Catalina Road, whereby the remaining 30% would be directed towards Hudson Road. Catalina Road is designated as the main east-west neighbourhood connector and has a better intersection treatment onto Chester Pass Road, when compared to Hudson Road. This has been achieved primarily by reducing the connections onto Hudson Road (two connections), with six connections onto Catalina Road. Whilst the road design attempts to guide the distribution of traffic towards Catalina Road there will be a greater demand for traffic to head in a southerly direction towards the Albany City Centre, which may place more pressure on the Hudson Road/Chester Pass Road intersection and Galle / Sydney Street and Kampong Road; this will only be alleviated once Range Road is constructed from Catalina Road through to North Road.
16. Whilst the traffic impact statement is to a suitable standard for the purposes of the ODP, the ODP acknowledges that a more detailed traffic study be undertaken at the subdivision stage which includes an analysis of predicted volumes for each intersection associated with Catalina and Hudson Roads to determine the specific type of intersection treatments required. Main Roads WA will have an opportunity to review the traffic impact statement as part of the advertising process and may require additional information in regard to the impact of the

development on the existing intersections at Chester Pass Road, which is under the management of this authority.

17. The ODP identifies that Hudson Road and Catalina Road will be upgraded to a full urban standard and Range Road will be constructed as a two lane road in it's initial phase.
18. A 35m road reserve is proposed for Range Road with provision for a future roundabout at the Catalina/Range Road intersection. The ODP proposes the development of Range Road as a two lane road, with contributions for the full upgrade (to 4 lanes) being made in accordance with an overall contribution plan for the wider Yakamia area. In order to accommodate four lanes, a road reserve width of 35 metres has been proposed (effectively 30 metres, as a 5 metre wide slip lane is proposed to limit access direct onto Range Road), and a cross section has been provided by the proponent identifying sufficient space for paths and services (street lighting and utilities), road access ways and central median island. Whilst the width of Range Road has been identified it's alignment is 'off-centre' when compared to that portion of Range Road to the south of the subject land, which is not ideal from a road geometry perspective; it is therefore recommended that Range Road (Road Reserve) be repositioned to the east by around 10 metres.
19. It is also recommended that the provision of a round-a-bout or other suitable intersection type be shown on the ODP for the intersection of Catalina Road/Range Road.

Relationship to Draft Yakamia District Structure Plan (2005)

20. In 2005, detailed structure planning for Yakamia Cells A and B (refer exert below) was commenced. The completion of a structure plan for Yakamia was placed on hold, pending the outcome of detailed site specific environmental reviews (hydrology, fauna, vegetation and ethnographic) and a report from the Department of Environment and Conservation (DEC) on the extent of the regional vegetation communities. The detailed survey has recently been received from the DEC and Council has also received an environmental report over it's land holding north of the North Road Administration Building.
21. Council has budgeted \$25,000 in 2010/11 to complete Draft 2 of the Yakamia District Structure Plan (Cells A & B). The re-engagement of the consultant to finalise the plan is likely to be undertaken within the next 2 months, subject to consultation with various government agencies in relation to final reporting requirements and the setting of the alignment of Range Road, between Target Road and North Road. Given the complex environmental issues and number of landowners involved within the study area it is likely that this process will not be finalised until late 2011.
22. The draft Yakamia District Structure Plan identified a primary school site over an equal portion of Lots 34 and 35 Catalina Road, Lange. As the draft traffic model has identified a new route for Range Road, dissecting the proposed school site, an adjustment to it's location will be required as part of the Yakamia District Structure Plan.



23. In this regard Staff have liaised with the Department of Education (DOE) in relation to the location of the primary school site. Whilst DOE have no objection to the school being relocated further to the east of Lockheed Road, they have advised the following:

“As the City of Albany is aware, this Department had originally identified a future primary school site west of Lockheed Road. This site is shown on the draft Yakamia District Structure Plan Cells A & B.

The City has identified that Range Road will now dissect the proposed school site. The Department has expressed that it is willing to have the school site relocated however until such time that the new location is shown in a structure plan, it is not prepared to relinquish the site identified in the draft Yakamia District Structure Plan.”

24. Based on the preliminary advice from the DOE it is recommended that the ODP report and plan be amended to reflect this position, identifying that the subdivision of Lots 34 and 35 shall not be considered until such time as an alternative school site has been identified in an endorsed Yakamia Structure Plan (Cells A & B).

Contributions to District Infrastructure

25. The ODP includes a commitment to upgrade that portion of Range Road that runs through the subject land into a two lane road at an urban standard as part of the subdivision process, in addition to contributing to it's ultimate four lane status from Target Road through to Catalina Road.

26. The ODP acknowledges that contributions for Range Road, the school site and other district infrastructure such as open space will be addressed through the Yakamia District Structure Plan. This will allow the Catalina Road ODP to progress with a clear commitment that contributions for district infrastructure will need to be paid proportionally and equitably over the wider structure plan area.

Drainage

27. The ODP includes a detailed Local Water Management Strategy (LWMS) which has informed the design of the ODP. The LWMS has promoted the creation of a linear POS network, which follows the natural drainage lines currently existing on the subject land (an opportunities and constraints map within the LWMS is attached at the rear of this report). The LWMS has identified the following opportunities for the site:
- protect development from flooding and waterlogging;
 - revegetate POS/Drainage areas;
 - treat subsoil water prior to discharge to the stormwater system;
 - maintain the water system relative to pre-development;
 - retain the natural drainage systems; and
 - allow ease of maintenance.
28. The conceptual stormwater management strategy included at Appendix B of the ODP has also identified that five basins will be required to service the drainage needs of the future subdivision, and has approximated the volume and site area needed for each basin. This strategy has allowed Council to ascertain that sufficient capacity and land area has been set aside to cater for future drainage needs and the true impact on POS areas can be identified, and adjustments to the overall POS provision made.

PUBLIC CONSULTATION / ENGAGEMENT

29. Should Council support the release of the ODP for public exhibition all surrounding landowners will be invited to provide comment.

GOVERNMENT CONSULTATION

30. Should Council support the release of the ODP for public exhibition all relevant government agencies and utility providers will be invited to provide comment.

STATUTORY IMPLICATIONS

31. Clause 5.5.3 of Town Planning Scheme No. 3 states that an ODP should address as a minimum requirement:
- (a) *The location and width of the distributor road system proposed;*
 - (b) *The approximate location and quantity of shopping, civic and public facilities proposed together with an analysis of the factors used in determination of such facilities;*
 - (c) *The distribution of the recreation and open space proposed;*
 - (d) *The population and residential densities proposed;*

(e) The physical condition of the land having regard to the need for deep sewerage and/or main drainage.

32. The above matters have been adequately covered in the ODP submitted, and addresses the best practice principles associated with Liveable Neighbourhoods, and meets the requirement of including a detailed site analysis, planning context, movement network, public open space network and water management strategy.
33. Liveable Neighbourhoods also requires structure plans (ODP's) to be advertised for a period of 28 days to allow the community and government agencies to provide input into the plan, so that further value can be added to the plan.

STRATEGIC IMPLICATIONS

34. The Albany Local Planning Strategy (ALPS) has designated the subject land as a future urban area for development within the short term. As required by the ALPS:
 - the land forms a logical extension to land already developed adjacent to the south; and
 - retail, service and community infrastructure exists in close proximity of the site.

FINANCIAL IMPLICATIONS

35. The Draft Transport Model indicates the need for a north/south integrator arterial road (4 lanes) to help distribute traffic to the Regional Centre. The ODP area is part of the wider Yakamia Structure Plan area. As identified in the discussion section of this report Lots 30 to 35 Catalina Road will need to contribute to the cost of such infrastructure.

POLICY IMPLICATIONS

36. There are no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

37. The ODP may be supported with or without modifications, delayed until further information is provided or modifications made or refused.
38. Council could advise the proponent that it does not wish to entertain the consideration of the ODP, on the basis that the subject land sits within the wider Yakamia District Structure Plan area, and a singular Structure Plan is preferred. If this approach was pursued the information that has been prepared to inform the Catalina ODP could be supported in principle by Council, and used to inform the Yakamia District Structure Plan.
39. As discussed in this report a separate ODP in this instance can be justified on the basis that:
 - The subject land is not affected by environmental constraints unlike the majority of the land holdings within the Yakamia District Structure Plan area.
 - The ODP will link the requirement for infrastructure contributions with the Yakamia District Structure Plan.

- The ODP is in accordance with the Albany Traffic Model (road hierarchy) and makes adequate provision for Range Road.
- Lots 34 and 35 will not be able to subdivide in accordance with the ODP until such time as the primary school site is identified outside of these land parcels within an endorsed Yakamia District Structure Plan.
- An additional traffic assessment will be required at the time of subdivision to ensure that road reserve widths and intersection treatments are identified taking into account the wider Yakamia area.

SUMMARY CONCLUSION

40. The proposed ODP reflects the outcomes of the Amendment 280 and the Transport Model as requested at the 2009 Council meeting.
41. The ODP has included the relevant information contained within Council's Scheme and Liveable Neighbourhoods.
42. As identified in Paragraph 39, the consideration of the Catalina Road ODP prior to the wider Yakamia District Structure Plan will not prejudice future planning or the provision of district infrastructure and will allow the landowners to undertake subdivision on cleared land immediately adjacent to the existing urban front.
43. As contained in the report it is recommended that the following modifications be made to the ODP prior to advertising:
 - A. Additional pockets of R40 be considered in the north-west portion of the ODP which is directly opposite the Brooks Garden shopping centre.
 - B. A revised homestead lot layout for Lot 34 is proposed ensuring no portion of Range Road is within such lot.
 - C. A provision being placed within the ODP which requires at the time of subdivision that an acoustic engineers report is required to certify that the noise mitigation measures as proposed are suitable, and where further noise attenuation measures are required as part of the dwelling's construction, this information will need to be included within a Detailed Area Plan (DAP) with appropriate notifications placed on the title of the relevant lots.
 - D. The ODP being amended to include a round-a-bout or other suitable intersection type be on the ODP for the intersection of Catalina Road/Range Road.
 - E. The alignment of Range Road be repositioned approximately 10 metres to the east as it is off-centre to the portion of Range Road to the south of the subject land.
 - F. The ODP report and plan identifying that the subdivision of Lots 34 and 35 shall not be considered until such time as an alternative school site has been identified in the endorsed Yakamia Structure Plan (Cells A & B).

ITEM 1.4: RESPONSIBLE OFFICER RECOMMENDATION

1. The Outline Development Plan (ODP) for Catalina Road be ADOPTED for the purposes of advertising subject to the following modifications;
 - A. Additional pockets of R40 be considered in the north-west portion of the ODP which is directly opposite the Brooks Garden shopping centre.
 - B. The homestead lot associated with Lot 34 be reconfigured so that no portion encroaches into Range Road.
 - C. A provision being placed within the ODP which requires at the time of subdivision that an acoustic engineers report be prepared certifying that the noise mitigation measures within the ODP for the western most lots are suitable, and where further noise attenuation measures are required as part of the dwelling's construction, this information will need to be included within a Detailed Area Plan (DAP) with appropriate notifications placed on the title of the relevant lots.
 - D. The ODP map being annotated to include a round-a-bout or other suitable intersection type for the intersection of Catalina Road/Range Road.
 - E. The alignment of Range Road be repositioned approximately 10 metres to the east as it is 'off-centre' to the portion of Range Road to the south of the subject land, and does not represent good road design practice.
 - F. The ODP report and plan be amended identifying that the subdivision of Lots 34 and 35 shall not be considered until such time as an alternative school site has been identified in the endorsed Yakamia Structure Plan (Cells A & B).
2. The Outline Development Plan be ADVERTISED for public comment for an extended period of 42 days (in lieu of 28 days) to allow additional consultation during the upcoming Christmas and New Year period.

ITEM 1.4: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR WOLFE

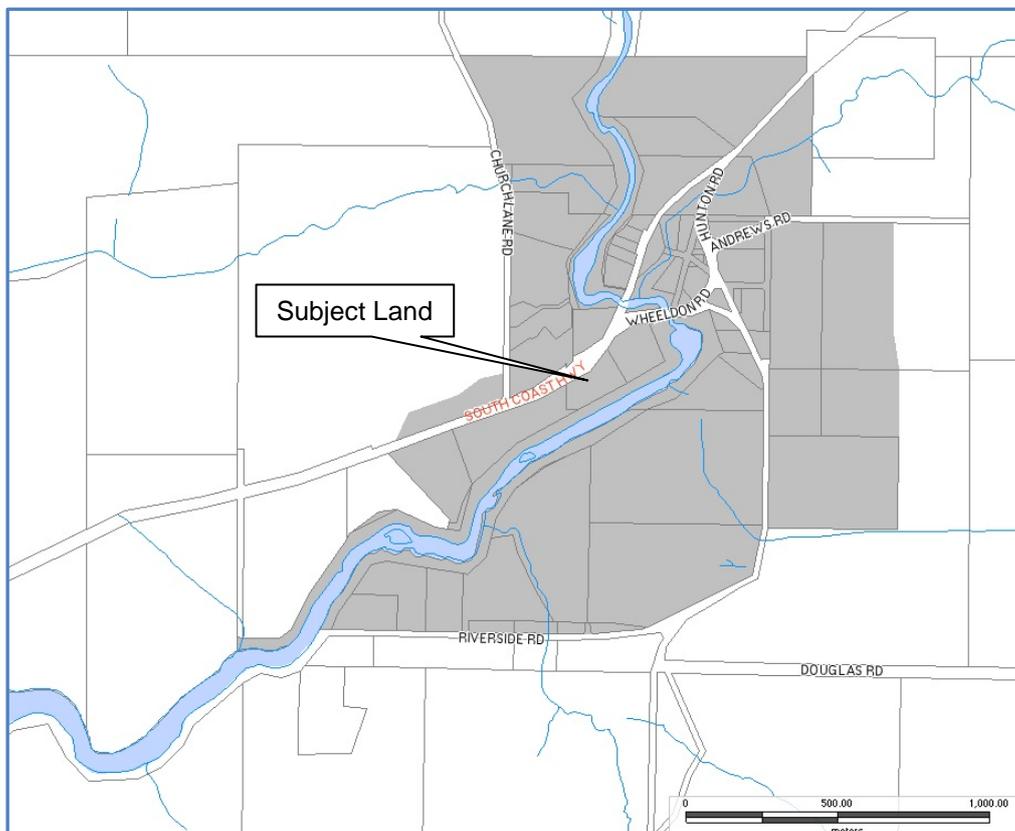
THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

1.5: PROPOSED OUTLINE DEVELOPMENT PLAN FOR KALGAN TOWN SITE

- File Number (Name of Ward)** : ODP011 (Kalgan Ward)
Land Description : Various lots within and adjacent to the Kalgan town site.
Disclosure of Interest : Nil
Proponent : Ayton Baesjou Planning
Owner : Various owners
Business Entity Name : N/A
Previous Reference : OCM 21/10/08 – Item 11.3.2 (SAR 137)
: OCM 17/03/09 – Item 11.3.2
Attachment(s) : Outline Development Plan (Map Only)
Appendices : Study Area and Characteristics, Lot Sizes and Tenure Plan, Opportunities and Constraints Plan, Vegetation Communities Plan and Land Capability Plan
Consulted References : Lower Great Southern Strategy
Albany Local Planning Strategy
State Planning Policies 1, 2, 2.5, 2.9 and 3
Councillor Lounge : Full ODP Report and Appendices (available on disc by request)
Reporting Officer(s) : Planning Officer (C McMurtrie)
Responsible Officer(s) : E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- Consider whether to adopt the proposed Outline Development Plan (ODP) for various lots within and adjacent to the Kalgan town site for the purposes of advertising.
- Recommended that the Outline Development plan be adopted for purposes of advertising.

BACKGROUND

1. A Scheme Amendment Request (SAR 137) was considered at the October 2008 Council Meeting, which proposed to create a 'Rural Settlement' zone within Town Planning Scheme No. 3 (TPS3) and to rezone the Kalgan town site and a selected number of surrounding lots to this new zone. It also proposed to designate various Crown land holdings as 'Parks and Recreation' reserves.
2. Council resolved to advise the proponent that it was prepared to entertain the submission of a formal scheme amendment to create a 'Rural Settlement' zone in the Kalgan locality, subject to the following matters being addressed in the formal amendment document:
 - i) access arrangements to and from South Coast Highway to be subject to consultation and negotiation with Main Roads WA;
 - ii) scheme Controls relating to the inclusion of the new 'Rural Settlement' zone being accommodated;
 - iii) an indicative Outline Development Plan being included in the amendment, notwithstanding that a detailed Outline Development Plan will be required as a separate proposal; and
 - iv) detailed land capability information proving the land can accommodate the increased density proposed and support additional effluent disposal systems and waste loads.
3. A formal Scheme Amendment (AMD 290) was subsequently submitted with the appropriate supporting information, and initiated by Council at the March 2009 meeting. However, by this point the 'Rural Settlement' zone had been replaced by the 'Rural Village' zone, in order to be consistent with the draft City of Albany Local Planning Scheme 1.
4. Following public advertising and consultation with State Government agencies, AMD 290 was granted final approval, subject to modifications, by Council at its meeting on 20 October 2009 and was subsequently granted final approval by the Minister for Planning on 5 October 2010. The Amendment was then published in the Government Gazette on 20 October 2010.
5. The successful completion of an ODP over the Kalgan town site will facilitate the future subdivision and development of the land in accordance with the land use control provisions of the 'Rural Village' zone.

DISCUSSION

6. The objectives of the 'Rural Village' zone are to:
- a. *Create a strong sense of community by providing for residents to work, live and recreate within the zone;*
 - b. *Accommodate limited expansion within and adjacent to existing rural settlements to support the community, educational and sporting assets within those communities;*
 - c. *Provide for a range of lot sizes and activities within the zone to achieve self-buffering of uses within the rural settlement to adjoining rural zone;*
 - d. *Provide for the development of rural villages in accordance with individual Structure Plans;*
 - e. *Allow for a mix of residential, commercial, industrial and other uses appropriate to the needs of the community within the Rural Village zone; and*
 - f. *Achieve self-sustaining settlements by requiring self reliance of individual lots in drainage management, the provision of water supplies and effluent disposal and other infrastructure needs.*
 - g. *To facilitate the orderly and proper development of Rural Settlements in a socially, economically and environmentally sustainable manner.*
7. In order to achieve these objectives, the 'Rural Village' zone has its own set of permissible land uses, and introduces mechanisms to manage development in accordance with an endorsed ODP. 'Permitted' land uses are a Single House and a Single Bedroom Dwelling, while a wider range of land uses have been identified as discretionary (with or without advertising), which allows Council to assess them on their individual merits. Amongst others, these discretionary uses include:
- Horticulture;
 - Museum;
 - Rural Storage Yard;
 - Holiday Accommodation;
 - Dry Industry;
 - Rural Industry;
 - Service Industry;
 - Petrol Filling Station;
 - Garden Centre;
 - Motel;
 - Restaurant;
 - Tavern;
 - Service Station;
 - Shop; and
 - Sport Ground.

(Refer to TPS3 for the complete list of discretionary land uses).

8. The strategic intent for rural villages, according to the ALPS, is to retain the existing infrastructure and improve the viability and range of services, facilities and rural commerce within the rural community. Clause 3.13 within TPS3 requires the preparation of a Structure Plan (ODP) to locate infrastructure and land uses within the 'Rural Village' zone, while promoting mixed uses and an appropriate, sustainable level of servicing, in order to achieve these strategic aims.
9. The ODP has identified three main settlement precincts:
 - Historic Village Core – Precinct 1;
 - Rural Village Expansion Area – Precinct 2; and
 - Rural Village Existing Fringe – Precinct 3.
10. Due to land capability, and in order to protect remnant native vegetation, lot sizes within the 'Historic Village Core' shall have a minimum size of approximately 2000m². The ODP recommends that this "historic community node is to be protected and enhanced as a local activity centre". Lots within the 'Rural Village Expansion Area' (to the east and south of the Kalgan River) could range in size between 2000m² and 5000m², allowing for "controlled expansion of the settlement south and east of the Kalgan River and Highway...through subdivision and development". Within the 'Rural Village Existing Fringe', only "limited subdivision and boundary rationalisation will be considered...in recognition of existing lot sizes, land uses and the constraints of the highway". The proposed lot layout is based on the land capability study and preliminary environmental reporting that was undertaken as part of the Town Planning Scheme Amendment (AMD290) that created the 'Rural Village' zone and designated various lots within the Kalgan townsite under this zoning.
11. In most circumstances, an ODP would be assessed in the context of *Liveable Neighbourhoods (WAPC 2007)*, which would require, for example, a 'walkable' plan based on the 400m 'ped-shed' and maximum lot sizes in the order of 1000m²/2000m². However, in this instance, such a compact plan would substantially alter the established character of the area and would likely have a negative impact on the remnant native vegetation and heritage sites within the subject area. It is therefore considered that the plan should be assessed on its own merits, without the *Liveable Neighbourhoods* framework.
12. Since the finalisation of AMD290, Staff have been advised by the proponent that the owners of Lots 200, 4821 and 4904 Hunton Road have declined to participate in any future subdivision/development of the area, leaving a portion of Lot 300 Hunton Road 'landlocked', with no frontage to a public road. An additional portion of Lot 300, which was not included in the rezoning from the 'Rural' to 'Rural Village' zone, has subsequently been added to the ODP, in order to facilitate a new road linkage from the 'landlocked' portion of the lot to Hunton Road. This issue has been discussed informally with the Western Australian Planning Commission, who have confirmed that the City can entertain inclusion of this additional land within the ODP, but that rezoning to the 'Rural Village' zone would be required before subdivision or development of the land could proceed.

13. Overall, the ODP is considered to be broadly consistent with the strategic intent of the Lower Great Southern Strategy (LGSS) and the ALPS. The ODP is also consistent with the aims of State Planning Policies 1, 2, 2.5, 2.9 and 3. It is therefore recommended that the proposed ODP be adopted for the purpose of advertising.

PUBLIC CONSULTATION/ENGAGEMENT

14. Should Council resolve to adopt the ODP for the purposes of advertising, it will be referred to all surrounding and affected landowners for comment.

GOVERNMENT CONSULTATION

15. Should Council resolve to adopt the ODP for the purposes of advertising, it will be referred to all relevant State Government agencies for comment.

STATUTORY IMPLICATIONS

16. Clause 5.5.1 of Town Planning Scheme No. 3 requires the endorsement of an Outline Development Plan by Council and the Western Australian Planning Commission prior to the subdivision and/or development of the subject land.

FINANCIAL IMPLICATIONS

17. There are no financial implications related to this item.

STRATEGIC IMPLICATIONS

18. The Western Australian Planning Commission has prepared the Lower Great Southern Strategy (LGSS) to guide land use planning decisions within the region. The scheme amendment is consistent with the actions identified in the LGSS for rural villages, as detailed below:

Rural Villages

*“Identifies the existing rural villages of: - Wellstead, Elleker, Cheynes Beach, Torbay Hill, **Kalgan**, Manypeaks, South Stirling, Redmond, Torbay, Youngs Siding in the City of Albany...*

The strategy recommends that the majority of settlement growth in the region be in the urban areas of Albany, Denmark, Mount Barker, Cranbrook and Frankland. The potential for growth of rural villages identified will be assessed in the context of each local government’s local planning strategy. Urban development outside the settlement hierarchy is not proposed.

Actions – In local planning strategies or separate settlement strategies consider whether there is potential for growth and development of rural villages after considering the following:

- *existing size and function;*
- *economic drivers;*
- *land capability and environmental constraints;*
- *available infrastructure and cost of servicing and upgrades; and*
- *community aspirations (local government, WAPC/DPI).*

For rural villages identified for expansion local government need to prepare and have endorsed by the WAPC a Townsite strategy and/or conceptual structure plan (local government, WAPC/DPI)."

19. Within the Albany Local Planning Strategy (ALPS), the following strategic objectives and/or actions are relevant to this proposal:

Section 8.3.5 Rural Living

STRATEGIC OBJECTIVES:

"In the long term encourage the efficient use of existing rural living areas, based on land capability to maximise their development potential.

Ensure that future rural living areas are planned and developed in an efficient and co-ordinated manner, by being located either adjacent to Albany as designated on the ALPS maps, or within existing rural townsites in accordance with Table 5 along with adequate services and community infrastructure".

The strategy's objectives for Rural Living Areas are to:

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide for compact growth of selected rural townsites, in accordance with Table 5, based on land capability and the available services and facilities.*
- *Minimise potential for generating land use conflicts."*

Actions specified to achieve these objectives include:

“Provide for the development of existing rural townsites within the City in accordance with Table 5. New development needs to minimise the impact on existing agricultural land, the landscape, fire risk, costs of providing and maintaining infrastructure, supply and demand and size of lots, availability of existing zoned land and extent of development.”

Kalgan, Manypeaks and Elleker are to be the first priority town sites for limited Rural Living development in accordance with Table 5 and using the above criteria. This is in addition to Wellstead, which already has an existing town site strategy to guide growth.”

Section 6.2.4 Rural Townsites

“Rural townsites will expand as a result of development projects, such as mining or tourism ventures. Their populations are also likely to rise through lifestyle settlement such as ‘sea change’ and ‘tree change’, and more labour-intensive agricultural uses. The challenge will be to allow the operation of increased services while maintaining the character of these towns. The City proposes to include the existing towns in Rural Townsite zones in the LPS1 and undertake structure planning for each town. New proposals for remote settlements will be determined on a case-by-case basis according to sustainability principles.

The planning and development of rural townsites needs to be based on appropriate development options to maintain their function and the availability of infrastructure and community facilities.”

Section 8.3.6 Rural Townsites

STRATEGIC OBJECTIVE:

“Facilitate and promote the retention and sustainable growth of existing rural settlements”.

*“The ALPS supports the retention of the existing rural townsite of Redmond, Manypeaks, Youngs Siding, Elleker, Torbay, Torbay Hill, **Kalgan**, South Stirling and Cheynes Beach as primary rural community focal points and settlement centres of a sufficient size (30-100 lots) to support a local store and community, sport and educational facilities (**refer to Map 9A for Rural Townsites**). Some of these townsites have the potential to support additional residential development, tourist accommodation, retail, small business and community services. **Refer to Table 5 for a framework of the proposed form and character of these settlements.** Each of these settlements will be included in broader precinct plans and subject to specific structure plans to determine their development constraints and opportunities. These plans will be developed with the community and key stakeholders and government agencies to determine growth potential.*

The level of servicing available and identifying suitable land to accommodate growth, are critical constraints to development of many of these settlements.

The ALPS settlement strategy does not consider the development of specified existing rural townsites or remote development sites for specific purposes, such as tourism developments, as the decentralisation of the Albany urban area. These townsites are seen as becoming sustainable nodes offering a rural lifestyle based around an existing historical area.

The LPS1 will create a new zone to cover the rural townsites with land-use and development principles. Controls will be established for water supply and effluent disposal standards, lot sizes, permissibility of land uses and community infrastructure. It is proposed to allow flexibility in lot sizes and land uses”.

20. Kalgan is clearly identified in the ALPS as a Rural Settlement with further development potential. With the ‘Rural Village’ zone having now been established over the subject land, successful completion of the submitted ODP will assist Council in achieving the objectives of the ALPS.

POLICY IMPLICATIONS

21. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statement of Planning Policy (SPP) that applies to the ODP. The ODP will also be endorsed by the WAPC to ensure consistency with the following State and Regional Policies.

SPP 1 – State Planning Framework

22. The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.
23. The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

SPP 2 – Environment and Natural Resources Policy

24. SPP2 refines the principles of the State Planning Strategy and incorporates the recommendations of the Western Australian State Sustainability Strategy (2002) to ensure that planning decisions meet the needs of current and future generations through simultaneous environmental, social and economic improvements through the integration of land use planning and natural resource management.

25. The objectives of SPP 2 are:

- *To integrate environment and natural resource management within broader land use planning and decision-making;*
- *To protect, conserve and enhance the natural environment; and*
- *To promote and assist in the wise and sustainable use and management of natural resources.*

26. The ODP has identified areas of existing remnant vegetation, which will largely be retained due to the sympathetic nature of the proposed access road and lot boundary layouts. Existing reserves are also clearly identified and opportunities for the establishment of vegetation corridors between them have also been illustrated. The proposal is also accompanied by a detailed land capability and geotechnical analysis.

SPP 2.5 – Agriculture and Rural Land Use Planning

27. SPP 2.5 seeks to ensure the identification and protection of high quality agricultural resource areas for future production. The WAPC and Local Government are required to have regard to SPP 2.5 in planning for the development of rural areas.

28. The Policy advises that:

“Agricultural production from rural areas is a significant part of the Western Australian economy. It provides essential food and fibre products, and employment and value adding opportunities. Agricultural production in Western Australia is worth nearly \$5 billion per annum. Careful planning is required to maintain these benefits to regional economies and to encourage ongoing investment in agriculture and the supporting resource base.”

The 4 key objectives of SPP 2.5 are:

- Protect significant agricultural resources within the State from inappropriate land use and development;
- Provide for sustainable rural settlement growth within community expectations and ensure adequate community service and infrastructure is available to support the growth;
- Minimise potential land use conflicts between incompatible land uses; and
- Manage natural resources and prevent land degradation.

29. The area generally to the north and west of Kalbar is designated by SPP 2.5 as Agricultural Priority Management Areas within the State and these areas are required to be protected for future agricultural production purposes. This proposal provides for sustainable settlement growth and is therefore consistent with SPP2.5.

SPP 2.9 – Water Resources

30. SPP 2.9 advises that our water resources, which include wetlands, waterways, floodplains, estuaries, groundwater aquifers and the marine environment, are subject to impacts and demands that affect both quality and quantity. The policy highlights the fundamental need to protect these resources due to their social, environmental and economic importance to the community. Kalgan River will be protected by the creation of dedicated foreshore reserves.

SPP 3 – Urban Growth and Settlement – Draft

31. SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State. The key policy measures in SPP 3 that apply to the City are centred on the following:
- Creating sustainable communities that provide high levels of employment and economic growth; strong, vibrant and socially inclusive communities; protect the environment and use resources prudently.
 - Managing urban growth and settlement across Western Australia through the implementation of the Lower Great Southern Strategy recommendations.
 - Planning for liveable neighbourhoods such that all required facilities and services are provided in a comprehensively planned and integrated settlement pattern.

 - Coordination of cost efficient services and infrastructure to support the growth of communities including roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health and recreational facilities.
 - Managing rural residential growth such that it is located and designed in a sustainable manner which integrates with an overall pattern of settlement and reduces any potential negative impacts such as conflict with traditional rural uses, ensures services can be provided economically and does not occupy areas suitable for urban developments.
32. The proposed ODP is considered to be consistent with the key policy measures identified in SPP 3.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

33. Council has the following options in relation to this item, which are:
- To defer consideration of the proposal;
 - To adopt the ODP for the purposes of advertising with or without modifications;
 - or
 - To decide not to support the ODP.

SUMMARY CONCLUSION

34. The adoption of an ODP will allow further development of the Kalgan Townsite and its surrounds, in accordance with the land use control provisions of the 'Rural Village' zone within TPS3. The proposed ODP is considered to be consistent with the strategic objectives of the LGSS and ALPS and with the aims of State Planning Policies 1, 2, 2.5, 2.9 and 3. It is therefore recommended that the ODP be adopted for the purposes of advertising.

ITEM 1.5: RESPONSIBLE OFFICER RECOMMENDATION

1. The Kalgan Rural Village Outline Development Plan (ODP) be ADOPTED for the purposes of advertising subject to the ODP identifying that the eastern portion of Lot 300 Hunton Road requires rezoning to the 'Rural Village' Zone prior to subdivision being considered.
2. The Outline Development Plan be ADVERTISED for public comment for an extended period of 42 days (in lieu of 28 days) to allow additional consultation during the upcoming Christmas and New Year period.

ITEM 1.5: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

1.6: CONSIDERATION OF DRAFT LOCAL PLANNING POLICY MANUAL

File Number (Name of Ward)	: STR047 (All Wards)
Disclosure of Interest	: Nil
Proponent	: City of Albany
Owner	: N/A
Business Entity Name	: N/A
Previous Reference	: OCM 16/03/10 – Item 13.5.1
Attachment(s)	: Nil
Appendices	: Nil
Consulted References	: Town Planning Scheme No. 1A and 3
Councillor Lounge	: Draft Local Planning Policy Manual (2 nd Draft - November 2010) hard copy and digital copy (disc)
Reporting Officer(s)	: E/Director Planning & Development Services (G Bride)
Responsible Officer(s)	: E/Director Planning & Development Services (G Bride)

IN BRIEF

- Consider the adoption of the draft local planning policy manual, which seeks to consolidate and modernise Council's town planning policy framework.
- It is recommended that Council adopt the Local Planning Policy Manual for advertising purposes in accordance with Clause 6.9 of Town Planning Scheme No. 3 and Clause 7.21 of Town Planning Scheme No. 1A.

BACKGROUND

1. Since the gazettal of the City of Albany Town Planning Scheme's 1A and 3, there has been over 150 documents adopted by Council as policies under the provisions of the relevant Schemes.
2. Over the past five (5) years staff have continually reviewed these policy documents and have rescinded many of these policies as they have become updated or contemporary planning practice has necessitated the need for a new policy direction.
3. In recent times many Council's across Australia have sought to combine their planning policies into a consolidated manual in order to deliver a clear and concise planning document. Such manuals typically include several broad policy areas, with more specific policies contained within each grouping.
4. A draft consolidated Local Planning Policy Manual was initially tabled with Council at the February 2010 meeting of the Planning and Environment Strategy and Policy Committee. Since this time further amendments to the style, format and content of the manual has been effected. As part of the Review of the Development Services Directorate, this updated manual was considered favourably by the consultant, who further recommended that an overall District Structure Plan for the City be included within the manual.

5. The proposed format (contents) of the draft Local Planning Policy (LPP) Manual is as follows (note that those policies in red are new or have been substantially modified):

LPP No. 1 – Conceptual District Structure Plan

LPP No. 2 – General Development Policy

- A. Outbuildings
- B. Signs
- C. Sea Containers
- D. Ancillary Accommodation
- E. Bed and Breakfast
- F. Holiday Homes
- G. Significant Tourist Accommodation Sites (draft considered by Council in August 2010)
- H. Temporary Accommodation
- I. Heritage Protection
- J. Public Open Space
- K. Domestic Wind Turbines

LPP No. 3 – Residential Development Policy

- A. Variations to Residential Design Codes
- B. Relocated Dwellings
- C. Consulting Rooms, Public Worship and Childcare

LPP No. 4 – Commercial and Industrial Development Policy

- A. Alfresco Dining
- B. Public Art
- C. Restricted Premises
- D. Building Facades in Industrial Zones

LPP No. 5 – Rural and Environment Policy

- A. Grouped Dwellings on Rural Land
- B. Chalets
- C. Workers Accommodation
- D. Extractive Industries and Mining
- E. Development in Flood Prone Areas
- F. Agricultural Protection and Subdivision

LPP No. 6 – Special Development Control Areas (Residential)

- A. Residential Development on Steep Sites
- B. Albany Historic Town Design Policy
- C. Detailed Area Plans
- D. Sloping Land
- E. Reflective Roofs in Goode Beach
- F. The Outlook Estate
- G. Masonic Hall Design Guidelines

- H. Thomas Street Design Guidelines
- I. Melville Drive View Corridor
- J. Woodrise Estate
- K. Lot 100 Grey Street East
- L. Pines Estate Setbacks
- M. Frenchman Bay Road Residential Development Area
- N. Lake Seppings Drive/Wright and Loftie Street
- O. Modifications to Subdivision Guide Plans
- P. South Lockyer Structure Plan
- Q. Little Grove Structure Plan

LPP No. 7 – Special Development Control Areas (Non-Residential)

- A. Airport Buffer
- B. Speedway Buffer
- C. Timewell Road Waste Water Treatment Buffer
- D. Albany Port Buffer
- E. Barker Road Industrial Area
- F. Richard Street Light Industrial Area
- G. Down Road Timber Processing Precinct
- H. Marbellup Brook Water Resource Protection Area
- I. Albany Town Centre
- J. Albany Waterfront
- K. Centennial Park Redevelopment Area
- L. Neighbourhood Centres
- M. Middleton Beach Tourist Precinct
- N. Frenchman Bay Tourist Site
- O. Woolstores Redevelopment Site
- P. Emu Point and Big Grove Village Centres

DISCUSSION

6. In relation to the proposed new or substantially amended policies staff provide the following background and advice:

Conceptual District Structure Plan

7. The review of the Development Services Directorate undertaken by Mr Charles Johnson (Planning Context), identified the need to create a policy which sets the framework for future development of the City through a District Structure Plan.
8. The purpose of the policy is to build a framework based on the ALPS which identifies in broad terms the future road hierarchy, areas of regional open space, and long term land use mix. This policy will ensure that more detailed structure planning fits in with the wider conceptual plan to ensure a coordinated road network and the efficient provision of services within the future.

9. As more information comes to hand from government agencies the plan can be further developed and refined.

Holiday Homes

10. At its meeting dated 18 May 2010 Council resolved that a new policy for this form of development be prepared using WAPC Planning Bulletin No. 99 as a guide. Some concern was expressed that the use of a dwelling for short stay purposes could detrimentally impact on the amenity of surrounding residents, particularly where there is a proliferation of such accommodation.
11. In accordance with this resolution, staff have prepared a policy which:
- Identifies preferred locations for such uses.
 - Requires the lodgement of a management plan with the application which addresses such issues as noise impacts, how the property will be managed, contact numbers and the process for handling complaints.
 - Sets an initial 12 month approval period, with the possibility of a renewal period for a further 5 years.
 - Identifies standard conditions of approval for such uses.
12. Since the policy has been distributed it is also recommended that Figure A within this Policy be amended to include the localities of Little Grove and Goode Beach which are highly sought after destinations for tourists based on their waterside locations, adjacent conservation areas and their proximity to a range of tourist attractions.

Temporary Accommodation

13. Staff have witnessed an increase in the number of persons who wish to reside on their vacant lot whilst they construct a dwelling on the property. In order to provide clear direction on this issue, Staff have proposed a policy position which allows people building their houses (owner builders) to reside on their property for less than 12 months if their lot is larger than 4000m² and is zoned special residential, special rural or rural, and they utilise a caravan in combination with an outbuilding.

Domestic Wind Turbines

14. As power costs continue to increase and there is continued awareness of climate change concerns, it is considered that Council will receive an increasing number of applications for domestic wind turbines.
15. It is considered that whilst these structures may be considered an ancillary component to a single dwelling they have the potential to impact on the amenity of adjacent residents by way of noise, visual appearance and sunlight glare (reflectivity) and therefore controls have been recommended to mitigate against these concerns. The proposed policy seeks to identify maximum turbine heights for different zones

and lot sizes and requires that such turbines are setback no less than their height from property boundaries and use non-reflective materials.

16. The draft policy as circulated to Councillors had identified a 9 metre maximum height for standalone turbines within residential and tourist residential zones. After doing additional research a tower of this height in a built up area is likely to be highly visible from several properties and streets, especially in areas predominantly made up of single storey dwellings. To this end it is recommended that the maximum height for wind turbines in residential zoned areas be restricted to 6 metres under the acceptable criteria (ie. turbines that meet all aspects of the policy and are less than 6 metres will be dealt with via a building licence). Any proposals for wind turbines above this height will require planning scheme consent and be referred to adjoining landowners for comment.
17. It is also recommended that the height of roof mounted turbines be restricted to 2 metres above the roof, rather than 3 metres.

Alfresco Dining

18. In order to enhance the amenity, vitality and ambience of the town's retail, commercial, entertainment and tourist areas staff have prepared a policy which encourages al fresco dining. The policy identifies the process in obtaining an al fresco dining permit, outlines the extent of the use and furniture that can be considered within the al fresco area and makes it clear that no additional parking provision is required.

Workers Accommodation

19. In the past Council has received applications from intensive agricultural operations, such as strawberry farms, to accommodate workers on their land holdings during the harvest period only (these workers may be backpackers or temporary visa workers). Council has supported such proposals in the past and it is considered that a policy direction on this issue is required. The policy allows accommodation of workers where the proponent can demonstrate that the scale of the agricultural operation and additional labour needs warrant such accommodation and is clustered near the primary residence or other farm buildings on the property.

Lot 100 Grey Street

20. Lot 100 Grey Street received subdivision approval from the WAPC to create 4 residential lots. The subject land is located within an important heritage streetscape, contains undulating topography and has limitations on vehicular access due to the lands corner location and the existence of a stone wall. The policy seeks to provide specific design parameters for future development over these 4 lots and has included a detailed analysis of built form and scale including vertical and horizontal building envelopes and includes access arrangements.

Albany Town Centre

21. The commercial elements of the existing Albany Historic Town Design Policy are proposed to be incorporated into a single town centre policy for the Albany Central Area. The policy includes:
- A more contemporary approach to parking provision which provides guidance on change of use proposals, parking reciprocation (where uses have differing peak trading/opening hours), joint use of parking and a reduced cash-in-lieu rate, representing 25% of the cost of the land plus construction (rather than 100% of the land value rate which is cost prohibitive and a deterrent to redevelopment of the CBD), where a portion of the parking cannot be provided for onsite.
 - Parking bonuses where objectives of the Albany Central Area Master Plan are achieved (such as improving access and parking arrangements at the rear of shops).
 - Identification of areas within the CBD where a building height of up to 5 storeys is appropriate.
 - Promotion of single bedroom dwellings within the town centre through variations to R-Code provisions (making such development more attractive to developers, especially as part of a mixed use development).

GOVERNMENT CONSULTATION

22. It is considered appropriate that should Council adopt the policy manual for the purposes of advertising relevant government agencies will be invited to make comment on the manual.

STATUTORY IMPLICATIONS

23. Clauses 6.9 of the City of Albany Town Planning Scheme 3 and 7.21 of Town Planning Scheme 1A set out the processes to adopt and modify town planning scheme policies and also provides direction on what function the policies have in the decision-making process.

FINANCIAL IMPLICATIONS

24. There are no financial implications related to this item.

STRATEGIC IMPLICATIONS

25. The draft policy manual is consistent with the City's Strategic Plan (Albany Insight) as:

4. Governance.

The City of Albany will be an industry leader in good governance and service delivery.

26. The policy manual also supports the strategic principles in the ALPS in relation to issues such as land use conflict, tourism, housing diversity, protection of agricultural land, environmental management, transport, industry and the settlement hierarchy.

POLICY IMPLICATIONS

27. Should the draft policy manual be adopted by Council for advertising purposes, after the advertising period has been completed and the manual is re-presented to Council for final consideration, Council will need to formally rescind the existing planning policies that are currently in place.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

28. Council has the option of not adopting the draft local planning policy manual, which would leave in place the existing planning policy framework.
29. Council could also amend or delete any of the policies contained within the manual.

SUMMARY CONCLUSION

30. It is recommended that Council releases the draft Local Planning Policy Manual for public exhibition.

ITEM 1.6: RESPONSIBLE OFFICER RECOMMENDATION

1. The draft Local Planning Policy Manual (Second Draft - November 2010) be **ADOPTED** for the purposes of advertising in accordance with Clause 6.9 of Town Planning Scheme No. 3 and Clause 7.21 of Town Planning Scheme No. 1A, subject to the following modifications:
 - A. Policy 2K (Domestic Wind Turbines) be amended to identify the maximum acceptable height for pole or tower mounted domestic wind turbines at **6 metres** for residential and tourist residential zoned areas, and that roof mounted turbines are no higher than 2 metres above the apex of the roof on which it is mounted.
 - B. Policy 2F (Holiday Homes) be amended to include the localities of Little Grove and Goode Beach into Figure A – Preferred Areas for Holiday Homes.
2. The policy manual be **ADVERTISED** for public comment for an extended period of 42 days (in lieu of 21 days) to allow additional consultation during the upcoming Christmas and New Year period.

ITEM 1.6: RESOLUTION (Responsible Officer Recommendation)

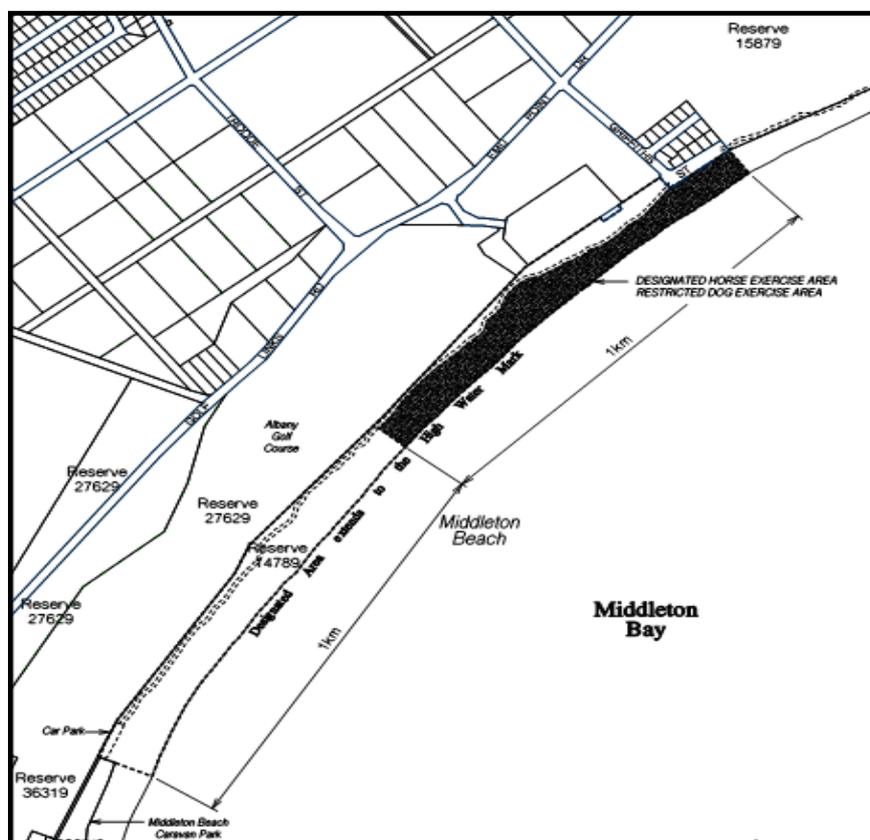
**MOVED: COUNCILLOR LEAVESLEY
SECONDED: COUNCILLOR SWANN**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

**1.7: HORSE EXERCISE AREA – MIDDLETON BEACH – PROPOSED
ANIMAL LOCAL LAW 2011**

- File Number (Name of Ward)** : STR047 (Breaksea Ward)
Land Description : Middleton Beach
Proponent : City of Albany
Owner : N/A
Business Entity Name : N/A
Previous Reference : PESPC 21/05/08 – Item 6.3
OCM 17/06/08 - Item 11.6.1
OCM 19/02/08 – Item 11.2.1
OCM 18/11/08 – Item 11.6.1 – 5
SCM 13/10/09 – Item 6.3
- Attachment(s)** : Copy of Survey Form
Results of horse exercise area survey
- Appendices** : Nil
- Consulted References** : City of Albany Animals Local Law 2001
- Councillors Lounge** : City of Albany Animals Local Law 2001
Copies of submissions from horse trainers
- Reporting Officer(s)** : E/Manager Building & Health Services (K Barnett)
- Responsible Officer** : E/Director Planning and Development Services (G Bride)
- Maps and Diagrams:**



IN BRIEF

- To consider the inclusion of a horse exercise area at Middleton Beach in the proposed City of Albany Animals Local Law 2011.

BACKGROUND

1. Under the provisions of the *Local Government Act 1995*, local governments are required to review local laws every eight years.
2. Council adopted the current Animals Local Law (Local Law), which includes a dog and horse exercise area at Middleton Beach, in December 2001.
3. Since the adoption of the Local Law, Council has, from time-to-time, received complaints from residents in the Griffiths Street locality regarding the horse exercise area, and in particular:
 - noise from horse floats arriving before 5.00 am;
 - frequency of horses visiting the exercise area;
 - amount of horse manure left on Griffiths Street; and
 - danger of riderless horses on the beach.
4. To assist in the review of the Local Law, guidance is required as to whether Council wants to retain the exercise area for horses at Middleton Beach in the proposed Animals Local Law 2011.

DISCUSSION

5. Concerns regarding the location of the horse exercise area at Middleton Beach were discussed at the now defunct Planning and Environment Strategy and Policy Committee meeting held in February 2010, which resulted in Council adopting the following resolution at its Ordinary Meeting in March 2010:

“THAT City of Albany staff WRITE to horse trainers seeking their cooperation and assistance in resolving problems at Middleton Beach associated with noise transmitted into adjoining residences from early morning training, and the cleaning of faeces, and advise those trainers that the provision of a horse exercise area is under consideration as part of the City’s review of the Animal Local Law.”

6. Letters were sent to 24 horse trainers known to operate within the Albany region inviting them to be involved in a group discussion on the issues raised by residents and/or make a written submission. The City received one submission from a horse trainer.
7. The horse trainer, who is based close to the existing horse exercise area, suggested that the noise issue could be minimised by banning horse floats/trucks from Griffiths Street until after 7.00 am.

8. A submission supporting the retention of the horse exercise area at Middleton Beach was also received from the Albany Natural Trail riders.
9. To gauge the actual usage of the horse exercise area by the racing industry, a survey form (copy included as an attachment) was sent to 24 horse trainers.
10. A total of eight (8) responses were received. The submissions received have been tabulated and included as an attachment.
11. The equine industry generates jobs and wealth within the community and Middleton Beach provides a safe and effective area to exercise horses. Anecdotal evidence suggests that Middleton Beach has been used for horse training/exercise for at least 45 years.
12. Three trainers using the horse exercise area have indicated that they would continue to use the area if access to the beach for horses was restricted until after 7.00am.
13. Recreational riders, not associated with the racing industry, also exercise horses at Middleton Beach.

PUBLIC CONSULTATION / ENGAGEMENT

14. A survey form was sent to 24 horse trainers known to operate within the municipality.
15. A total of eight (8) responses were received. The submissions received have been tabulated and included as an attachment.

GOVERNMENT CONSULTATION

16. No government consultation is related to this item.

STATUTORY IMPLICATIONS

17. Clause 25 of the City of Albany Animals Local Law 2001 states:

“Horse Exercise area

25 (1) *Council may set aside a reserve or foreshore or portion of a reserve or foreshore as an area upon which a person may ride or drive a horse or into which a person may bring a horse.*

(2) *A person shall not ride, drive or bring a horse onto a reserve or foreshore or any part thereof that has not been set aside for that purpose.*

- (3) *A person shall not ride, drive, exercise or train a horse on any part of a reserve or foreshore set aside under subsection (1) faster than walking pace or in a manner so as to create a danger or become a nuisance to the public, to any person or to any animal.*
- (4) *Subclause (3) does not apply to-*
- (a) *The training of horses between dawn and 9.00am;*
 - (b) *The wading or swimming of horses between:*
 - (i) *9.00am and 11.00am; and*
 - (ii) *1.00pm and 3.00pm.*
- (5) *A person shall not ride, drive or bring a horse onto a reserve or foreshore or any part thereof that is set aside specifically for the exercise of dogs.*
- (6) *A person may exercise a dog on an area of reserve or foreshore set aside as a horse exercise area provided the dog remains under full control on a leash at all times.*
- (7) *All that section of Reserve No. 14789 (Middleton Beach) as shown delineated in black and stippled on the diagram in the Fourth Schedule is a designated horse exercise area.*

FINANCIAL IMPLICATIONS

18. Any change to the horse exercise area at Middleton Beach will result in the need to erect new signage.

POLICY IMPLICATIONS

19. There are no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

20. Council has two options in relation to this item, which are:
- (a) Resolve to include a horse exercise area at Middleton Beach in the proposed Animals Local Law 2010; or
 - (b) Resolve to not include a horse exercise area at Middleton Beach in the proposed Animals Local Law 2010.

SUMMARY CONCLUSION

21. That Council agrees in principle to the inclusion of a horse exercise area at Middleton Beach.

ITEM 1.7: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council AGREES in principle to the inclusion of a horse exercise area at Middleton Beach in the proposed Animals local Law 2011 with the following conditions:

- A. The training of horses only between the hours of 7.00 am and 9.00 am; and
- B. The wading or swimming of horses only between 9.00 am and 11.00am.

ITEM 1.7: ALTERNATE RECOMMENDATION BY COUNCILLOR LEAVESLEY

THAT Council:

1. AGREES in principle to the inclusion of a horse exercise area at Middleton Beach in the proposed Animals local Law 2011 with the following conditions:
 - C. The training of horses only between the hours of 5.00 am and 9.00 am; and
 - D. The wading or swimming of horses only between 9.00 am and 11.00am.
2. AGREES in principle to restrict the parking of commercial vehicles, horse floats and trailers in Griffiths and Hope Streets between the hours of 12:00am (midnight) and 7:00am Monday to Sunday.
3. The proposal to restrict parking as contained in Point 2 above be ADVERTISED for public comment.

ITEM 1.7: RESOLUTION (Amended Recommendation by Councillor Leavesley)

**MOVED: COUNCILLOR LEAVESLEY
SECONDED: COUNCILLOR HOLDEN**

THAT the Amended Recommendation by Councillor Leavesley be ADOPTED.

CARRIED 7-1

Against the Motion: Councillor Hammond

Councillor's Reason

The main concerns that have been received from neighbouring residents relate to the movement of horses within the floats as they are rotated for training purposes.

The alternate recommendation will accommodate those trainers who walk their horses to the beach; allowing them to train their horses from 5am without impacting on the amenity of residents.

Trainers that transport their horses to the site via floats/trailers will not be able to park at Griffiths Street and Hope Street until 7am, meaning any noise generated from this activity will be undertaken at a more reasonable hour.

OFFICERS REPORT (G Bride)

STATUTORY IMPLICATIONS

1. The City's Parking Local Law 2009 allows Council to restrict the parking period for any class of vehicle.
2. It is standard practice that prior to implementing a new parking regime (inclusive of signage) that public comment is sought.

POLICY IMPLICATIONS:

3. No change.

FINANCIAL IMPLICATIONS:

4. It is anticipated that the cost of parking signage would be in the vicinity of \$300.
5. If Council ultimately accept the parking regime contemplated above, if complaints are received the Rangers will be able to issue parking infringements for any breach observed.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:

6. No change.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS:

7. Nil.

COMMENT:

8. The alternate recommendation is supported.
9. Once the advertising has been finalised, Council will need to consider whether to introduce the parking regime contemplated by the alternate recommendation.

10. Staff have investigated the opportunities to relocate the horse float parking area to another location adjacent to the existing horse exercise area; no obvious locations could be found. Further encroachment into the reserve could be considered adjacent to the existing parking area, however it is likely that the DEC would not support such clearing, the use of this area would only marginally increase the separation distances to existing residents and there would be a cost implication in creating an additional hardstand area.

2.1: LIST OF ACCOUNTS FOR PAYMENT

File Number (Name of Ward)	: FM.FIR.2 - All Wards
Disclosure of Interest	: Nil
Previous Reference	: N/A
Appendices	: List of Accounts for Payment
Reporting Officer(s)	: Manager of Finance (P Wignall)
Responsible Officer	: Executive Director (WP Madigan)

BACKGROUND

1. Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

DISCUSSION

2. The table below summarises the payments drawn from the municipal fund during the month of November 2010. Further details of the accounts authorised for payment by the Chief Executive Officer is included within the Elected Members Report/Information Bulletin.

Municipal Fund

Trust	Totalling	\$23,727.60
Cheques	Totalling	\$34,739.97
Electronic Fund Transfer	Totalling	\$3,040,634.74
Credit Cards	Totalling	\$11,769.82
Payroll	Totalling	\$859,572.47
	TOTAL	<u>\$3,970,444.60</u>

3. As at the 25th November 2010, the total outstanding creditors, stands at \$529,152.98
4. Cancelled cheques – 26593, 26913 & 26958

STATUTORY IMPLICATIONS

5. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
6. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund. This delegation was last reviewed in April 2009 – Item 14.4.1(1).
7. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 25th November 2010 has been incurred in accordance with the 2009/10 budget parameters.

POLICY IMPLICATIONS

9. The City's 2009/10 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2009/10 budget parameters, it is recommended that the list of accounts for payment be received.

SUMMARY CONCLUSION

10. That list of accounts have been authorised for payment under delegated authority.

RECOMMENDATION

ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION

The list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 25th November 2010 totalling \$3,970,444.60 be RECEIVED.

ITEM 2.1: RESOLUTION (Responsible Officer Recommendation)

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

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

2.2: FINANCIAL ACTIVITY STATEMENT – 30 NOVEMBER 2010

File Number (Name of Ward)	: FM.FIR.2 - All Wards
Disclosure of Interest	: Nil
Previous Reference	: N/A
Reporting Officer(s)	: Manager of Finance (P Wignall)
Responsible Officer	: Executive Director (WP Madigan)

IN BRIEF

- Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 30 November 2010

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 November 2010 has been prepared and is listed below.
2. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the elected group with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. For the financial year 2009/10 variations in excess of 10% are reported to the elected group.

STATEMENT OF FINANCIAL ACTIVITY – AS AT 30th NOVEMBER 2010

6. See Appendix 2 to Report Item 2.2

CITY OF ALBANY – NET CURRENT ASSETS – AS AT 30th NOVEMBER 2010

7. See Appendix 3 to Report Item 2.2

CITY OF ALBANY - BALANCE SHEET – AS AT 30th NOVEMBER 2010

8. See Appendix 4 to Report Item 2.2

INCOME STATEMENT FOR PERIOD ENDED – AS AT 30th NOVEMBER 2010

9. See Appendix 5 to Report Item 2.2

PORTFOLIO VALUATION – MARKET VALUE – AS AT 30th NOVEMBER 2010

10. See Appendix 6 to Report Item 2.2

STATUTORY IMPLICATIONS

11. Section 34 of the Local Government (Financial Management) Regulations 1996 provides:
- I. *A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
 - a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - b) *budget estimates to the end of the month to which the statement relates;*
 - c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relate*
 - d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) *the net current assets at the end of the month to which the statement relates.*
 - II. *Each statement of financial activity is to be accompanied by documents containing –*
 - a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in sub regulation (1)(d); and*
 - c) *such other supporting information as is considered relevant by the local government.*
 - III. *The information in a statement of financial activity may be shown –*
 - a) *according to nature and type classification;*
 - b) *by program; or*
 - c) *by business unit*
 - IV. *A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –*
 - a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - b) *recorded in the minutes of the meeting at which it is presented.*

FINANCIAL IMPLICATIONS

12. Variances to Budget in excess of \$100,000 - as at 30 November 2010, see appendix 1 to Report Item 2.2.

POLICY IMPLICATIONS

13. The City's 2009/10 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2009/10 budget parameters and any major variations are due to timing issues only, it is recommended that the Statement of Financial Activity be received.
14. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

RECOMMENDATION

ITEM 2.2: RESPONSIBLE OFFICER RECOMMENDATION

The Financial Activity Statement for the period ending 30 November 2010 be RECEIVED.

ITEM 2.2: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR HOLDEN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-1

Against the Motion: Councillor Leavesley

APPENDIX 1 - FINANCIAL IMPLICATIONS

Variances to Budget in excess of \$100,000 - as at 30 November 2010

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<u>DIRECTOR CORPORATE & COMMUNITY</u>								
106640. INFORMATION TECHNOLOGY	537,833	532,333	223,980	24,227	199,753	97%	✓	Expenses are below budget, mainly due to the timing of software maintenance costs. Annual costs are expected to be in line with budget.
194140. ALAC - STAGE 2	3,620,997	3,162,788	2,711,904	2,439,779	272,125	10%	✓	Expenditure is below budget - due to a timing difference on contractor payments. Total project costs are expected to be in line with budget at the completion of the ALAC Stage 2 development.
199950. GRANT - RECREATION MASTERPLAN	(3,024,983)	(3,024,983)	(1,259,905)	(2,287,483)	1,027,578	82%	✓	Receipts are above budget due to a timing difference on grant funding claims and settlement. Total grant receipts are expected to be in line with budget upon completion of the ALAC Stage 2 development.
Total DIRECTOR CORPORATE & COMMUNITY	1,133,847	670,138	1,675,979	176,523	1,499,456			
<u>DIRECTOR WORKS & SERVICES</u>								
100040. ROAD SAFETY	589,000	589,000	472,333	12,025	460,308	97%	✓	Year to date expenditure is below budget. Work was scheduled from September to December, but was dependent on funding approval. Approvals are yet to be notified. Total costs for the year are expected to be in line with budget.
103360. DEVELOPED RESERVES MAINTENANCE	1,619,191	1,098,961	609,390	404,535	204,855	34%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
103430. MAJOR PLANT- P/LOSS SALE OF ASSETS	529,277	529,277	423,420	12,367	411,053	97%	✓	Some major plant items are currently awaiting sale at auction. Sales are expected to be completed by approximately March 2011, dependent upon the availability of new roadworking equipment.
131140. ROADS - CONSTRUCTION	501,000	501,000	474,735	6,617	468,118	99%	✓	Year to date expenses are currently below budget. Design work is still being completed, but the expenditure for the full year is expected to be in line with budget.
132220. ROAD MAINTENANCE	3,692,000	3,692,000	1,537,710	1,345,602	192,108	12%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.

Variances to Budget in excess of \$100,000 Continued - as at 30 November 2010

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<u>DIRECTOR WORKS & SERVICES</u>								
134830. ROAD FUNDS	(694,000)	(694,000)	(289,050)	0	(289,050)	-100%	×	Funding is currently below budget. The budget assumed an even monthly spread of funding throughout the year. Funding applications have been lodged, and we are now awaiting notification of approvals.
134850. ASSET FUNDING - REGIONAL ROAD GROUP	(759,167)	(759,167)	(423,667)	(1,034,067)	610,400	144%	✓	Funding receipts are currently higher than budget. This is simply a timing difference and the funding total for the year is expected to be in line with budget.
135440. PASSENGER VEHICLES PURCHASE	658,265	658,265	355,461	246,055	109,406	31%	✓	Year to date expenditure is below budget. This is only a timing difference, and annual expenditure is expected to be in line with budget.
135640. MAJOR PLANT PURCHASE	1,790,000	1,790,000	511,940	953,500	(441,560)	-86%	×	Year to date expenditure is above budget. This is only a timing difference, and annual expenditure is expected to be in line with budget.
138070. WASTE MINIMISATION CONTRACT	2,070,000	2,070,000	874,675	640,094	234,581	27%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
140150. CAPITAL GRANTS - EDWS OTHER	(2,000,000)	(199,000)	(199,000)	0	(199,000)	-100%	×	Grant income is below budget. Funding was anticipated in September, but funding has now been declined. Budget adjustments will be made in the second quarter financial review.
147920. PLANT - ALLOCATE TO W/SERV.	(3,135,832)	(3,135,832)	(1,306,070)	(1,143,681)	(162,389)	-12%	×	Any under-recoveries in relation to Plant Charge-out and Works Labour Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered. Plant cost recoveries for the year to date are lower than budgeted due to some Council plant being unavailable for use due to machine breakdowns.
149120. WO - LESS ALLOC.W/SERVICES	(2,735,417)	(2,735,417)	(1,139,300)	(1,008,725)	(130,575)	-11%		
149840. ASSET UPGRADE - REGIONAL ROAD	1,936,497	1,914,347	945,242	89,706	855,536	91%	✓	Year to date expenditure is below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
149940. ASSET PRESERVATION	3,344,638	5,436,174	1,206,896	511,496	695,400	58%	✓	Year to date Costs are below budget. Limited work done so far this year, mainly due to adverse weather conditions. Annual costs are expected to be in line with budget.
150140. DRAINAGE CONSTRUCTION	1,834,247	1,764,247	651,170	168,099	483,071	74%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.

Variances to Budget in excess of \$100,000 Continued - as at 30 November 2010

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<u>DIRECTOR WORKS & SERVICES</u>								
155850. DRAINAGE MASTERPLAN INCOME	(750,000)	(750,000)	(312,375)	0	(312,375)	-100%	x	Budget income relates to the water harvesting project. Budgeted funding was evenly spread throughout the year, but funding approval has now been declined. Budget adjustments will be made in the second quarter financial review.
168340. EDWS - OTHER CAPITAL	2,733,944	864,347	538,449	280,429	258,020	48%	✓	Expenses are below budget mainly due to deferred work pending Federal Funding approval. Funding approvals are still being sought.
174420. ROADS - DEPRECIATION	8,301,762	8,301,762	3,457,680	3,061,511	396,169	11%	✓	Year to date depreciation is below budget. This is due to delays on road construction completion and capitalisation of assets.
Total DIRECTOR WORKS & SERVICES	19,525,405	20,935,964	8,389,639	4,545,563	3,844,076			

**APPENDIX 2 - STATEMENT OF FINANCIAL ACTIVITY YEART TO DATE – 30th NOVEMBER
2010**

	Actual Year to Date 30-Nov-10	Current Budget Year to Date 30-Nov-10	Current Budget vs Actual Variance	
REVENUE				
Operating Grants, Subsidies and Cont	1,348,530	1,674,763	-326,233	X
Fees and Charges	3,114,513	3,226,617	-112,104	X
Service Charges	3,715,857	3,685,400	30,457	√
Interest Earnings	342,280	335,735	6,545	√
Other Revenue	413,164	335,116	78,048	√
	8,934,344	9,257,631	-323,287	
EXPENDITURE				
Employee Costs	6,146,695	6,733,688	-586,993	√
Materials and Contracts	3,593,633	5,160,850	-1,567,217	√
Utility Charges	515,939	582,413	-66,474	√
Interest Expenses	72,618	17,945	54,673	X
Insurance Expenses	545,478	511,098	34,380	X
Other Expenditure	481,610	-22,184	503,794	X
Depreciation	4,695,930	5,137,060	-441,130	√
	16,051,904	18,120,870	-2,068,967	
Adjustment for Non-cash Revenue and Expenditure:				
Depreciation	-4,695,930	-5,137,060	441,130	
CAPITAL REVENUE				
Non-Operating Grants, Subsidies and Cont	4,955,767	3,436,369	1,519,398	√
Proceeds from asset disposals	275,939	448,173	-172,234	X
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	5,032	14,282	-9,250	
Transfers from Reserves (Restricted Assets)	5,413,778	5,409,492	4,286	
	10,650,516	9,308,316	1,342,200	
CAPITAL EXPENDITURE				
Capital Expenditure	5,825,330	9,090,015	-3,264,685	√
Repayment of Loans	129,574	129,574	0	√
Transfers to Reserves (Restricted Assets)	3,585,435	3,479,114	106,321	
	9,540,339	12,698,703	-3,158,364	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	1,578,986	n/a	n/a	
LESS Net Current Assets Year to Date	24,286,637	n/a	n/a	
Amount Raised from Rates	-24,019,102	-24,096,420	77,318	

* √ Is higher than expected revenue or lower than expected expenditure

* X is lower than expected revenue and higher than expected Expenditure

APPENDIX 3 – NET CURRENT ASSETS AS AT 30th NOVEMBER 2010

	Actual 30-Nov-10	Actual 30-Jun-10
NET CURRENT ASSETS		
Composition of Net Current Asset Position		
CURRENT ASSETS		
Cash - Unrestricted	15,824,892	1,941,086
Cash - Restricted	6,224,217	8,268,976
Receivables	9,112,588	3,428,043
Inventories	4,529,603	4,607,191
Total Current Assets	35,691,300	18,245,295
LESS: CURRENT LIABILITIES		
Payables and Provisions	5,180,447	8,397,333
	30,510,854	9,847,962
Less: Cash - Restricted - Trust	(1,272,272)	(1,488,688)
Less: Cash - Restricted - Reserves	(4,951,945)	(6,780,288)
NET CURRENT ASSET POSITION	24,286,637	1,578,986

APPENDIX 4 – BALANCE SHEET AS AT 30th NOVEMBER 2010

	Actual 30-Nov-10	Budget 30-Jun-11	Actual 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS				
Cash - Municipal	16,329,541	1,800,755	2,445,735	477,330
Restricted cash (Trust)	1,272,272	1,483,498	1,488,688	1,987,438
Reserve Funds - Financial Assets	1,054,480	800,755	1,054,480	1,170,755
Reserve Funds - Other	3,897,466	7,197,963	5,725,809	7,360,046
Receivables & Other	9,107,556	1,600,000	3,428,043	2,912,825
Investment Land	3,523,483	0	3,523,483	0
Stock on hand	1,006,121	800,000	1,083,708	1,033,538
	36,190,918	13,682,971	18,749,944	14,941,932
CURRENT LIABILITIES				
Borrowings	2,402,532	5,638,175	2,532,106	5,887,897
Creditors prov - Annual leave & LSL	2,543,719	2,286,053	2,245,816	2,023,128
Trust Liabilities	1,221,131	1,546,383	1,417,307	1,930,516
Creditors prov & accruals	3,141,378	3,101,240	6,656,166	4,190,792
	9,308,759	12,571,851	12,851,395	14,032,333
NET CURRENT ASSETS	26,882,159	1,111,120	5,898,549	909,599
NON CURRENT ASSETS				
Receivables	77,272	150,000	77,272	106,322
Pensioners Deferred Rates	320,922	280,000	320,922	292,616
Investment Land	2,220,758	2,150,000	2,220,758	2,150,000
Property, Plant & Equip	72,291,402	72,666,174	68,034,400	67,901,036
Infrastructure Assets	185,541,371	196,047,672	188,881,619	186,048,239
Local Govt House Shares	19,501	19,501	19,501	19,501
	260,471,226	271,313,347	259,554,473	256,517,714
NON CURRENT LIABILITIES				
Borrowings	18,264,569	12,626,394	18,264,569	15,996,675
Creditors & Provisions	364,845	260,000	364,845	259,838
	18,629,414	12,886,394	18,629,414	16,256,513
NET ASSETS	268,723,971	259,538,073	246,823,608	241,170,800
EQUITY				
Accumulated Surplus	245,002,204	232,764,720	221,268,686	212,131,561
Reserves	4,947,133	7,998,719	6,780,289	10,264,605
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634	18,774,634
	268,723,971	259,538,073	246,823,608	241,170,800

APPENDIX 5 - INCOME STATEMENT FOR THE PERIOD ENDED – 30th NOVEMBER 2010

Nature / Type	YTD Actual 2010/11	Budget-Total 2010/11	Actual 2009/10
INCOME			
Rates	24,019,102	25,574,053	21,575,584
Grants & Subsidies	1,282,802	3,196,680	3,424,202
Contributions. Reimb & Donations	65,728	349,738	395,475
Fees & Charges	3,114,513	7,280,601	7,091,836
Service Charges	3,715,857	3,735,000	3,011,136
Interest Earned	342,280	680,000	904,653
Other Revenue / Income	413,164	520,615	399,264
	32,953,446	41,336,687	36,802,149
EXPENDITURE			
Employee Costs	6,146,695	15,240,526	14,308,136
Utilities	515,939	1,362,613	1,335,373
Interest Expenses	72,618	1,101,799	1,180,372
Depreciation on noncurrent assets	4,695,930	12,334,000	11,226,465
Contracts & materials	3,593,633	13,274,398	10,516,730
Insurance expenses	545,478	511,098	476,810
Other Expenses	501,850	(273,177)	1,251,142
	16,072,144	43,551,257	40,295,028
Change in net assets from operations	16,881,303	(2,214,570)	(3,492,878)
Grants and Subsidies - non-operating	4,557,700	9,156,877	5,876,907
Contributions Reimbursements and Donations - non-operating	398,067	2,689,416	3,408,787
Profit/Loss on Asset Disposals	63,293	1,541,004	(23,732)
Fair value - Investments adjustment	0	0	1,651,060
	21,900,362	11,172,727	7,420,144

APPENDIX 6 - PORTFOLIO VALUATION - MARKET VALUE – 30 NOVEMBER 2010

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Sept 10	Market Value Oct 10	Market Value Nov 10	Latest Monthly Variation
MUNICIPAL ACCOUNT							
NAB	23/11/2010	1,000,000	5.60%	1,000,000	1,000,000		
Bankwest	23/11/2010	1,500,000	5.75%	1,500,000	1,500,000		
ANZ	24/11/2010	1,500,000	5.85%	1,500,000	1,500,000		
ANZ	28/01/2011	1,000,000	6.00%	1,000,000	1,000,000	1,000,000	
Bankwest	27/01/2011	1,000,000	6.00%	1,000,000	1,000,000	1,000,000	
Bendigo	25/02/2011	1,000,000	6.05%	1,000,000	1,000,000	1,000,000	
NAB	25/02/2011	1,500,000	6.07%	1,500,000	1,500,000	1,500,000	
Bendigo	3/11/2010	1,000,000	5.60%	1,000,000	1,000,000		
Bankwest	3/11/2010	1,500,000	5.60%	1,500,000	1,500,000		
ANZ	2/12/2010	1,500,000	5.85%	1,500,000	1,500,000	1,500,000	
Bankwest	17/01/2011	1,000,000	5.85%	1,000,000	1,000,000	1,000,000	
NAB	16/03/2011	1,000,000	6.07%	1,000,000	1,000,000	1,000,000	
ANZ	20/04/2011	1,000,000	6.20%		1,000,000	1,000,000	
Bendigo	7/04/2011	1,000,000	6.00%			1,000,000	
Bankwest	7/04/2011	1,500,000	6.00%			1,500,000	
NAB	11/05/2011	1,000,000	6.21%			1,000,000	
Bankwest	23/12/2010	1,500,000	5.55%			1,500,000	
ANZ	24/12/2010	1,500,000	5.50%			1,500,000	
				14,500,000	15,500,000	15,500,000	n/a

APPENDIX 6 - PORTFOLIO VALUATION - MARKET VALUE Continued – 30 NOVEMBER 2010

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Sept 10	Market Value Oct 10	Market Value Nov 10	Latest Monthly Variation
RESERVES ACCOUNT							
Bendigo	23/11/2010	1,500,000	5.85%	1,500,000	1,500,000		
Bendigo	16/12/2010	1,000,000	5.70%	1,000,000	1,000,000	1,000,000	
ANZ	12/05/2011	500,000	6.20%			500,000	
Bendigo	24/05/2011	1,500,000	6.30%			1,500,000	
				2,500,000	2,500,000	3,000,000	n/a
COMMERCIAL SECURITIES - CDOs (New York Mellon)**							
Saphire (Endeavour) AAA	4/08/2011	413,160	9.10%	160,000	160,000	160,000	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	307,100	307,100	307,100	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
		2,118,046		782,230	782,230	782,230	0
COMMERCIAL SECURITIES - CDOs - Other							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	144,500	144,500	144,500	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	11,000	11,000	11,000	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,750	68,750	68,750	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	48,000	48,000	48,000	0
		1,324,656		272,250	272,250	272,250	0
PORTFOLIO TOTAL		3,442,702		18,054,480	19,054,480	19,554,480	0

** These CDO's have been the subject of a Court Ruling in the United States Bankruptcy Court (as advised in a memorandum from the Executive Director Corporate & Community Services). The ruling has the potential to significantly impact the valuations for these CDOs. However, until the US Court and the English Court have worked together to reconcile their opposing rulings, it is unlikely that the City will receive any revised valuations.

APPENDIX 7 – FINANCIAL RATIOS

CITY OF ALBANY FINANCIAL RATIOS	30-Jun-09	30-Jun-10	31-Jul-10	31-Aug-10	30-Sep-10	31-Oct-10	30-Nov-10	Benchmark
Liquidity Ratios								
Current Ratio ¹	73.7%	118.5%	709.1%	681.3%	629.4%	621.3%	527.0%	>100%
Untied Cash to trade creditors Ratio ²	19.7%	45.4%	61.8%	1195.8%	2232.3%	3229.2%	1612.0%	>100%
Financial Position Ratio								
Debt Ratio ³	11.2%	11.2%	9.3%	9.1%	9.3%	9.3%	9.4%	<100%
Debt Ratios								
Debt Service Ratio ⁴	11.1%	7.5%	7.3%	7.3%	7.1%	6.8%	6.5%	<10%
Gross Debt to Revenue Ratio ⁵	63.2%	56.9%	71.2%	70.6%	69.3%	65.6%	62.8%	<60%
Gross Debt to Economically Realisable Assets ⁶	26.2%	25.9%	15.6%	15.4%	18.6%	18.8%	18.8%	<30%
Coverage Ratio								
Rate Coverage Ratio ⁷	58.5%	63.3%	92.0%	90.7%	84.9%	81.0%	77.7%	>33%
Effectiveness Ratio								
Outstanding Rates Ratio ⁸	3.7%	5.4%	4.7%	4.7%	4.9%	4.9%	4.9%	<5%

1. This ratio focuses on the liquidity position of a local government.
2. This ratio provides an indication of whether a local government has sufficient unrestricted cash to pay its trade creditors.
3. The ratio is a measure of total liabilities to total assets or alternatively the number of times total liabilities are covered by the total assets of a local government. The lower the ratio of total liabilities to total assets, the stronger is the financial position of the local government.
4. This ratio measures a local government's ability to service debt (principal and interest) out of its available operating revenue.
5. This ratio measures a local government's ability to service debt in any given year out of total revenue.
6. This ratio provides a measure of whether a local government has sufficient realisable assets to cover its total borrowings.
7. The Coverage Ratio measures the local governments dependence on rate revenue to fund its operations. The higher the ratio, the less dependent a local government is on grants and external sources to fund its operations.
8. The Effectiveness Ratio measures the effectiveness of a local government with the collection of its rates. It would be expected to be above 5% at this time of the year but reduce to below the benchmark at 30 June.

2.3: STRATEGIC PLAN REVIEW PROGRAM

File Number (Name of Ward)	: CM.MEE.4 (All Wards)
Land Description	: City of Albany
Disclosure of Interest	: Nil
Proponent	: City of Albany
Previous Reference	: OCM July 2008
Attachment(s)	: Proposed Framework for Review of Strategic Plan and Associated Action Plan
Appendices	: Nil
Consulted References	: Local Government Act 1995 Albany Insight Beyond 2020
Reporting Officer(s)	: Executive Director Corporate & Community Services (WP Madigan)
Responsible Officer	: Executive Director Corporate & Community Services (WP Madigan)

IN BRIEF

- Council adopt the proposed program for the Strategic Plan Review.

BACKGROUND

1. The City's Strategic Plan "Albany Insight" was adopted by Council in July 2008.
2. The Minister for Local Government, in response to the Better Practice Review has expressed concern about the delay in the City's review of its Strategic Plan because of the delay in recruiting the new CEO who should lead and be an integral part of the process.
3. The Strategic Plan Review will provide the framework for the review of the City's Plan for the future.
4. A proposed program is included as an attachment to this item.

DISCUSSION

5. Albany Insight consists of the following components:
 - **Vision**
By 2025 Albany will be ... "Historic Albany – Home to a vibrant, resourceful and culturally diverse community driven by a spirit of generosity and opportunity, nestled around a spectacular natural harbour in a region of unique beauty".
 - **Mission**
Working together to deliver innovation and service excellence for Albany

- **Values**

Our Values are REAL ...

Results
Ethics
Accountability
Leadership

- **Goals**

- (i) Lifestyle & Environment

Albany will be Western Australia's regional City of first choice offering a diverse range of healthy and active lifestyle opportunities, with energy efficient housing and development that respects our environment.

- (ii) Economic Development

Albany will be Western Australia's first choice for regional investment offering a wide range of development, employment and learning opportunities within a robust economy.

- (iii) City Centre

Albany's City Centre will be the most vibrant, safe, accessible and liveable in regional WA.

- (iv) Governance

The City of Albany will be an industry leader in good governance and service delivery.

6. Each of the major goals is supported by a number of initiatives to help achieve the major goal.
7. Each initiative is supported by a number of action plans to bring it into fruition. This ensures alignment.
8. Each element of the Strategic Plan requires review in relation as to whether that component is still relevant and the following time line has been prepared.

PUBLIC CONSULTATION / ENGAGEMENT

9. The proposed program includes referral of the draft vision/mission/goals to a key stakeholder meeting for input.
10. In relation to the Plan for the Future, the Local Government (administration) Regulations provides:

A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.

STATUTORY IMPLICATIONS

11. Section 5.56 (Planning for the future) of the Local Government Act provides:

- (i) A local government is to plan for the future of the district.*
- (ii) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

FINANCIAL IMPLICATIONS

12. There are no financial implications in adopting the Strategic Planning Review program.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

13. The Council may vary, amend or adopt the proposed program which has been prepared taking into account the appropriate commencement date of the CEO, and the preparation of the 5 Year Financial Plan.

RECOMMENDATION

ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION

The proposed Framework for the Review of the Strategic Plan and associated action plans be **ADOPTED**.

ITEM 2.3: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR LEAVESLEY
SECONDED: COUNCILLOR SWANN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

**2.4: REQUEST TO RENEW LEASE FOR A FURTHER 30 YEAR TERM –
REDWOOD CORPORATE PTY LTD T/AS ROSE GARDENS CARAVAN
PARK ON PORTION OF RESERVE 22698, EMU POINT**

Councillor Hammond left the Chamber at 8.08pm, having declared a financial interest.

File Number (Name of Ward)	: PRO085 (Breaksea Ward)
Land Description	: Lot 1461 on Plan 219777 being land in Certificate of Title Volume 3110 Folio 170 portion of Reserve 22698
Disclosure of Interest	: Nil
Proponent	: Redwood Pty Ltd trading as Rose Gardens Caravan Park , Directors Lykeratherra Jacob Chacko and Anna Rebecca Chacko
Previous Reference	: Item 2.7 OCM 10/11/10
Appendices	: Nil
Consulted References	: Council Policy – Property Management Leases Local Government Act 1995 Land Administration Act 1997
Reporting Officer(s)	: Executive Director Corporate & Community Services (WP Madigan)
Responsible Officer	: Executive Director Corporate & Community Services (WP Madigan)

IN BRIEF

- Consider request to exercise option to renew lease for a further 30 year term commencing 8 February 2011.

BACKGROUND

1. Reserve 22698 is under a Management Order H224437 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation and Associated Business Purposes” for any term not exceeding 50 years and subject to the consent of the Minister for Lands.
2. Rose Gardens Caravan Park is located at 45 Mermaid Avenue, Emu Point on portion of Reserve 22698.
3. In February 1961 the former Emu Point (Albany) Reserve Board granted a new lease to John Rose and Frederick Sexton for purpose of Caravan Park.
4. Since this date the lease has been assigned and varied many times. In July 1992 the former Town of Albany approved an assignment and variation of lease from Wayne Robins and Judith Robins to Jadekara Pty Ltd with Lionel Youens and Desmond Cunningham as Guarantors.
5. Option to Renew – The lease provides that the Assignee not being in default under the lease or this Deed and the payment of the rent reserved or in the performance or observation of the covenants, conditions and stipulations contained or implied on the Assignee's part to be performed and observed in the Lease or this Deed, will have the option to be exercised by giving the Lessor at its address appearing (or at any other address as the Lessor notifies the Assignee in writing for that purpose) not less than three (3) calendar months notice in writing

prior to the expiration of the term of renewing the term from the expiration of the term for a further term of thirty (30) years on the same covenants conditions and stipulations as are contained or implied in the Lease and this Deed (save and except this option of renewal which will be deemed expressly excluded) and at an annual rental to be determined in accordance with paragraph 10.1 of this Deed the first review date to be 25 August 2011.

6. The current tenant, Redwood Corporate Pty Ltd has given written notice on 5 October 2010 to exercise its option for a further term of 30 years commencing 8 February 2011.
7. This request was considered by Council at its meeting held on 16 November 2010 (Item 2.7) when it was resolved:

“THAT this item lay on the table, and the City seek further advice and meet with the tenants to resolve all outstanding matters of compliance.”

DISCUSSION

8. The tenant requested a list of all the requirements of the lease which had not been fulfilled, and what outstanding breaches under the Caravan Parks and Camping Grounds Regulations, have not been attended to.
9. The following information has been provided and represents obligations under the lease, variations and various assignments since the inception of the head lease:

Head Lease: Rose and Sexton (December 1962)

Clause 2 –

(d) To erect upon the water front suitably enclosed adequate and separate buildings for the use as dressing sheds by bathers of each sex and to provide therewith rescue equipment in a convenient and accessible position;

(e) To provide a suitable site for use as a children’s playground and equip the same with the usual amenities and facilities for recreation;

(f) To plant in suitable positions upon the demised premises ornamental trees for eventually providing adequate shade for campers and visitors;

(h) To construct at least twenty timber frames suitable for use by campers in support of their tents and to place the same in convenient positions on the demised premises;

Assignment and Variation of Lease – Town of Albany and Robins and Jadekara Pty Ltd (25 August 1992)

10.2 Improvements to the Leased Premises

The Assignee shall, as soon as practicable and at its cost and expense, effect the following improvements and renovations to the Leased Premises if not already effected so that each improvement or renovation is of a standard not less than a 4 star rating in accordance with the national classification guidelines on caravan parks and on site accommodation (or its equivalent from time to time) and assessed by the Royal Automobile Club of Western Australia (Inc.):

10.2 (d) Construct a modern recreation room and an outdoor recreation area.

10.2 (e) Arrange the installation of a public telephone within the Leased Premises.

10. In respect of the Regulations, the City is in the process of appointing an independent third party to undertake a detailed inspection of the park, and provide a list of any requirements under that legislation. This is in accordance with Clause 1(r) of the lease, and reasonable notice will be provided.

11. The tenant has been request to provide a timeline of when the works stipulated in Clause 9 (above) may be effected.
12. No response has been received from the tenant at the time of preparation of the item.

PUBLIC CONSULTATION / ENGAGEMENT

13. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including Leased land and buildings.

STATUTORY IMPLICATIONS

14. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.
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. As this is Crown Reserve 22698, under a Management Order issued to the City of Albany for the purpose “Recreation and Associated Business Purposes”, Minister for Lands approval of the option for a further 30 year term will be required.

FINANCIAL IMPLICATIONS

17. All costs associated with the preparation and implementation of the new licence documentation will be borne by the proponent, Redwood Corporate Pty Ltd.
18. The lease rental income will be directed to COA 140530 Income – Misc Commercial.

POLICY IMPLICATIONS

19. Council adopted a Property Management – Leases Policy in 2008. This policy aims to ensure that all requests for leases and licences, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
20. The recommendation is consistent with Council’s Policy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. Council is bound to accept any request to exercise option to renew lease provided the tenant has:
 - a. Exercised the option in the manner and timeframe specified in the lease; and
 - b. Complied with terms and conditions under the lease during the lease term.

RECOMMENDATION

ITEM 2.4: AMENDED RESPONSIBLE OFFICER RECOMMENDATION

That, subject to all necessary approvals being obtained and all statutory requirements undertaken, Council:

- (i) Agree to the extension of the lease of the Rose Gardens Caravan Park for a further term of 30 years commencing 8 February 2011.
- (ii) Include a specific clause dealing with the improvements, time for completion, default clauses in the event the Lessee fails to complete the improvements within the time set for completion and minimum standards for the improvements, as follows -

Improvements

- Construct a modern recreation room; and
- Children's playground with up to date equipment, amenities and facilities.

Time for completion

- 9 December 2011.

- (iii) Acknowledgement, subject to (ii) above that all of the Lessee's obligations under the existing lease will extinguish on the commencement of the new lease and the new lease will constitute the entire agreement between the City of Albany and the Lessee.
- (iv) Rent: As reviewed pursuant to clause 10.1 of the existing Lease.

Fixed Rent Review

25% of the gross rental value of the Leased Premises as assessed by the VGO or his nominee every five (5) years from the Commencement Date, the first review being on the Commencement Date.
CPI Rent Review

In between the Fixed Rent Review Dates and on the 8th day of February of each year of the Term.

- (v) Other clauses: Similar to the existing lease, updated to new practices and precedents.
- (vi) The Common Seal of Council be attached to all necessary documents.

Officer Comment (WP Madigan):

The Lessee has agreed to undertake the specified works within the given timeframes, and all the other Works the Lessee was required to perform under the existing lease are either out dated or out moded.

An independent inspection of the Park was undertaken on 6 December 2010, and provided a satisfactory report in relation to compliance with the Caravan Parks and Camping Grounds Regulations 1997. A copy of this inspection report has been previously distributed to elected members.

ITEM 2.4: AMENDED RESPONSIBLE OFFICER RECOMMENDATION

That, subject to all necessary approvals being obtained and all statutory requirements undertaken, Council:

- i. Agree to the extension of the lease of the Rose Gardens Caravan Park for a further term of 30 years commencing 8 February 2011.
- ii. Include a specific clause dealing with the improvements, time for completion, default clauses in the event the Lessee fails to complete the improvements within the time set for completion and minimum standards for the improvements, as follows:
Improvements
 - Construct a modern recreation room; and
 - Children’s playground with up to date equipment, amenities and facilities.Time for completion
 - 9 December 2011.
- iii. Acknowledgement, subject to (ii) above that all of the Lessee’s obligations under the existing lease will extinguish on the commencement of the new lease and the new lease will constitute the entire agreement between the City of Albany and the Lessee.
- iv. Rent: As reviewed pursuant to clause 10.1 of the existing Lease.
Fixed Rent Review

25% of the gross rental value of the Leased Premises as assessed by the VGO or his nominee every five (5) years from the Commencement Date, **the first review being on the anniversary of the original date (25th August 2012).**

CPI Rent Review

In between the Fixed Rent Review Dates and on the 25th day of August of each year of the Term.
- v. Other clauses: Similar to the existing lease, updated to new practices and precedents.
- vi. The Common Seal of Council be attached to all necessary documents.

ITEM 2.4: RESOLUTION (Amended Responsible Officer Recommendation)

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR SWANN**

THAT the Amended Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

Councillor Hammond returned to the Chamber at 8.12PM.

2.5: ADOPTION OF REVISED JETTIES, BRIDGES AND BOAT PENS LOCAL LAW

File Number (Name of Ward)	: RC.LIA.4 (All Wards)
Land Description	: Jetties, Bridges and Boat Pens managed by the City of Albany
Disclosure of Interest	: Nil
Proponent	: City of Albany
Previous Reference	: OCM 16/03/2010 Item 14.12.2
Appendices	: Revised "Jetties, Bridges and Boat Pens Local Law Copies of public submissions
Consulted References	: Local Government Act 1995 Local Government Guidelines Number 16 – September 2006
Reporting Officer(s)	: Executive Manager Community Services (D Schober)
Responsible Officer	: Executive Director Corporate & Community Services (WP Madigan)

IN BRIEF

- Adoption of the revised local law.

BACKGROUND

1. At OCM 16/03/2010 the draft revised 'Jetties, Bridges and Boat Pens' local law and was presented to council for consideration.
2. Revisions had been made to the 'Jetties Bridges and Boat Pens' local law including:
 - a) Removal of references to 'Town Jetty' as this structure is now under the control of the Department of Planning and Infrastructure.
 - b) Inclusion of clauses in relation to multiple ownership of vessels within the pen system, which close a number of current loopholes which have the potential to expose Council to liability and allow inequities in pen allocation.
 - c) A minor amendment in relation to termination of licence.
 - d) Amendments to requirements to live on board.
3. Council resolved to advertise its intention to review the local law, and invite submissions.

DISCUSSION

4. Following the invitation for submissions, two responses were received:

Correspondent	Friends of Emu Point
Submission	<i>Deletion of Clause 3.3 (c) (ii) in its entirety to be substituted with the following: " In the event the Designated Pen Holder sells, relinquishes or bequests their share in the vessel, the pen lease will be permitted to be transferred to the remaining silent partners; one of whom will become the Designated Pen Holder, provided that the nominated silent partner has been a registered 'silent partner' for a minimum of 5 (five) years."</i>
Officer Comment	Intent of submission supported, and draft local law modified to incorporate this proposal, and include definition of "partner/silent partner". The draft has been further modified to incorporate transfer of commercial pen holdings.

Correspondent	Stuart Clements
Submission	<i>When a vessel is sold the pen may be transferred to the new owner under the following conditions. (1)The purchaser of the vessel must have prior approval from the council to lease the pen. (2) The current lessee of the pen must have no fees or charges owing to the council and must advise the purchaser that lease of the pen is subject to council approval.</i>
Officer Comment	Recommendation: Not Supported. In the interests of equity to all prospective pen holders, transfer of pens are allocated to either remaining partners/silent partners (as above), or persons next on the wait list.

5. A copy of the proposed local law (including modifications) is included as an attachment to the item, in the appendices.

PUBLIC CONSULTATION / ENGAGEMENT

6. The proposed local law as advertised for a period of 6 weeks in accordance with the Local Government Act 1995.

STATUTORY IMPLICATIONS

7. Section 3.16 of the Local Government Act 1995 details that:
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended. * Absolute majority required.*

SUMMARY CONCLUSION

8. The purpose of the 'Jetties Bridges and Boat Pens Local Law' is to govern commercial and public use of the City's Emu Point Boat Pens and public use jetties. The effect is that the law specifies the safety requirements, rules, regulations and enforcement provisions for public use of these facilities.
9. The implementation of the 'Jetties Bridges and Boat Pens local Law' is believed to have contributed to a safe and efficiently operated Marina. The minor amendments made as part of the review are aimed enhancing the operation of the pens and ensuring equitable access for the Albany community. It is recommended that section 3.3 is further amended as detailed in the officer comment section within this item, based on the belief that the public comment made in this regard provides reasonable justification to do so.

RECOMMENDATION

ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION

That the 'Jetties, Bridges and Boat Pens Local Law' be ADOPTED.

ITEM 2.5: AMENDED RESPONSIBLE OFFICER RECOMMENDATION

- (i) That Council REPEAL the Jetties, Bridges and Boat Pens Local Law 2004 as published in the Government Gazette on 31 January 2005, as amended and published in the Government Gazette on 17 February 2006.
- (ii) That Council, in accordance with section 3.12 of the *Local Government Act 1995*, agrees to GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany Jetties, Bridges and Boat Pens Local Law 2010 including the recommendation made in the ADDENDUM to the Officer's Report.

ITEM 2.5: RESOLUTION (Amended Responsible Officer Recommendation)

MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR LEAVESLEY

THAT the Amended Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0
ABSOLUTE MAJORITY

GOVERNMENT CONSULTATION

The Senior Legislation Officer at the Department of Local Government and confirmed the process of repealing and implementing a new local law.

To affect the making of the new law the following clauses must be included in the law:

Insert Clause: Purpose and intent

Purpose: The purpose of the local law is to govern commercial and public use of the City's Emu Point Boat Pens and public use jetties. The local law will impose safety requirements, rules, regulations and enforcement provision for public use of these facilities.

Intent: This local law is intended to promote a safer environment for commercial and general public users of Council controlled Jetties, Bridges and Boat Pen Facilities.

Insert Clause: Repeal

The City of Albany Jetties, Bridges and Boat Pens Local Law 2004, as published in the *Government Gazette* on 31 January 2005, as amended and published in the *Government Gazette* on 17 February 2006, is repealed on the day this local law comes into operation.

Amend Clause: 1.2 Governor's consent

From (deleting clause 1.2(b): ~~(b) Note: to be amended as Albany Town Jetty is now no longer the vested responsibility of the City of Albany.~~

To: In accordance with section 3.6 of the Local Government Act 1995 the Governor of Western Australia granted his consent to these Local Laws in the following areas:

- (a) the Albany town Jetty structure (portion of Albany Town lot 1370 of Reserve 40635); and
- (b) the Emu Point Harbour Marina (the pen system located at Plantagenet Location 7031).

Amend Clause: 3.4 Mooring of vessel

Delete paragraph 3.4(a) An authorised person may—(a) board any vessel at any time to inspect or adjust any mooring lines;

The Joint Standing Committee on Delegated Legislation advised the City of Albany in 2005 that the Committee consider that because a boat is an item of private property and in some circumstances, a person's home, an express power to enter that property pursuant to the empowering enactment is required. If not so provided, then every unauthorised entry upon private property is a trespass, the right of a person in possession or entitled to possession to exclude others from those premises being a fundamental common law right.

The Local Government Act does not provide an express power of entry for an authorised person to enter private property such as a boat. On its face, this local law authorises an entry onto property in circumstances not covered by the Local Government Act.

The committee determined that this clause:

Erodes the common law right of property owners or occupiers to exclude others from entry onto their boats unless permitted by law. This principal reflects the policy of the law to protect the possession of property and the privacy and security of the occupier.

EM Business Governance Reason (S Jamieson):

The Jetties, Bridges and Boat Pens Local Law 2004 including the amendment (2005) as detailed in the report is out of date and has required significant amendments.

To avoid confusion it is recommended that Council repeals the previous versions and makes a new local law.

The recommended logical process, being:

- (1) Council identifies what is wrong with the current local law (which is detailed in the officer's report);
- (2) Council makes a decision to REPEAL the existing local law as it contains flaws and errors;
and
- (3) Council MAKE a new local law for Jetties, Bridges and Boat Pens.

2.6: ALBANY CULTURAL DEVELOPMENT COMMITTEE

File Number (Name of Ward)	: CR.PLA.3
Disclosure of Interest	: Nil
Business Entity Name	: City of Albany
Previous Reference	: OCM 19/06/2007
Attachment	: Nil
Reporting Officer	: Executive Manager Community Services (D Schober)
Responsible Officer	: Executive Director, Corporate and Community Services (WP Madigan)

IN BRIEF

- Propose to discontinue the Albany Cultural Development Committee and form the Albany Arts Development Committee as the peak body for the Arts in Albany.

BACKGROUND

1. The Albany Cultural Development Committee (ACDC) was formed in November 2007. The committee is advisory and meets four times per annum.
2. The Terms of Reference of the Committee are:

“To focus on the broader strategic direction of arts and culture in Albany including the outcomes of the planning process, the development of new facilities, securing professional leadership for the arts in Albany”

3. The Committee consists of:

Elected members: Mayor Evans, Crs Holden and Dufty

Community members: David Heaver, Lawrence Cuthbert, Sally Malone, Sue Codee, Andrew Markovs and Annette Davis.

There is currently one vacancy on the committee for a community member.

4. The committee was established to assist in delivering on the objectives of the City's Cultural Plan. Whilst initially running in parallel with the Cultural Planning Steering Committee it was envisaged ACDC would take over the remit of this committee following completion of the planning process and subsequent Cultural Plan document.
5. Over the past twelve to eighteen months community members of the committee have wanted to broaden the terms of reference to include such issues as transportation and venue management.
6. Resignations have been received by 3 community members and the committee has not met for the past 6 months.
7. The inclusion of the “Cultural” element in both the committee's name and terms of reference has led to confusion as it means different things to different people.

DISCUSSION

8. Feedback received from committee members and stakeholders indicates the terms of reference for ACDC are perhaps too broad and ambiguous. A peak body to advocate for arts with more defined terms of reference, specifically relating to the arts, would provide benefit to the City through an advisory function.
9. Given the significant number of art groups in Albany it is important that community engagement occurs in the areas of policy development and strategic planning relating to the arts. It will also be important to manage the perception of alienation should particular art groups not gain representation. It is therefore suggested that eight community positions be made available.

PUBLIC CONSULTATION / ENGAGEMENT

10. Staff have consulted with current and past members of the committee and a number of art groups to obtain feedback.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

11. This item directly relates to objective.

Albany will be a City where:

Lifestyle and Environment

- 1.4. *“Our cultural and artistic communities are valued, celebrated and supported”.*

OPTIONS

Option 1

Discontinue ACDC and form the Albany Arts Development Committee.

Option 2

Retain ACDC and continue with current terms of reference, accept resignations and call for new nominations to the committee.

RECOMMENDATION

ITEM 2.6: RESPONSIBLE OFFICER RECOMMENDATION

- 1. Discontinue the Albany Cultural Development Committee and thank all past and present committee members for their contribution.**
- 2. Form the Albany Arts Development Committee as the peak body for Arts in Albany by way of advertising and calling for eight community and two City of Albany elected members nominations.**
- 3. The first order of business for the Albany Arts Development Committee is to create the terms of reference and meeting schedule.**

ITEM 2.6: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR HOLDEN**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

2.7: CULL ROAD SUBDIVISION – SALE & MARKETING

ITEM WITHDRAWN

- File Number (Name of Ward)** : STR276 (Vancouver Ward)
Land Description : Cull Road Subdivision, Lot 247, 34 – 36 Cull Road, Lockyer
Business Entity Name : Harley Global Pty Ltd
Previous Reference : OCM 20/07/2010 Item 16.4.1
SCM 29/06/10 – Budget OCM 19/01/10 Item 19.1
OCM 15/12/09 Item 14.2.1 OCM 21/10/08 Item 12.2.2
OCM 18/08/09 Item 22.2 OCM 16/01/07 Item 13.7.1
OCM 21/04/09 Item 19.1 OCM 21/11/06 Item 12.2.1
OCM 18/11/08 Item 11.6.1 OCM 15/08/06 Item 12.7.1
OCM 16/11/10 Item 15.2
- Consulted References** : Local Government Act 1995 (Act)
Local Government (Functions and General) Regulations 1996
Council Policy – Land Development (Subdivision)
Council Policy – Disposal of Council Land April 2006
- Reporting Officer(s)** : Executive Director (WP Madigan)
Responsible Officer : Chief Executive Officer (Interim)(J Bonker)

ITEM WITHDRAWN

Reason for Withdrawal:

The engaged consultant has yet to formally report its recommendation to Council.

3.1: RATIONALISATION OF LAND USES SURROUNDING THE ALBANY WOOLSTORES

File Number (Name of Ward)	: EM.PLA.10 (Frederickstown Ward)
Land Description	: Private and Crown Land at the Albany Woolstores Site
Disclosure of Interest	: N/A
Proponent	: Department of Regional Development and Lands (DRDL)
Owner	: Crown / Rural Logistics
Business Entity Name	: Rural Logistics (formally Mainbeam Pty Ltd) : Grange Resources
Previous Reference	: OCM 18.01.00 item 15.1.1, OCM 13.06.00 item 13.5.1, OCM 19.08.08 item 13.7.2, OCM 20.01.09 item 13.8.2, OCM 18.05.10 item 15.3.4
Attachment(s)	: Land Parcels Map : Pathway Routes Map : Woolstores Land Owned by Rural Logistics Map
Consulted References	: Albany Harbours Dual Use Path Planning Strategy : Albany Trails Master Plan : Woolstores to Frenchman Bay Foreshore Management Plan : Munda Bididi Trail Memorandum of Understanding : Asset Management Plan – Pathways
Reporting Officer	: Manager City Projects – (S. Pepper)
Responsible Officer	: Executive Director Works and Services – (K. Ketterer)

IN BRIEF

1. The City has received a request from the Department of Regional Development and Lands to comment on two (2) proposals affecting lands in the vicinity of the Albany Woolstores site.
2. This report outlines the strategic importance of the site (s) for the City's future pathways network, Grange Resources slurry pipeline alignment and Rural Logistics future development plans.

BACKGROUND

3. From the City's perspective, the lands have long been recognized as a connection point for a dual use pathway as outlined in the following strategic documents;
 - Albany Harbours Dual Use Path Planning Strategy (1996);
 - Albany Trails Master Plan (2000);
 - Woolstores to Frenchman Bay Foreshore Management Plan (2000);
 - Munda Bididi Trail Foundation Memorandum of Understanding (2008), and
 - Asset Management Plan – Pathways (2009).

4. Grange Resources also have an interest in the land for a slurry pipeline alignment as part of their proposed Southdown Magnetite Project. Negotiations have been undertaken with Rural Logistics since 2007 however, to date, a resolution has not been reached.
5. The third party is Rural Logistics, the owners of large land parcels in the Woolstores area, who are reportedly planning a future development on their sites. The City has not yet received any development application in relation to the sites.

DISCUSSION

6. The Department of Regional Development and Lands (DRDL) has received two (2) requests regarding land uses in the Woolstores area and is seeking comment from the City on the following proposals;
 - A land acquisition request from Rural Logistics (formally Mainbeam Pty Ltd), and
 - An access agreement request from Grange Resources for pipeline alignment.
7. Rural Logistics are seeking to purchase parcels of unallocated Crown land and other reserves adjacent to their current land holdings and DRDL, in accordance with the Land Administration Act 1997, are seeking comments from the City and other public agencies over this proposal. It is understood that Rural Logistics sees the purchase and future amalgamation of these small lots as beneficial to their future development plans.
8. Staff have assessed the DRDL request and provide the following comments (see land parcel map attachment)
 - **(Map Reference 1)** This unallocated Crown land is not required by the City and therefore disposal is supported.
 - **(Map Reference 2)** Reserve 37011. This proposal is not supported. The land is required for drainage and utility services and is managed by the City for the purpose of 'Parking and Protection of Public Utility Services', with power to lease (21 years).
 - **(Map Reference 3)** This is unallocated Crown land, is not required by the City and therefore disposal is supported.
 - **(Map Reference 4)** This is unallocated Crown land, is not required by the City and therefore disposal is supported.
 - **(Map Reference 5)** Woolstores Place Road Reserve, this land is required for pathway land access and a service corridor and therefore disposal is not supported.
 - **(Map Reference 6)** This is Seawolf Road reserve, disposal not supported due to the land being required for access and foreshore protection.
 - **(Map Reference 7)** This is unallocated Crown land, disposal not supported and the City will seek Ministerial approval for land to be created as a reserve, managed by the City for 'Municipal Purposes', with power to lease (21 years) this will allow for continued access for the future pathway along the foreshore.
 - **(Map Reference 8)** Reserve 22837 for 'Railway Purposes'. Disposal is not supported and the City will request amalgamation into the abutting unallocated crown land (map reference 7).
 - **(Map Reference 9)** Frenchman Bay Rd portion. This disposal is not supported as this may be part of redevelopment of Hanrahan Rd by Main Roads.

9. The City's preferred position would see the release of a seven (7) metre right of carriageway easement along the northern boundary of the Rural Logistics land (plan and lot no. D073166 1) in order for the City to construct the dual use pathway with the Grange Resources slurry pipeline below ground.
10. Grange Resources has also requested DRDL to consider a request to access the unallocated Crown land south of the Rural Logistics land and a portion of the unconstructed Seawolf Road, as a possible alternative alignment for the underground pipeline. The Department, in accordance with the Land Administration Act 1997, is seeking comment from public agencies and the City before responding to the request.
11. The City's preferred route for the Grange pipeline is through Woolstores Place and the northern boundary of the Woolstores land along the railway line route, rather than along the foreshore for its pathway, as it involves fewer environmental issues and minimal interruption to any development potential for Rural Logistics. Negotiations with Rural Logistics would be required to seek a right of carriageway easement or the acquisition of land on the northern boundary of the Woolstores property to facilitate the pathway.
12. Staff support the proposal to seek Ministerial approval to have the unallocated Crown land on the southern side of the Woolstores amalgamated with Reserve 22837, and to be created as a reserve, managed by the City, purpose – "Municipal Purposes" and with power to lease. This arrangement would enable the foreshore land to be protected, in accordance with normal environmental procedures, as is applied to other water frontages and provide a legal route for the pathway.
13. Should Rural Logistics wish to utilise, cross or incorporate this waterfront reserve in their proposed development, they would then have to negotiate such change of use with the City.

PUBLIC CONSULTATION / ENGAGEMENT

14. The City has been involved in consultations with Rural Logistics and Grange Resources to determine the appropriate access alignment for the proposed dual use pathway across the Albany Woolstores property. The City has been a party to discussions which require the agreement of both developers to access land for the pipeline and pathway. The pipeline/pathway proposal with Grange Resources is seen as beneficial to all parties, as both infrastructure projects would then maximise the use of foreshore reserves by ensuring minimal disruption. Should agreement not be reached between the developers, Council could liaise with Rural Logistics to obtain a right of carriageway easement across the northern boundary of the Woolstores property to determine a preferred route for its pathway.

GOVERNMENT CONSULTATION

15. DRDL have been briefed about the Grange Resources magnetite project, and ongoing liaison has occurred, as land matters have arisen regarding the preferred alignment of the underground slurry pipeline.

STATUTORY IMPLICATIONS

16. The Land Administration Act 1997 (Section 41) allows the Minister to reserve Crown land for one or more purposes in the public interest, while section 46 allows the Minister to place the care, control and management of a reserve for that same purpose which is deemed beneficial or ancillary to that public purpose.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

17. This item directly relates to the following element from the Albany Insight – Beyond 2020 Corporate Plan:
- “4. Governance...
4.2 Manage our municipal assets to ensure they are capable of supporting our growing community.”*

POLICY IMPLICATIONS

18. There is no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. The City has the following options –

Council Requirements

- Support the proposal to construct a dual use path along the northern boundary of Albany Woolstores and through Woolstores Place to complete connectivity between Frenchman Bay and the Albany Foreshore as detailed in previously approved strategic planning documentation, subject to negotiations with Rural Logistics; and
- Seek Ministerial approval to have unallocated Crown land south of Albany Woolstores amalgamated with **Reserve 22837 (Map Reference 8)** and created as a reserve, managed by the City, and a purpose of “Municipal Purposes” with power to lease; or
- Support the proposal to construct a dual use path along the foreshore south of the Woolstores property; and
- Seek Ministerial approval to have unallocated Crown land south of Albany Woolstores amalgamated with **Reserve 22837 (Map Reference 8)** and created as a reserve, managed by the City, and a purpose of “Municipal Purposes” with power to lease.

Rural Logistics Application

20. Support the request to amalgamate surrounding Crown land with adjoining freehold lots, commonly known as Albany Woolstores, by Rural Logistics, subject to following clarifications;
- **(Map Reference 1)** This unallocated Crown land is not required by the City and therefore disposal is supported.

- **(Map Reference 2)** Reserve 37011. This proposal is not supported. The land is required for drainage and utility services and is managed by the City for the purpose of 'Parking and Protection of Public Utility Services', with power to lease (21 years).
 - **(Map Reference 3)** This is unallocated Crown land, is not required by the City and therefore disposal is supported.
 - **(Map Reference 4)** This is unallocated Crown land, is not required by the City and therefore disposal is supported.
 - **(Map Reference 5)** Woolstores Place Road Reserve, this land is required for pathway land access and a service corridor and therefore disposal is not supported.
 - **(Map Reference 6)** This is Seawolf Road reserve, disposal not supported due to the land being required for access and foreshore protection.
 - **(Map Reference 7)** This is unallocated Crown land, disposal not supported and the City will seek Ministerial approval for land to be created as a reserve, managed by the City for 'Municipal Purposes', with power to lease (21 years) this will allow for continued access for the future pathway along the foreshore.
 - **(Map Reference 8)** Reserve 22837 for 'Railway Purposes'. Disposal is not supported and the City will request amalgamation into the abutting unallocated Crown land (map reference 7).
 - **(Map Reference 9)** Frenchman Bay Rd portion. This disposal is not supported as this may be part of redevelopment of Hanrahan Rd by Main Roads.
 - **(Map Reference 8)** Reserve 22837 – Railway Purposes – disposal not supported – request for reserve to be managed by City and incorporated into unallocated land described under point 8 above.
 - **(Map Reference 9)** Frenchman Bay Road portion – disposal not supported – part of redevelopment of Hanrahan Rd by Main Roads.
21. That Rural Logistics relinquish a 7m wide portion of their land on their northern boundary as right of carriageway easement
or
22. Decline the request to amalgamate surrounding Crown land with adjoining freehold lots, commonly known as Albany Woolstores, by Rural Logistics.

Grange Resources Application

23. Support the preferred route through Woolstores Place and along the northern boundary of the Woolstores property;
or
24. Support the request to access the unallocated Crown land south of Albany Woolstores, for the provision of an underground slurry pipeline by Grange Resources.

SUMMARY CONCLUSION

25. The requests from DRDL involve commercial developments that provide the opportunity to address vacant land that is no longer required by the Crown. The potential sale of these land parcels offers the developer a better configuration for a future project. The underground pipeline alignment will enable Grange Resources to access the Albany Port.
26. This is also an opportunity to facilitate the dual use pathway connectivity from Frenchman Bay to the town centre, by resolving the land use issues.

RECOMMENDATION

ITEM 3.1: RESPONSIBLE OFFICER RECOMMENDATION

City of Albany Requirements

- 1) The proposal for a dual use path route along the northern boundary of Albany Woolstores and through Woolstores Place to complete connectivity between Frenchman Bay and the Albany foreshore as detailed in previously approved planning documentation, subject to negotiations with Rural Logistics be **SUPPORTED**;
- 2) **SEEK** Ministerial approval to have unallocated Crown land south of Albany Woolstores amalgamated with (Map Reference 8) Reserve 22837 and created as a reserve, managed by the City, and a purpose of "Municipal Purposes" with power to lease, in accordance with sections 41 and 46 of the *Land Administration Act 1997*;

Rural Logistics Application (See map attached)

- 3) The amalgamation of surrounding Crown land with adjoining freehold lots, commonly known as Albany Woolstores, by Rural Logistics, be **SUPPORTED** subject to :
- 4) The disposal of unallocated Crown land (Map Reference 1) be **SUPPORTED**;
- 5) The disposal of Reserve 37011 (Map Reference 2) subject to the registration of an easement in favour of the City for drainage and public and private underground services be **SUPPORTED**;
- 6) The disposal of unallocated Crown land (Map Reference 3) be **SUPPORTED**;
- 7) The disposal of unallocated crown land (Map Reference 4) due to the requirements for traffic turning facilities that would need to be incorporated in the road and parking design of future development of the Woolstores site be **DECLINED**. This condition would need to be confirmed as a condition of sale of this portion;
- 8) The disposal of Woolstores Place (Map Reference 5) subject to the registration of an easement in favour of the general public for access and services, both public and private, specifically to accommodate the City's planned pathways, as well as the City's preferred alternative route for the Grange pipeline be **SUPPORTED**. This condition would need to be confirmed as a condition of sale of this portion;
- 9) The disposal of Seawolf Rd reserve (Map Reference 6) due to land being required for access and foreshore protection be **DECLINED**;

- 10) The disposal of unallocated crown land (Map Reference 7) be DECLINED, Council seeks Ministerial approval for the land to be created as a reserve, managed by the City, for the purpose of – Municipal Purposes, with power to lease (21 years) – to allow access for pathway;
- 11) The disposal of Reserve 22837 (Map Reference 8) (Railway Purposes) request for reserve to be managed by the City and incorporated into unallocated land described under point 8 above be DECLINED;
- 12) The disposal of Frenchman Bay Rd portion (Map Reference 9) be DECLINED. This will be part of the redevelopment of Hanrahan Rd by Main Roads;
- 13) That Rural Logistics RELEASE a 7 m wide portion of their land on their northern boundary as right of carriageway easement;

Grange Resources Application

- 14) The preferred route through Woolstores Place and within the northern boundary of the Woolstores property be SUPPORTED;
- 15) Should point 14 not become viable then SUPPORT the request to access the unallocated Crown land south of Albany Woolstores, for the provision of an alternate underground slurry pipeline route by Grange Resources.

ITEM 3.1: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR WOLFE**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-3

Against the Motion: Councillors Sutton, Holden and Wellington

3.2: CONSTRUCTION OF CONCRETE KERBING – CONTRACT C10024

File Number or Name of Ward	: C10024 (All Wards)
Land Description	: N/A
Disclosure of Interest	: Nil
Proponent	: City of Albany
Owner	: City of Albany
Business Entity Names	: Various, detailed at Paragraph 5
Reporting Officer	: Works Engineer (M Bracknell)
Responsible Officer	: Manager City Works (M Richardson)

IN BRIEF

- Award Tender C10024 – Construction of Concrete Kerbing

BACKGROUND

1. Tenders were called for the construction of concrete kerbing for the City's road and pathway construction proposed for the 2010/2011 capital works program. The City's current contract for concrete kerbing expired in September 2010.

DISCUSSION

2. Tenders were called for the construction of concrete kerbing for Councils requirements for road and pathway construction proposed for the 2010/2011 capital works program.
3. The prices submitted are based on the supply of approx. 1,300 linear metres of various types of kerbing
4. The 1,300 linear metres is considered the typical amount of kerbing requirements based on the capital works programme for the 2010/11 financial year.
5. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for these tenders is documented below

Criteria	% Weight
Cost	50%
Technical Compliance & Experience	15%
Reliability	15%
Quality Accreditation	20%
TOTAL	100%

6. The following table summarizes the two submissions received by the close of the tender period

TENDERER	TOTAL PRICE (Inc. GST)	WEIGHTING
GORDON WALMSLEY PTY LTD	\$30,420.50	612.94
R & L BITUMEN REPAIR SERVICE	\$48,173.50	272.06

7. The following table indicates the tendered schedule of rates;

TENDER SUMMARY

ITEM	DESCRIPTION	UNIT	QTY (nominal m)	RATE	AMOUNT (\$)
	Supply and lay kerbing to specifications for the following range of quantities				
1	Mountable kerbing (25 MPa)	1m	200	\$13.50	\$ 2,700.00
	With Key	1m	100	\$17.50	\$ 1,750.00
	With Bar Reinforcement	1m	20	\$17.50	\$ 350.00
	With Fibre Reinforcement	1m	0	\$14.50	\$ 14.50
2	Semi-Mountable kerbing Type 1 (25MPa)	1m	200	\$14.50	\$ 2,900.00
			50	\$18.50	\$ 925.00
	With Key	1m	0	\$15.50	\$ 15.50
	With Bar Reinforcement	1m			
	Semi-Mountable kerbing Type 2 (25 MPa)	1m	200	\$14.50	\$ 2,900.00
	With Key	1m	50	\$18.50	\$ 925.00
	With Bar Reinforcement	1m	0	\$15.50	\$ 15.50
	Barrier kerbing (25 MPa)	1m	50	\$15.50	\$ 775.00
	With Bar Reinforcement	1m	100	\$16.50	\$ 1,650.00
	With Fibre Reinforcement	1m	500	\$16.50	\$ 8,250.00
4	Flush kerbing (25MPa)	1m	200	\$18.00	\$ 3,600.00
	With Bar Reinforcement	1m	50	\$19.00	\$ 950.00
	With Fibre Reinforcement	1m	100	\$19.00	\$ 1,900.00
5	Flush Beam (32 MPa)	1m	20	\$20.00	\$ 400.00
	With Bar Reinforcement	1m	20	\$20.00	\$ 400.00
TOTAL SCHEDULE OF RATES					\$30,420.50

ADDITIONAL RATES FOR EXTRA UNSPECIFIED WORKS

	DESCRIPTION	UNIT	RATE	AMOUNT (\$)
1	Supply and spread backfill behind kerb	m ³	\$5.00	N/A
2	Removal of existing kerb	1m	\$5.00	N/A
3	2 coat Bitumen emulsion spray seal 1.4 (residual) L/m ² with 5/7mm aggregate	m ²	\$8.00	N/A

8. All of the contract submissions were deemed acceptable to Council, however the level of documentation provided by one of the contractors was of marginal quality.
9. A schedule of Rates detailing estimated quantities, distances and types of kerbing required for a twelve-month period were supplied as part of the tender. Tenderers were required to submit a schedule of rates. The projected total amount of each item was then calculated to give a lump sum total for assessment.
10. Council's Regional Price Preference Policy was applied to all tenders.
11. Gordon Walmsley Pty Ltd is the current provider for construction of concrete kerbing for the City. The company to date has provided an acceptable level of service to the City.

PUBLIC CONSULTATION/ENGAGEMENT

12. A request for tenders was published in the West Australian on 29th September 2010 and the Albany Weekender on 30th September 2010.

GOVERNMENT CONSULTATION

13. Nil

STATUTORY IMPLICATIONS

14. Regulation 11 of the *Local Government (Functions and General) Regulations 1996* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.
15. Regulation 18 of the *Local Government (Functions and General) Regulations 1996* outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
16. Regulation 19 requires Council to advise each tenderer is writing the result of Council's decision:

FINANCIAL IMPLICATIONS

17. Given the funding timelines that Council are required to adhere to, the use of a local supplier is a much more cost effective solution for Council.
18. The kerbing component of each capital works project has been budgeted in the overall costs for these projects.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

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.

POLICY IMPLICATIONS

20. Councils Policy "Regional Price Preference Policy – Buy Local" is applicable to this item

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender.

SUMMARY CONCLUSION

22. The City has undergone a competitive process in line with the relevant legislation and established policies. The tender submission from Gordon Walmsley Pty Ltd scored the highest total weighting for all of the required evaluation criteria.

RECOMMENDATION

ITEM 3.2: RESPONSIBLE OFFICER RECOMMENDATION

The tender for the Construction of Concrete Kerbing (Tender C10024) submitted by Gordon Walmsley Pty Ltd as a Schedule of Rates, be ACCEPTED.

ITEM 3.2: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR SUTTON
SECONDED: MAYOR EVANS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

**3.3: PANEL OF SUPPLIERS CONSTRUCTION EQUIPMENT – CONTRACT
C10027**

Councillor Swann declared a financial interest and left the Chamber at 8.18PM.

File Number (Name of Ward) : C10027 (All Wards)
Land Description : N/A
Disclosure of Interest : N/A
Proponent : City of Albany
Owner : N/A
Business Entity Name : Various, detailed at Paragraph 5.
Reporting Officer(s) : Works Engineer (M Bracknell)
Responsible Officer : Manager City Works (M Richardson)

IN BRIEF

- Tender C10027 – Panel of Suppliers Construction Equipment - be AWARDED to various suppliers.

BACKGROUND

1. Council is seeking to establish a Panel of Suppliers for the supply of construction plant and equipment for a twelve month term. The availability of this type of equipment will be accessed to augment Council's own resources during peak construction and maintenance periods. Council's current contract for the Panel of Suppliers expired October 2010.

DISCUSSION

2. Tenders were asked to provide 'wet' hire' (equipment with an operator supplied) rates. These preferred suppliers will be used on an 'as and when' required basis with no guarantee of the amount of work required by Council.
3. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender.
4. The tenders were assessed in two stages.
 - o Stage 1 – Compulsory Compliance – provide evidence of current insurances and evidence of an In House Safety Management Plan.

Tenders must comply with the Compulsory Stage 1 before further evaluation is carried out.

- o Stage 2 – Assessment of Cost, Technical Compliance and Reliability of Contractor
The criteria used for this stage of the assessment is documented below

Criteria	% Weight
Cost	60%
Technical Compliance & Experience	20%
Reliability of Contractor	20%
TOTAL	100%

5. Tenders were divided into types of equipment and then evaluated on a weekly rate. The cost evaluation was calculated on 38 hours hire, 2 hours standby rate and the cost of two occurrences of mobilisation/demobilisation.
6. The following table summarizes the order of preferred supplier for each type of equipment evaluated.

Excavator 18 Ton

Name of Tenderer	Equipment	Weekly Cost	Total Score
Bill Gibbs Excavations	Kobelco SK200	\$4,576.00	503.37
Palmer Earthmoving P/L	Cat 318BL	\$5,289.00	416.8

Excavator 20 Ton

Name of Tenderer	Equipment	Weekly Cost	Total Score
Great Southern Sands	Volvo EC210C	\$4,142.00	530.2
Albany Industrial Services	Hitachi ZX230	\$4,224.00	465.6
Bill Gibbs Excavations	Komatsu PC220	\$4,994.00	421
Palmer Earthmoving	Cat 318BL	\$5,289.00	383.2

Excavator 25 Ton

Name of Tenderer	Equipment	Weekly Cost	Total Score
Great Southern Sands	Volvo EC 240B	\$4,582.00	559.6
Palmer Earthmoving P/L	Cat 322CL	\$6,406.00	360.4

Excavator 30 Ton

Name of Tenderer	Equipment	Weekly Cost	Total Score
Great Southern Sands	Volvo EC 290C	\$4,778.00	602.2
Bill Gibbs Excavations	Hyundai 290	\$5,830.00	501.4
Palmer Earthmoving	Volvo EC360CL	\$8,170.00	277

Bulldozer 8.6 Ton

Tenderers Name	Equipment	Weekly Cost	Total Score
Albany Industrial	Komatsu D53	\$4,114.00	420

Bulldozer 22 Ton

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Albany Industrial Services Pty Ltd	Komatsu D85	\$5,192.00	420

Bulldozer 37 Ton

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Great Southern Sands	Cat D7R	\$6,618.00	526
Palmer and Rayner Earthmoving Pty Ltd	Komatsu D85A-21	\$8,262.00	394

Bulldozer 45 Ton

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Great Southern Sands	Cat D9R	\$10,204.00	506.2
Palmer and Rayner Earthmoving Pty Ltd	Komatsu D155A-2	\$10,888.00	469
Palmer and Rayner Earthmoving Pty Ltd	Cat D9N	\$12,064.00	404.8

Padfoot Roller

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Great Southern Sands	Cat CP563	\$3,020.00	587.2
Palmer and Rayner Earthmoving Pty Ltd	Dynapac	\$4,642.00	332.8

Loader

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Albany Industrial Services Pty Ltd	Komatsu WA250	\$4,180.00	498
Great Southern Sands	Volvo 150F	\$5,022.00	433
Bill Gibbs Excavations	Hyundi 760-7	\$5,214.00	409

Truck (Semi Tipper)

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Great Southern Sands	Nissan UD 445	\$4,030.00	506.8
Albany Industrial Services Pty Ltd	Nissan UD 400	\$4,085.40	459.6
Palmer Earthmoving Pty Ltd	FH12	\$4,576.00	431.8
Bill Gibbs Excavations	Iveco Powerstar	\$4,796.00	401.8

Truck (Tandem)

Name of Tenderer	Equipment Provided	Weekly Cost	Total Score
Great Southern Sands	Nissan UD 385	\$3,250.00	513.4
Albany Industrial Services	Nissan UD 300	\$3,113.00	496.2
Palmer Earthmoving Pty Ltd	Nissan UD	\$3,948.00	395.8
Bill Gibbs Excavations	Iveco 4300	\$3,960.00	394

7. Should there be a requirement for other equipment not on the preferred supplier listing, then the normal procedure for quoting out for these services will apply.
8. Council's Regional Price Preference Policy was applied to all tenders.

PUBLIC CONSULTATION/ENGAGEMENT

9. A request for tenders was published in the West Australian on 9th October 2010 and the Albany Weekender on 7th October 2010.

GOVERNMENT CONSULTATION

10. Nil

STATUTORY IMPLICATIONS

11. Regulation 11 of the *Local Government (Functions and General) Regulations 1996* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.
12. Regulation 18 of the *Local Government (Functions and General) Regulations 1996* outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
13. Regulation 19 requires Council to advise each tenderer is writing the result of Council's decision:

FINANCIAL IMPLICATIONS

14. Tenderers were required to provide a schedule of rates for their services, including a standby rate and mobilisation/demobilisation rates. The supply of hire of construction equipment is budgeted for in the capital works and maintenance budgets. The tendered prices are within those allocations.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

15. 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 results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.”

POLICY IMPLICATIONS

16. Councils Policy “Regional Price Preference Policy – Buy Local” is applicable to this item

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender.

SUMMARY CONCLUSION

18. The City has undergone a competitive process in line with the relevant legislation and established policies. All the contractors that submitted tenders have provided construction plant and equipment to Council previously. To date, the quality of service has been acceptable to Council.

RECOMMENDATION

ITEM 3.3: RESPONSIBLE OFFICER RECOMMENDATION

Tender C10027 – Panel of Suppliers Construction Equipment be AWARDED to:

1. Albany Industrial Services for acceptance at the tendered rates.
2. Bill Gibbs Excavations for acceptance at the tendered rates.
3. Palmer Earthmoving Pty Ltd for acceptance at the tendered rates.
4. Great Southern Sands for acceptance at the tendered rates.

ITEM 3.3: MOTION 1

**MOVED: COUNCILLOR LEAVESLEY
SECONDED: MAYOR EVANS**

THAT this item lay on the table to enable further consultation and consideration by Council.

CARRIED 7-0

Councillor Swann left the chamber and did not participate in the discussion or vote having declared a financial interest.

Councillor Swann returned to the Chamber at 8.22PM.

**3.4: CONTRACT C10018 – TENDER FOR THE RECONSTRUCTION OF
DOWN ROAD**

Councillor Swann returned to the Chamber.

File Number (Name of Ward)	: DES142 (West Ward)
Land Description	: Road reserve for Down Road
Disclosure of Interest	: N/A
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer	: Manager Design & Compliance (Ben Whitfield)
Responsible Officer	: Executive Director Works & Services (K Ketterer)

IN BRIEF

- To seek award of tender for Down Road reconstruction.

BACKGROUND

1. Tenders were called for the reconstruction of 5.51 kilometres of Down Rd, in three sections. Tenders were requested for the following straight line kilometre (SLK) sections plus the full extent of works;
 - Section 1 - SLK 0.10 to SLK 0.76 (660m)
 - Section 2 - SLK 0.76 to SLK 3.20 (2440m)
 - Section 3 – SLK 3.20 to SLK 5.61 (2410m)
2. The request for tenders was advertised in the West Australian on 10 November 2010 and in the Weekender on 11 November 2010.
3. Four (4) tenders were received. Two representatives of the City of Albany reviewed the tenders for compliance and accuracy and evaluated the tenders according to the City of Albany guidelines.

DISCUSSION

4. The four (4) tenders received were:

TENDERER	PRICE (EX GST)	WEIGHTED SCORE
Western Stabilisers	\$ 2,965,590	635.05
4M Civil Contractors	\$ 4,727,000	243.73
APH Contractors	\$ 5,146,660	323.63
VDM Earthmoving	\$ 8,367,983	111.21

TENDER EVALUATION

5. Tenders were evaluated against four (4) criteria;
 - Cost (40%)
 - Technical Compliance & Methodology (30%)
 - Reliability and Experience (20%)
 - Safety Management (10%)
6. The rating scale method used is as set out by the City of Albany's tender evaluation cost scoring formula.
7. The tenders were evaluated and Western Stabilisers was assessed to be the preferred tenderer.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Governance:

4.2 Manage our municipal assets to ensure they are capable of supporting our growing community

POLICY IMPLICATIONS

9. The City of Albany Regional Price Preference Policy is applicable to this item.
10. The City of Albany Purchasing Policy (Tenders & Quotes) is applicable to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender
12. There are no legal implications relating to this item.

FINANCIAL IMPLICATIONS

13. This project is funded through monies from:
 - Timber Industry Road Evaluation Strategy (TIRES) \$ 450,000
 - Department of State Development \$ 180,000
 - Main Roads WA (Special Allocation) \$2,300,000
 - City of Albany \$ 225,000

Total **\$3,155,000**

14. The various components of the project include:

- Geotechnical investigation and pavement design \$ 22,250
- ** Construction (Tender values)
 - Section 1 \$ 576,843
 - Section 2 \$1,288,695
 - Section 3 \$1,100,052
- 2nd coat bitumen seal (additional required works) \$ 300,000
- Superintendence of construction (to be appointed) \$ 95,000
- Contingency (10% of full tender value) \$ 296,500

Total **\$3,679,340**

** It is intended to complete Sections 1 and 2 of the works with Section 3 being partially completed to accommodate the budget constraint.

15. The amount of funding budgeted from the combined sources (\$3,155,000) is insufficient to fully complete this project. The reconstruction of Section 3 is a lower priority as the existing road surface is less deteriorated than Section 1 and 2. The Tenderer will be instructed to complete a reduced scope of works for Section 3, totalling \$623,325. Subsequently the contingency amount will be reduced to \$248,886, which ensures that the project cost is within the \$3,155,000 available.

16. To ensure this project remains within budget, the scope of works will need to be reduced. The reduced scope of works will result in the following expenditure summary:

- Geotechnical investigation and pavement design costs (already incurred) \$ 22,250
- Construction (Tender values)
 - Section 1 \$ 576,843
 - Section 2 \$1,288,695
 - Section 3 \$ 623,325
- 2nd coat bitumen seal (additional required works) \$ 300,000
- Superintendence of construction (to be appointed) \$ 95,000
- Contingency (10% of full tender value) \$ 248,886

Total **\$3,154,999**

17. The appointment of the preferred tenderer will ensure the project costs are maintained at the budget figure. It is proposed to seek additional funding in 2011/12 from TIRES to complete the remainder of Section 3 including the second coat bitumen seal.

18. The price of the preferred tender represents good value for money.

SUMMARY CONCLUSION

19. The Western Stabilisers tender submission scored the highest total points (635.05) of all the required evaluation criteria for the reconstruction of Down Road.

RECOMMENDATION

ITEM 3.4: RESPONSIBLE OFFICER RECOMMENDATION

1. The tender from Western Stabilisers for a reduced scope of works totalling \$2,488,863 excluding GST be ACCEPTED;
2. The allocation of associated funding not included in the tender, ie:
 - a second coat seal, of \$300,000 to be applied as part of the contract;
 - a construction Superintendence fee of \$95,000;
 - a contingency of \$248,886 (not included in the tendered sum)be AUTHORISED.

ITEM 3.4: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR WOLFE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

**3.5: CONTRACT C10015 – TENDER FOR ROAD CONSTRUCTION ON
LOWER KING ROAD**

Councillor Swann declared a financial interest and left the Chamber at 8.23PM.

File Number (Name of Ward) : DES216 (West Ward)
Land Description : Road reserve for Lower King Road
Disclosure of Interest : N/A
Proponent : City of Albany
Owner : City of Albany
Reporting Officer(s) : Manager Design & Compliance (Ben Whitfield)
Responsible Officer : Executive Director Works & Services (K Ketterer)

IN BRIEF

- To seek award of tender for Lower King Road construction works.

BACKGROUND

1. Tenders were called for the reconstruction of 1.2 km of Lower King Rd. Tenders were requested for the works to be undertaken in equal portions over two financial years (2010/2011 and 2011/2012), to conform with the funding arrangements.
2. The request for tenders was advertised in the West Australian on 10 November 2010 and in the Weekender on 11 November 2010.
3. Five (5) tenders were received. Two representatives of the City of Albany reviewed the tenders for compliance and accuracy and evaluated the tenders according to the City of Albany guidelines.

DISCUSSION

4. The five (5) tenders received were:

TENDERER	PRICE (EX GST)	WEIGHTED SCORE
AD Contractors	\$766,918.50	610.6
APH Contractors	\$931,959.00	487.2
Palmers Earthmoving	\$1,015,930.00	457.6
4M Civil Contractors	\$1,399,200.00	171.8
VDM Earthmoving	\$1,715,993.87	222.8

TENDER EVALUATION

5. Tenders were evaluated against four (4) criteria;
 - Cost (40%)
 - Technical Compliance & Methodology (30%)
 - Reliability and Experience (20%)
 - Safety Management (10%)
6. The rating scale method used is as set out by the City of Albany's tender evaluation cost scoring formula.
7. The tenders were evaluated and AD Contractors was assessed to be the preferred tenderer.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

8. Strategic plan relevant to the matter "Not Applicable".
9. This item directly relates to the following elements from the Albany Insight – Beyond 2020 Corporate Plan:

"Governance:

4.2 Manage our municipal assets to ensure they are capable of supporting our growing community

POLICY IMPLICATIONS

10. The City of Albany Regional Price Preference Policy is applicable to this item.
11. The City of Albany Purchasing Policy (Tenders & Quotes) is applicable to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender
13. There are no legal implications relating to this item.

FINANCIAL IMPLICATIONS

14. The price of the preferred tender represents good value for money. The appointment of the preferred tenderer will ensure the project costs are maintained at the budget figure.
15. Regional Road Group funding was sought for this project over 2010/11 and 2011/12. The 2010/11 funding has been approved and the 2011/12 funding has been given preliminary approval.

16. The 2010/11 project is funded through monies from:
- Main Roads WA (RRG) \$ 300,000
 - City of Albany \$ 170,000**
- Total \$ 470,000**

** Note: Extra cost above RRG 2:1 contribution for piped drainage works, to be funded by Council

17. The remaining work, is intended to be funded in 2011/12 through monies from (preliminary amounts submitted in RRG application):
- Main Roads WA (RRG) \$ 283,333
 - City of Albany \$ 184,167
- Total \$ 467,500**

18. The two-year, projected budget totals **\$937,500** and should the project come in under budget, there will be savings in the 2011/12 budget year. To ensure this project remains within the two year budget projection, the following expenditure summary applies:
- Construction (tendered amount) \$ 766,918.50
 - Superintendence of construction (to be appointed) \$ 60,000.00
 - Contingency (10% of full tender value) \$ 76,692.00
- Total \$ 903,610.50**

SUMMARY CONCLUSION

19. The AD Contractors tender submission scored the highest total points (610.6) of all the required evaluation criteria for the Road Construction on Lower King Road. That tender should be accepted.

RECOMMENDATION

ITEM 3.5: RESPONSIBLE OFFICER RECOMMENDATION

1. The tender from AD Contractors for \$766,918.50 excluding GST be **AWARDED**;
2. Funds be **APPROVED** for:
 - a construction Superintendence fee of \$60,000;
 - a contingency of (\$76,692) (not included in the tendered sum)

ITEM 3.5: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR HOLDEN

SECONDED: COUNCILLOR WOLFE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

Councillor Swann declared a Financial Interest in this item. Councillor Swann left the chamber and did not participate in the discussion or vote.

Councillor Swann returned to the Chamber at 8.24PM.

3.6: SUPPLY OF BITUMEN – CONTRACT C10019

File Number or Name of Ward	: C10019 (All Wards)
Proponent	: City of Albany
Disclosure of Interest	: Nil
Business Entity Names	: Various, detailed at Paragraph 5.
Previous Reference	: Nil
Attachment	: Nil
Consulted References	: Nil
Reporting Officer	: Works Engineer (M Bracknell)
Responsible Officer	: Manager City Works (M Richardson)

IN BRIEF

- Tender C10019 – Supply of Bitumen - be AWARDED to RnR Contracting Pty Ltd

BACKGROUND

1. Council's current contract for the supply of bitumen expired November 2010. As the supply of bitumen is expected to be worth more than \$100,000, Council is required to tender for this service.

DISCUSSION

2. Tenders were called for the supply of bitumen for Councils requirements for road and pathway construction for a twelve month period.
3. The prices submitted are based on the supply of approx. 127,000 litres of bitumen.
4. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for these tenders is documented below

Criteria	% Weight
Cost	50%
Technical Compliance & Experience	15%
Reliability	15%
Quality Accreditation	20%
TOTAL	100%

5. The following table summarizes the two submissions received by the close of the tender period.

TENDERER	TOTAL PRICE (Inc. GST)	WEIGHTING
RnR Contracting Pty Ltd	\$169,842.00	458.5
Malatesta Road Paving & Hot Mix	\$198,116.50	381.5

6. All of the contract submissions were deemed acceptable to Council.
7. A schedule of Rates detailing estimated quantities required for a twelve-month period were supplied as part of the tender. Tenders were required to submit a schedule of rates. The projected total amount of each item was then calculated to give a lump sum total for assessment. Given that Council is unsure of next year's capital works programs, costs were calculated on volumes required to complete this financial years scheduled works
8. Council's Regional Price Preference Policy was applied to all tenders.
9. RnR Contracting Pty Ltd have worked for Council previously, and to date, have provided an acceptable level of service to Council.

PUBLIC CONSULTATION/ENGAGEMENT

10. A request for tenders was published in the West Australian on 20th November 2010 and the Albany Weekender on 18th November 2010.

GOVERNMENT CONSULTATION

11. Nil

STATUTORY IMPLICATIONS

12. Regulation 11 of the *Local Government (Functions and General) Regulations 1996* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.
13. Regulation 18 of the *Local Government (Functions and General) Regulations 1996* outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
14. Regulation 19 requires Council to advise each tenderer in writing of the result of Council's decision:

FINANCIAL IMPLICATIONS

15. The bitumen component of each capital works project has been budgeted for in the overall costs for these projects.
16. Funding for the projected works is a mixture of Council, Roads to Recovery and Regional Road Group Grant funds.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

17. 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 results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.”

POLICY IMPLICATIONS

18. Councils Policy “Regional Price Preference Policy – Buy Local” is applicable to this item

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender.

SUMMARY CONCLUSION

20. The City has undergone a competitive process in line with the relevant legislation and established policies. The tender submission from RnR Contracting Pty Ltd scored the highest total weighting for all of the required evaluation criteria.

RECOMMENDATION**ITEM 3.6: RESPONSIBLE OFFICER RECOMMENDATION**

Tender C10019 – Supply of Bitumen – be AWARDED to RnR Contracting Pty Ltd for acceptance of the tendered rates estimated to the amount of \$169,842.00 (inc. GST)

ITEM 3.6: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SWANN

SECONDED: COUNCILLOR WOLFE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

4.1: ELECTED MEMBERS INFORMATION BULLETIN

File Number or Name of Ward : All Wards
Disclosure of Interest : Nil
Reporting Officer(s) : Assistant Business Governance Officer
(J Williamson)
Responsible Officer(s) : Chief Executive Officer (J Bonker)

IN BRIEF

- Receive the contents of the Elected Members Information Bulletins for both the November & December meetings of Council.
- The Elected Member Information Bulletin was presented at the November ordinary meeting of Council; however was not formally received by council resolution.

ITEM 4.1: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Elected Members Information Bulletin 16th November 2010 be RECEIVED.

THAT the Elected Members Information Bulletin 14th December 2010 be RECEIVED.

ITEM 4.1: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR WOLFE**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

4.2: ACCEPTANCE OF ANNUAL REPORT

File Number (Name of Ward)	: FM.FIR.2 - All Wards
Disclosure of Interest	: Nil
Business Entity Name	: City of Albany
Appendices	: Annual Report 2009-10 distributed separately
Reporting Officer	Manager of Finance (P Wignall)
Responsible Officer	: Executive Director (WP Madigan)

IN BRIEF

- The Audit Committee reviewed the Auditors Report to the Audit Committee. The City's auditor, Grant Thornton presented an overview of the audit process and findings.
- The Audit Committee reviewed the Financial Statements for 2009-10.

BACKGROUND

1. Nil

DISCUSSION

2. The annual report is produced in a digital format this year. It is a visible demonstration of the City's commitment to sustainability and the environment. It saves on both production costs and on the need for paper, conserving natural resources.
3. In PDF format the Report can be read direct from the CD-ROM or downloaded to any computer with Acrobat Reader installed. For the visually impaired, the size of the page can be increased simply by clicking on the + button in the Reader's toolbar at the top of the screen.
4. The Report can also be viewed on the City's website: www.albany.wa.gov.au under Your Council, City of Albany Annual Report. Further copies of the CD-ROM are also available from the City of Albany.

PUBLIC CONSULTATION / ENGAGEMENT

5. The public will be given the opportunity to comment and provide feedback on the Annual Report at the General Meeting of Electors to be held on Tuesday 8 February 2011 at 6pm in the Council Chambers, 102 North Road Yakamia.

STATUTORY IMPLICATIONS

6. Section 5.54 of the *Local Government Act 1995* requires acceptance of the annual report by 31 December :

5.54. Acceptance of annual reports

(1) Subject to subsection (2), the annual report for a financial year is to be accepted by the local government no later than 31 December after that financial year. * Absolute majority required.*

FINANCIAL IMPLICATIONS

7. The Annual Report contains the Financial Statements for the year ended 30th June 2010.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

8. The Annual Report contains an overview of the plan for the future in accordance with section 5.53 of the *Local Government Act 1995*.

POLICY IMPLICATIONS

9. Nil

RECOMMENDATIONS

ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION

In accordance with the requirements of section 5.54 of the *Local Government Act 1995*, the City of Albany Annual Report for the year ending 30th June 2010 be **ACCEPTED**.

ITEM 4.2: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR SWANN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

4.3: ANNUAL REVIEW OF DELEGATIONS

File Number (Name of Ward)	: PE.AUT.1 (All Wards)
Previous Reference	: OCM 21/04/09 Item 14.4.1 OCM 16/11/10 Item 4.7 Elected member workshop 23/11/10.
Attachment	: Nil
Appendices	: Nil
Consulted References	: Local Government Act 1995 (Act) Local Government (Miscellaneous Provisions) Act 1960 Interpretation Act 1984 Better Practice Review – City of Albany – Interim Report – July 2010 Local Government <u>Local Law Register</u>
Reporting Officer	: Executive Manager Business Governance (S Jamieson)
Responsible Officer	: Chief Executive Officer – Interim (J Bonker)

IN BRIEF

- Annual Review of Council Delegations

BACKGROUND

1. Under the provisions of the Local Government Act 1995, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committee's of Council to help facilitate the many services it provides to the community.
2. At least once every financial year, the powers and duties delegated under the Local Government Act are required to be reviewed by the delegator.
3. On 16/11/10 Council resolved to refer all delegations to an elected member's workshop for additional review. This was conducted on the 23/11/10.

DISCUSSION

4. It is a statutory requirement to review the delegations every financial year.
5. Delegations under the Dog Act 1995 cannot be sub-delegated and must be made direct from Council to the designated officer and have been presented in a separate report to Council.
6. Section 5.42 of the Local Government Act 1995 allows Council to delegate to the Chief Executive Officer and/or Committee.
7. Delegations have been grouped as follows:
 - Group 1 - Delegated direct to the CEO;
 - Group 2 - Delegated to the CEO through Council Policy; and
 - Group 3 - Delegation to the CEO, appointment of authorised persons.

Changes to current delegations

8. All delegations have been reviewed with the changes being proposed for:
- **4.3.1 - Appointing an Acting CEO.** (Conditions)
 - **4.3.3 - Elected member IT Allowance.** (New delegation);
 - **4.3.6 - Closing Certain Thoroughfares to Vehicles.** (New delegation)
 - **4.3.11 - Disposal of Council Property.** (Name change from Disposal of Council Land, increase from \$5,000 to \$50,000)
 - **4.3.21 - Road Widening** (increase from \$50,000 to \$100,000);
 - **4.3.23 - Tenders** (increase from \$100,000 to \$250,000);
 - **4.3.24 - Write off Monies.** (Increase from \$2,000 to \$10,000, Conditions. Note this also includes rates penalty interest)
 - **4.3.25 – Financial Assistance & Events Funding Program Committee Delegation.** Cancelled and delegated to CEO (Conditions).
 - **4.3.26.1 – Human Resources Policy (Acknowledgement Payments).** (Cancelled).
 - **4.3.30 – Council Policy – Subdivision and Development Guidelines.** (Modified, delegated to the CEO).
 - **4.3.32 – Authorised Officers – Dog Act 1976.** (Separate Report).

STATUTORY IMPLICATIONS

Delegation to CEO

9. Section 5.42 of the Act enables the delegation of some powers and duties to the Chief Executive Officer:

“1) A local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.”

Delegation to Committees

10. Section 5.16 and 5.17 of the Act enables the delegation of some powers and duties to a committee:

“1) Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than the power to delegate;

2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.”

Delegations to be reviewed every financial year

11. Under the provisions of section 5.46 (2) of the Act, delegations must be reviewed by the delegator at least once every financial year.

Appointment of authorised persons

12. Section 9.10 of the Act. The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

RESPONSIBLE OFFICERS RECOMMENDATIONS

4.3.1 - APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

That, under section 5.37 of the Local Government Act 1995, the CEO be delegated to appoint an Acting Chief Executive Officer (A/CEO).

Conditions:

- The City employee must hold the substantive position of ‘Executive Director’ and is designated a ‘Senior Employee’ as required by the Act.
- Appointments being for no longer than thirty-five (35) days, with all other appointments to the position of Acting Chief Executive Officer referred to Council for determination.

Applicable legislation/policy: *Local Government Act 1995, section 5.37 (Senior Employees)*

Report to File.

4.3.2 - APPOINTMENT OF PRINCIPAL BUILDING SURVEYOR

That, under section 373A (Qualifications) and section 373B (Appointment) of local government building surveyors) of the *Local Government (Miscellaneous Provisions) Act 1960*, the CEO be delegated authority to appoint a principal building surveyor.

Applicable legislation/policy: *Local Government (Miscellaneous Provisions) Act 1960*

Report to File.

4.3.3 - AUTHORITY TO PAY ELECTED MEMBER IT ALLOWANCES

That, in accordance with Council’s resolution 4.3 – 17/08/2010, authority to pay Elected member IT Allowances, be delegated to the CEO.

Applicable legislation/policy: *Council resolution 4.3 dated 17/08/2010.*

Report to File.

4.3.4 - BUILDING LICENCES

That, under the *Local Government (Miscellaneous Provisions) Act 1960*, section 374AAB and regulation 6(4) of the *Local Government (Building Surveyors) Regulations 2008*, the CEO be delegated authority to appoint qualified building surveyors and/or technicians to approve or refuse:

- Plans and specifications submitted under section (s.374);
- Unauthorised building works under section (s.374AA);
- Buildings which encroach over a public place or street no more than 0.4 of a metre; and
- Enforce the completion or removal of unfinished buildings (s.409A).

Applicable legislation/policy:

- *Local Government (Miscellaneous Provisions) Act 1960, Part XV, Division 2*
- *Local Government (Building Surveyors) Regulations 2008, Regulation 6(4).*

Report to Elected Member Information Bulletin.

4.3.5 - BUSHFIRES AGREEMENTS

That, under the *Fire and Emergency Services Authority of Western Australia Act 1998*, the CEO be delegated the authority to execute 'Grant and Service Agreements' arranged with the Fire & Emergency Services Authority of WA.

Applicable legislation/policy:

- *Fire and Emergency Services Authority of Western Australia Act 1998*
- *Rates and Charges (Rebates and Deferments) Act 1992*

Report to File.

4.3.6 - CLOSING CERTAIN THOROUGHFARES TO VEHICLES

That, under section 3.50 (1a) of the *Local Government Act 1995*, the CEO be delegated to close any thoroughfare for the passage of vehicles wholly or partially for a period not exceeding four weeks.

Applicable legislation/policy:

- *Local Government Act 1995, sections 3.50 (Closing certain thoroughfares to vehicles) 3.50(1a) (Public notice for a period exceeding 4 weeks)*

Report to File.

4.3.8 - COMMON SEAL

That, under sections 2.5 and 9.49 of the *Local Government Act 1995* the CEO be delegated the authority to attach the Common Seal to documents.

Condition: Subject to the restrictions imposed by section 5.43 of the *Local Government Act 1995*.

Applicable legislation/policy:

- *Local Government Act 1995, section 2.5 (Local governments created as bodies corporate)*
- *Local Government Act 1995, section 9.49A (Execution of documents)*

Note: The City of Albany is a body corporate with perpetual succession and a common seal. The Local government has the legal capacity of a natural person. The common seal is the official stamp or "signature" of the City of Albany. A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

Report to Elected Member Information Bulletin.

4.3.9 - COMMUNITY FINANCIAL ASSISTANCE (SUNDRY DONATIONS)

That, in accordance annual budget allocation and the conditions imposed by the *Community Financial Assistance & Events Funding Program Policy*, the CEO be delegated authority to approve/decline donations up to \$200.

Applicable legislation/policy:

- *Council Policy - Community Financial Assistance & Events Funding Program*

Report to Elected member information bulletin.

4.3.10 - CROWN RESERVES

That, under section 3.54 of the *Local Government Act 1995* the CEO be delegated authority to process requests related to Crown Reserves.

Conditions:

- Creation and Change of Purpose of a Crown Reserve must be compliant with City Town Planning Schemes.
- Authority to approve and comment on requests from the Crown be limited to leases not requiring any structures to be built.

Applicable legislation/policy:

- *Local Government Act 1995, sections 5.43 (Limits on delegation to CEO) 3.54 (Reserves under control of local government)*
- *Land Administration Act 1997*
- *Parks and Reserves Act 1895*

Report to File

4.3.11 - DISPOSAL OF COUNCIL PROPERTY

That, under section 3.58 of the *Local Government Act 1995*, the CEO be delegated authority to:

- Sell a property, which is valued at less than **\$50,000** dollars and is not capable of being independently developed.
- Engage an auctioneer, real estate agent and settlement agent to represent the City, and to negotiate the sale of the property.

Applicable legislation/policy:

- *Local Government Act 1995, section 3.58 (2) (Disposing of Property) , section 3.59 of the (Commercial Enterprises by Local Governments)*
- *Local Government (Functions and General) Regulations, Regulations 7, 8, 30 & 31*
- *Council Policy - Disposal of Council Land Policy*

Report to File

4.3.12 - DRAINAGE EASEMENTS

That, under section 3.27 of the *Local Government Act 1995* the CEO be delegated authority to obtain drainage easements for Council's drainage needs.

Conditions:

- All alternative routes with regard to stormwater discharge shall be investigated as part of the easement process;
- Easement location be based on sound engineering knowledge taking into account existing and future drainage systems;
- Should the issue of compensation form part of the negotiations of gaining an easement over private property, an independent valuation is to be obtained from a licensed valuer;
- Compensation shall only be paid to a maximum of \$25,000.00;
- No payment of compensation is to be paid until the easement has been registered with the Titles Office;
- Easement width shall be to a maximum of 3 metres wide (urban) or 10 meters wide (rural);
- Location of easement is agreed to by the affected land owner; and
- Agreement has been obtained from the affected landowner for the grant of easement.

Applicable legislation/policy:

- *Local Government Act 1995, section 3.27, schedule 3.2 (Particular things local governments can do on land even though it is not local government property)*

Report to File

4.3.13 - GEOGRAPHIC NAMES COMMITTEE

That, under section 26A of the *Land Administration Act 1997* the CEO be delegated authority to forward recommendations of street names to the Committee in accordance with the Geographic Names Committee, Western Australia, Principles, Guidelines and Procedures.

Applicable legislation/policy:

- *Land Administration Act 1997, Part 2 – General administration, Division 3 – General 26. Constitution, etc. Of land districts and town sites*

Report to File

4.3.14 - GROSS RENTAL VALUATION

That, under section 6.32 of the *Local Government Act 1995* the CEO be delegated authority to apply a Gross Rental Valuation (GRV) rating to areas.

Applicable legislation/policy:

- *Local Government Act 1995, 6.32 (Rates and service charges)*

Report to Elected Member Information Bulletin

4.3.15 - LEASES

That, under Part 6 of the *Land Administration Act 1997* the CEO be delegated authority to administer the following functions:

- APPROVE requests to take up a lease option on a current lease or sub-lease, subject to there being no variation to the lease and all accounts being paid in full;
- RENEGOTIATE current lessee or sub-lessee rental, subject to the figures being within the independent sworn valuation;
- APPROVAL to assign a lease for current lessee or sub-lessee ,subject to there being no variations to the current lease conditions; and
- PROCESS applications for a sublease, where there is a current lease in place.

Applicable legislation/policy:

- *Local Government Act 1995, section 3.58 (Disposing of property (lease))*
- *Land Administration Act 1997, Part 6 (Sales, lease, licences, etc. Of Crown land)*

Report to Elected Member Information Bulletin.

4.3.16 - LOCAL LAWS

That, under sections 5.42 and 9.42 of the *Local Government Act 1995*, Council delegates the administration, including any enforcement action and the authority to appoint “authorised persons” be delegated to the CEO for the following local laws:

Gazette Date	Title
15/01/2002	Activities in Thoroughfares and Public Places and Trading
15/01/2002	Animals Local Law 2001
12/02/2010	Extractive Industries Local Law 2009
24/09/2010	Fencing Local Law 2010
17/04/2002	Health Local Laws 2001
17/02/2006	Jetties, Bridges and Boat Pens (Amendment) Local Law 2005
31/01/2005	Jetties, Bridges and Boat Pens Local Law 2004
9/06/2009	Keeping and Welfare of Cats Local Law 2008
8/11/2001	Local Government Property Local Law 2001
12/02/2010	Parking and Parking Facilities Local Law 2009
12/02/2010	Prevention and Abatement of Sand Drift Local Law 2009
26/09/2008	Signs Amendment Local Law 2008
23/02/2007	Signs Local Law 2006
24/06/2009	Standing Orders Local Law 2009
29/10/2001	The Former Perth

Applicable legislation/policy:

- *Local Government Act 1995, Part 3, Division 2 (Legislative functions of local governments), section 3.5 (Legislative power of local governments)*
- *Local Government Act 1995, section 3.10 (Creating offences and prescribing penalties)*

4.3.17 - MUNICIPAL AND TRUST FUND PAYMENTS

That, under regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1997*, Council authorises payments from the Municipal Fund and Trust Fund be delegated to the CEO.

Applicable legislation/policy:

- *Local Government (Financial Management) Regulations 1997*
- *Delegation 'Payment of Accounts – Signatories to Bank Accounts'*

Report to Elected Member Information Bulletin

4.3.18 - OBJECTIONS TO RATES RECORD

That, under section 6.76(5) of the *Local Government Act 1995*, the authority to deal with objections to the rate record be delegated to the CEO.

Applicable legislation/policy:

- *Local Government Act 1995, Part 6, Division 6 (Financial management Rates and service charges) section 6.76(5)*

Report to File

4.3.19 - PICKING FLORA

Authority to approve and refuse applications to pick flora from City of Albany vested reserves and road reserves for educational and scientific purposes in accordance with the conditions imposed by the *Local Government Act 1995*, *Land Administration Act 1997*, *Parks & Reserves Act 1895*, *Wildlife Conservations Act 1950*, be delegated to the CEO.

Applicable legislation/policy:

- *Local Government Act 1995, section 3.54 (Reserves under control of a local government)*
- *Land Administration Act 1997*
- *Parks & Reserves Act 1895*
- *Wildlife Conservations Act 1950*

Report to File

4.3.20 - PLANNING INFRINGEMENT NOTICES

Pursuant to Section 234 of the *Planning and Development Act 2005*, Council authorises the CEO to appoint designated persons for the purposes of sections 228 (Giving of infringement notice), 229 (Content of infringement notice), 230 (Extension of time) or 231 (Withdrawal of infringement notice).

Conditions: In accordance with the *Planning and Development Regulations 2009*, Part 5 - Enforcement and legal proceedings (Regulation 42).

Applicable legislation/policy:

- *Planning and Development Act 2005*

Report to File

4.3.21 - ROAD WIDENING

The power to: obtain road widening/s for City of Albany road infrastructure improvements.

Conditions:

- All alternative routes with regard to road construction or re-construction shall be investigated as part of the design process;
- Road widening location to be based on sound engineering principles taking into account existing and future road systems;
- Should the issue of compensation form part of the negotiations of resuming a private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of **\$100,000** dollars, without referral to Council;
- Agreement has been obtained from the affected land owners for the land to be resumed; and
- No payment of compensation is to be paid until the road widening has been registered with the Titles Office.

Applicable legislation/policy:

- *Local Government Act 1995, section 5.42 (Delegation of some powers and duties to CEO)*

Report to File

4.3.22 - STRATA TITLES

That authority to exercise the functions provided by the *Strata Titles Act 1985* in the following areas, be delegated to the CEO:

- Sign certificates issued;
- When a strata/survey strata is lodged for registration, to restrict the use for which the parcel or part of the parcel may be put; and
- Require a strata company to make a by-law that includes a management statement detailing such matters as: the control, management, use and maintenance of the property.

Applicable legislation/policy:

- *Strata Titles Amendment Act 1985, sections 23(5) (Certificate of local government) and 42 (By-laws)*

Report to Elected member information bulletin.

4.3.23 - TENDERS

That, under section 3.57 of the *Local Government Act 1995*, the CEO be delegated to:

- Invite any tenders; and
- Accept tenders up to an amount of **\$250,000** (excluding GST) in total value.

Conditions:

- Amount must be allocated in Council's annual budget.
- **Subject to a report being provided to the Audit Committee on a six monthly basis on the exercise of this delegation.**

Applicable legislation/policy:

- *Local Government Act 1995, section 3.57*
- *Local Government (Functions & General) Regulations 1996, Part 4*
- *Council Policy - Purchasing Policy (Tenders and Quotes)*
- *Council Policy – Buy Local Policy (Regional Price Preference)*

Report to File

4.3.24 - WRITE OFF DEBTS (MONIES)

Authority to write off any amount of money, including rate debts 'penalty interest' where the cost of recovering the debt will be greater than the actual debt be delegated to the CEO.

Condition: Maximum **\$10,000**, **subject to a report being provided to the Audit Committee on a six monthly basis on the exercise of this delegation.**

Applicable legislation/policy:

- *Local Government Act 1995, section 6.12(1)(c) (Power to defer, grant discounts, waive or write off debts)*

Report to elected member information bulletin.

4.3.25 - FINANCIAL ASSISTANCE & EVENTS FUNDING PROGRAM COMMITTEE DELEGATION

THAT, under sections 5.16 and 5.17 of the Local Government Act 1995, the CEO be delegated authority to administer and approve Financial Assistance, Events Funding and Rate Rebates with the following conditions:

- Rates Rebates. The authority to Approve/decline applications for minor grants, youth crisis grants and subsidies granted to sporting clubs and community organisations up to 100% of the rates levied in accordance with the Community Financial Assistance & Events Funding Program.
- Financial Assistance & Funding Grants. Must comply with the recommendation of the Financial Assistance & Events Funding Program Committee and the Community Financial Assistance & Event Program Policy.

Applicable legislation/policy:

- Community Financial Assistance & Events Funding Program Policy”

4.3.26 - COUNCIL POLICY - LANDFILL SUBSIDY SCHEME

THAT, under 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to administer the Landfill Subsidy Scheme.

The CEO be delegated the authority to determine eligibility of charitable or benevolent community based organisations within the City of Albany to qualify for the Waste Services Subsidy.

Condition: Amount must be allocated in Council's annual budget.

Applicable legislation/policy:

- *Council Policy – Landfill Subsidy Scheme – Council Resolution July 2003.*

Report to File

4.3.26 - HR POLICY – HUMAN RESOURCES POLICY

THAT, under 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to administer the Human Resources Policy.

Applicable legislation/policy:

- *Council Strategy – Human Resources – Council Resolution 14.12.2 – 16/02/2010.*
- *HR Policy – Human Resources – Council Resolution 14.5.1 – 16/09/2008*

4.3.26.1 - (ACKNOWLEDGEMENT PAYMENTS TO EMPLOYEES) – CANCELLED.

That, under section 5.50(1) of the Local Government Act 1995, the delegated authority to approve employee acknowledgement payments to employees in addition to contract or award, be CANCELLED.

Applicable legislation/policy:

- *Local Government Act 1995, section 5.50 (Payments to employees in addition to contract or award)*
- *HR Policy – Human Resources – Council Resolution 14.5.1 – 16/09/2008*
- *HR Guideline – Employee Acknowledgement/Gift Guidelines – Executive adopted 17/02/2009*

Report to Elected Member Information Bulletin

4.3.26.2 - (REPATRIATION EXPENSES)

That, under *HR Policy – Human Resources* the CEO be delegated authority to authorise, as a last resort, payment of up to a maximum of **\$2,500** per person for repatriation costs associated with the relocation of a sponsored employee and any sponsored dependents.

Condition:

Amount must be allocated in Council's annual budget.

Applicable legislation/policy:

- *HR Policy – Human Resources – Council Resolution 14.5.1 – 16/09/2008*

4.3.26.3 - (GUIDELINES FOR USE OF COUNCIL OWNED MOTOR VEHICLES)

That, under *HR Policy – Human Resources* the CEO be delegated authority to administer the Council Owned Motor Vehicles Guidelines on behalf of Council.

Applicable legislation/policy:

- *HR Policy – Human Resources, Council Owned Motor Vehicles Guidelines – Executive Adopted 13/10/2009*
- *HR Policy – Human Resources – Council Resolution 14.5.1 – 16/09/2008*

4.3.27 - COUNCIL POLICY - CASH INVESTMENT BACKING FOR RESERVE ACCOUNTS

That, under 6.11 of the *Local Government Act 1995*, the CEO be delegated the authority to administer the Cash / Investment Backing Policy for Reserve Accounts.

Applicable legislation/policy:

- *Local Government Act 1995, section 6.11 (Reserve accounts)*
- *Local Government (Financial Management) Regulations 1996 – Regulation 38 (1) (f)*
- *Local Government Operational Guidelines - Number 08 June 2005*
- *Council Policy – Cash/Investment Backing for Reserve Accounts – Council Resolution 12.8.4 – 17/06/08.*

Report to File

4.3.28 - COUNCIL POLICY - INVESTMENT OF SURPLUS FUNDS POLICY

That, under section 6.10 of the *Local Government Act 1995*, and as prescribed in regulation 19 of the *Local Government (Financial Management) Regulations 1996*, the CEO be delegated to administer the Investment of Surplus Funds Policy, being:

Conditions:

Investments shall be restricted to term deposits or commercial bills offered by the following banks or government institutions:

- Commonwealth Bank of Australia
- Bendigo Bank
- BankWest
- Australia and New Zealand bank
- National Australia Bank
- Westpac Banking Corporation
- WA Treasury Corporation

Speculative financial instruments are specifically prohibited, together with the use of the portfolio for speculation. Leveraging of the portfolio (borrowing to invest) is prohibited.

Investments shall be spread to ensure that no single institution holds more than 30% of the City's invested funds.

The term of individual investments shall be consistent with City cash flow requirements and shall not exceed 12 months.

Applicable legislation and guidelines:

- *Local Government (Financial Management) Regulations 1996, Reg 19 (Management of investments)*
- *The Trustees Act 1962 – Part III Investments as amended by the Trustees Amendment Act.*
- *Australian Accounting Standards*
- *Local Government Operational Guidelines - Number 19 February 2008*
- *Council Policy – Investment of Surplus Funds – Council Resolution 12.8.3 – 20/05/2008*

Report Requirement: The status and performance of the investment portfolio is to be reported monthly to Council.

4.3.29 - COUNCIL POLICY - CITY OF ALBANY'S SERVICE AND TOURIST SIGNAGE POLICY

That, under the *City of Albany's Service and Tourist Signage Policy*, the CEO be delegated the authority to approve signs within Council's reserves.

Condition: Amount must be allocated in Council's annual budget.

Applicable legislation and guidelines:

- *Council Policy – City of Albany's Service and Tourist Signage Policy – Council Resolution 13.3.4 – 19/04/2005*

Note: *This policy applies to all service and tourist signage on roads and other reserves that are under the care, control and management of the City of Albany, including streets, squares and parks.*

4.3.30 - COUNCIL POLICY - SUBDIVISION AND DEVELOPMENT GUIDELINES

That, under the *City of Albany's Council Policy - Subdivision and Development Guidelines*, the CEO be delegated authority to approve engineering design that does not conform to these guidelines but satisfies sound engineering principles.

Applicable legislation and guidelines:

- *Council Policy – Land Development (Subdivision) – Council Resolved 12.7.1 – 18/04/2006*
- *Admin Policy – Subdivision and Development Guidelines – Executive Adopted - 23/04/2009*

4.3.31 - COUNCIL POLICY - LEGAL REPRESENTATION FOR MEMBERS, EMPLOYEES AND VOLUNTEERS POLICY

That, subject to the conditions imposed in the *Council Policy – Legal Representation for Members, Employees and Volunteers*, the CEO be authorised to exercise the following powers:

- In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, any of the powers of the Council to a maximum of **\$10,000** in respect of each application.
- Where it is the CEO who is seeking urgent financial support for legal services the Executive Director Corporate & Community Services shall deal with the application.

Condition: Amount must be allocated in Council's annual budget.

Applicable legislation and policy:

- *Council Policy - Legal Representation for Members, Employees and Volunteers - Council Resolution 16.5.1 – 19/01/2010.*

Reporting requirement: An application approved by the CEO or by an Executive Director is to be reported to the next Ordinary Meeting of the Council.

4.3.32 – AUTHORISED OFFICERS – LEGISLATION

That, under the following Acts and Regulations, the CEO be delegated the authority to appoint Authorised Persons or class of persons to perform functions:

- Bushfire Act 1954 & Regulations
- Caravan Parks and Camping Grounds Act 1995
- Control of Vehicles (Off Road Areas) Act 1978 & Regulations
- Emergency Management Act 2005
- Food Act 1979
- Litter Act 1979 & Regulations
- Local Government Act 1995
- Local Government (Miscellaneous Provisions) Act 1960
- Health Act 1911

Condition: The following persons or classes of persons are authorised:

- Emergency Management Officer, Bush Fire Control Officer Officers
- Executive Directors
- Executive Manager (Building & Health)
- Principal Environmental Health Officer, Environmental Health Officer
- Principal Building Surveyor, Building Surveyors
- Senior Ranger, Ranger, Cape Riche Reserve Officer (Ranger), Emu Point Boat Pen Volunteer

RECOMMENDATION

ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION

That the reviewed and proposed new delegations detailed in the Officer's Report (Items 4.3.1 to 4.3.32) be ADOPTED.

ITEM 4.3: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR LEAVESLEY

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0
ABSOLUTE MAJORITY

4.4: BUSH FIRE MANAGEMENT COMMITTEE MINUTES

File Number or Name of Ward	: ES.MEE.3 (All Wards)
Disclosure of Interest	: Nil
Proponent	: City of Albany
Appendices	: Minutes of the Bush Fire Management Committee meeting held on 8 November 2010
Reporting Officer(s)	: Emergency Management Officer (G Turner)
Responsible Officer(s)	: Executive Director of Corporate & Community Services (WP Madigan)

ITEM 4.4: RESPONSIBLE OFFICER RECOMMENDATION

THAT the UNCONFIRMED minutes of the Bush Fire Management Committee Meeting held on Monday 8th November 2010 be RECEIVED.

ITEM 4.4: RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR SWANN

THAT the Responsible Officer Recommendation be **ADOPTED**.

CARRIED 8-0

**4.5: SENIORS ADVISORY COMMITTEE MEETING – 18 NOVEMBER
2010**

File Number (Name of Ward) : CR.MEE.2
Proponent : City of Albany
Appendices : Minutes of the Seniors Advisory Committee meeting held on
18 November 2010
Reporting Officer(s) : Community Development Officer-Seniors (R Oswald)
Responsible Officer : ED Corporate and Community Services (P Madigan)

ITEM 4.5: COMMITTEE RECOMMENDATION

THAT the UNCONFIRMED minutes of the Seniors Advisory Committee meeting held on Thursday 18 November 2010, be RECEIVED.

ITEM 4.5: RESOLUTION (Committee Recommendation)

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR HOLDEN**

THAT the Committee Recommendation be ADOPTED.

CARRIED 8-0

4.6: COMMUNITY FINANCIAL ASSISTANCE & EVENT FUNDING PROGRAM POLICY & COMMITTEE TERMS OF REFERENCE

File Number (Name of Ward)	: FM.MEE.2 (All Wards)
Previous Reference	: OCM 17/08/10 - Item 4.6 OCM 20/04/10 – Item 14.12.4 OCM 10/11/09 – Item 6.1.13 Elected member’s workshop No. 06 (23/11/10)
Attachment(s)	: Nil
Appendices	: Nil
Consulted References	: Local Government Act 1995 (Act) Community Financial Assistance & Event Program Policy
Reporting Officer(s)	: Executive Manager Business Governance (S Jamieson)
Responsible Officer	: Chief Executive Officer – Interim (J Bonker)

IN BRIEF

- Amend Terms of Reference to the Community Financial Assistance Committee & associated policy
- Revoke current delegation to committee

BACKGROUND

1. On 20/04/10 Council resolved to introduce a moratorium on the grant category allocations under the Financial Assistance Program to the years 2010/11 and 2011/12 with the exclusion of rate rebates and Events.
2. On the 17/08/10 Council delegated authority to the Committee to approve grants (Events) up to \$15,000.
3. Current Policy Grant Categories:
 - **Donations:** Grants up to \$200
 - **Rate Rebates:** Donations applied up to 100% of the annual rate charge of community based and sporting/recreation properties
 - **Minor Grants:** Grants between \$200 and \$10,000
 - **Major Grants:** Grants between \$10,000 and \$50,000
 - **Youth Crisis Services:** Grants up to \$10,000
 - **Events:** Grants ranging to \$15,000 (Icon Events, Community Events, Sporting Events)
4. At an Elected member’s workshop (No. 06), the current delegations and proposed changes were reviewed and it was determined that it would be more appropriate to:
 - a. Revoke the existing Delegation of Authority to the Community Financial Assistance Committee; and
 - b. Amend the current Terms of Reference for the Community Financial Assistance Committee, being:

“To administer the Community Financial Assistance Program and Community Event Grant Allocations in accordance with Council Policy.

Membership: Five Councillors

Executive Officer: Executive Director Corporate & Community Services

Current membership: Mayor Evans, Crs Wolfe, Matla, Leavesley, and Sutton.

Nature of committee: Delegated Authority:

- (i) (Authority is delegated to the Community *Financial Assistance Committee* to approve/decline applications for event funding financial assistance up to \$15,000 for any one event (the level set by Council for 'Icon' events).
- (ii) Authority is delegated to the *Financial Assistance Committee* to approve/decline applications for minor grants, youth crisis grants and subsidies granted to sporting clubs and community organisations up to 100% of the rates levied, at the discretion of the *Financial Assistance Committee*.

DISCUSSION

5. For ease of administration and transparency the CEO has recommended:

- a. That the current Community Financial Assistance (Sundry Donations) is retained and continued to be reported in the Elected member information bulletin on a monthly basis as this is limited to a maximum of \$200 dollars.
- b. The Terms of Reference for the Committee be amended to read:

"The purpose of the committee is to facilitate financial assistance to not for profit organisations that provide social, economic or environmental benefits to the City of Albany.

The function of the committee is to recommend financial assistance fund allocation to the Chief Executive Officer to, who is charged with administering the financial assistance fund under delegated authority"

Conditions: The CEO can only grant Financial Assistance and Events funding on recommendation of the Community Financial Assistance Committee and in accordance with the Community Financial Assistance & Events Funding Program Policy."

- c. Amend the *Community Financial Assistance & Events Funding Program Policy* by:
 - a. Removing the delegation from the Committee;
 - b. Delegate the administration and approval of the grant process to the CEO;
 - c. Apply the following conditions:
 - (i) That the CEO can only effect the delegation on recommendation from the Community Financial Assistance and Events Funding Committee; and
 - (ii) Allocations are to be reported in the Elected member information bulletin.

STATUTORY IMPLICATIONS

Delegation to CEO

6. Section 5.42 of the Act enables the delegation of some powers and duties to the Chief Executive Officer:

"1) A local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation."

Delegations to be reviewed every financial year

7. Under the provisions of section 5.46 (2) of the Act, delegations must be reviewed by the delegator at least once every financial year.

POLICY IMPLICATIONS

8. If the responsible officer's recommendation is adopted the *Council Policy - Community Financial Assistance & Events Funding Program Policy* would be amended, to:
- Remove the delegation from the Committee;
 - Delegate the administration and approval of the grant process to the CEO;
 - Apply a condition that the CEO can only delegate on recommendation from the Community Financial Assistance and Events Funding Committee.

FINANCIAL IMPLICATIONS

9. There are no financial implications related to this item.

RECOMMENDATIONS

ITEM 4.6: MOTION 1

**MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR WOLFE**

THAT Responsible Officer Recommendations 1, 2 and 3 be carried EN BLOC.

**CARRIED 8-0
ABSOLUTE MAJORITY**

ITEM 4.6: RESPONSIBLE OFFICER RECOMMENDATION 1

That the delegation the FINANCIAL ASSISTANCE & EVENTS FUNDING PROGRAM COMMITTEE DELEGATION be revoked.

CARRIED EN BLOC

ITEM 4.6: RESPONSIBLE OFFICER RECOMMENDATION 2

That the following FINANCIAL ASSISTANCE & EVENTS FUNDING PROGRAM DELEGATION detailed at Report Item 4.3 be REAFFIRMED, being:

“THAT, under sections 5.16 and 5.17 of the Local Government Act 1995, the CEO be delegated authority to administer and approve Financial Assistance, Events Funding and Rate Rebates with the following conditions:

- Rates Rebates. The authority to Approve/decline applications for minor grants, youth crisis grants and subsidies granted to sporting clubs and community organisations up to 100% of the rates levied in accordance with the Community Financial Assistance & Events Funding Program.***
- Financial Assistance & Funding Grants. Must comply with the recommendation of the Financial Assistance & Events Funding Program Committee and the Community Financial Assistance & Event Program Policy.***

Applicable legislation/policy:

- Community Financial Assistance & Events Funding Program Policy”***

**CARRIED EN BLOC
ABSOLUTE MAJORITY**

ITEM 4.6: RESPONSIBLE OFFICER RECOMMENDATION 3

That the Terms of Reference for the Community Financial Assistance Committee is amended to read:

“The purpose of the committee is to facilitate financial assistance to not for profit organisations that provide social, economic or environmental benefits to the City of Albany.

The function of the committee is to recommend financial assistance fund allocation to the Chief Executive Officer to, who is charged with administering the financial assistance fund under delegated authority”

Conditions: The CEO can only grant Financial Assistance and Events funding on recommendation of the Community Financial Assistance Committee and in accordance with the Community Financial Assistance & Events Funding Program Policy.”

**CARRIED EN BLOC
ABSOLUTE MAJORITY**

4.7: WARDS AND REPRESENTATION REVIEW

File Number (Name of Ward)	: GO.BOU.1 (All Wards)
Previous Reference	: OCM 16/08/2005 Item 14.2.1 OCM 20/12/2005 Item 14.2.2 OCM 18/04/2006 Item 14.2.2 OCM 10/03/09 Item 5.1 OCM 18/08/09 Item 16.2.1 OCM 19/10/10 Item 4.10
Attachment	: Draft Election Time Table for 15 October 2011 Local Government Elections
Appendices	: Proposed Ward Distribution Maps & Community Discussion Paper-to be distributed separately
Consulted References	: Local Government Act 1995 (Act)
Reporting Officer	: Executive Manager Business Governance (S Jamieson)
Responsible Officer	: Chief Executive Officer – Interim (J Bonker)

IN BRIEF

- Council request the Local Government Advisory Board (LGAB) for an extension to allow for public submissions and public consultation to be conducted.

BACKGROUND

1. On 22 Sep 10, the Manager for Reform Implementation requested the City of Albany to consider working towards the Minister for Local Government's Key Objectives, in particular to initiate amendments to legislation to change the prescribed number of elected members to between six and nine.
2. Council resolved at the Ordinary meeting of Council held 19/10/10 to carry out a review of its ward boundaries and the number of elected council representatives for each ward.
3. On 19/10/10, Council resolved:

"The previous decision to reduce the number of elected members from twelve (12), plus a popularly elected Mayor, to eight (8) plus a popularly elected Mayor be REAFFIRMED and the administration be AUTHORISED to commence the process of conducting a Ward and elected member review to ascertain the cause and effect of the following scenarios, being: REDUCE the existing six (6) wards to four (4) with two (2) elected representatives for each ward and a directly elected Mayor;

with the objective of the reduction taking effect from the October 2011 elections"
4. The Majority of Council felt that this resolution satisfied the Minister's intent to reduce elected member prescribed numbers.
5. Post the meeting the Local Government Advisory Board was contacted and Management was advised that Council should explore three possible scenarios to find the most appropriate model for Albany.
6. The City of Albany completed its statutory review of wards and representation in 2006 and has until 2015 to conduct its next statutory review.

7. The Local Government Advisory Board (LGAB) was contacted by the EMBG to ascertain if an extension to complete the return could be sought.
8. The LGAB advised that an extension till the 1st Week of March 2011 could be granted, if it was still Council's intent to effect a change at the October 2011 ordinary elections.

DISCUSSION

9. The last day for agreement of the Electoral Commissioner to conduct a postal election is the 27/07/2011. An ordinary election time line for the October 2011 election follows this report.
10. It considered that an extension to the 01 Mar 11, would allow enough time for all the statutory processes to be completed and appropriate orders be made and gazetted.

Representation Ratio

11. It is expected by the LGAB and Minister that the review will produce similar ratios of electors to councillors across the wards of its district. Deviation to the mean councillor/elector ratio must be less than 10%.
12. It can be seen that there is there is a potential for a significant imbalance in representation across the City.

Community Identity

13. The community identity is driven primarily by a sense of belonging within the context of historical and social infrastructure associated with rural areas, urban areas, and localities.
14. However with increasing urban development extending northeast to Bayonet Head and Lower King, west to McKail and Gledhow, north to Yakamia, and South along the Vancouver Peninsula, it is becoming increasingly difficult to categorise areas as purely urban or purely rural.

Current Representation

15. The City currently has 12 councillors (2 from each ward) and it is generally accepted that this provides adequate representation for the district. The councillor budget for 12 Councillors and a popularly elected Mayor is currently set at \$250,798 per annum (exclusive of the councillor conference budget).

Current Budget

Councillor Training	\$12,000
Member Fees & Allowances	\$144,200
Refreshment & Entertainment	\$60,000
Mayoral Vehicle	\$14,598
Member Expense Reimbursement	\$20,000

Previous Public Submissions (2006)

16. During the last review Council received 45 public submissions. It is expected that similar responses will be received when submissions are called for.

Assessing the Council Options and Public Submissions

17. In assessing the Council options and public submissions, to determine which alternate ward system is the best for Albany, it is recommended that primary consideration be given to the following factors:
 - ratio of councillors to electors,
 - community of interest, and
 - councillor numbers.
18. It is recommended that if it is still Council’s intent to have the review conducted prior to the October 2011 elections that an extension is requested from the Chair of the Local Government Advisory Board.

Current Ward to Elected member ratios:

Ward	Number of Electors	Elected members	Councillor/ Elector Ratio
Breaksea	3866	2	1: 1933
Frederickstown	3503	2	1: 1752
Kalgan	3824	2	1: 1912
Vancouver	3543	2	1: 1772
West	4308	2	1: 2154
Yakamia	4046	2	1: 2023

Elected representation if review is enacted

19. Given that the physical size and form of the proposed wards will be affected by the review it is recommended that a full spill of the Council is affected.
20. However, Council may chose to only conduct an election for the councillors up for election and a redistribution of serving councillors is conducted.

STATUTORY IMPLICATIONS

21. It should be noted that the City of Albany has not received an order from the Governor to change the number of elected members or number of wards.
22. The last review of the Ward System was conducted in 2006; therefore the City is not required to conduct a review till 2015.
23. *Local Government Act 1995* Schedule 2.2, clause 5: *Local government may propose ward changes or make minor Proposals: A local government may, whether or not it has received a submission —*
 - (a) carry out a review of whether or not an order under section 2.2 (Districts may be divided into wards.), 2.3 (Names of districts and wards) or 2.18 (Fixing and changing the number of councillors) should, in the council’s opinion, be made;
 - (b) propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
 - (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited;
 or
 - (c) propose* to the Minister the making of an order changing the name of the district or a ward.

* Absolute majority required.

FINANCIAL IMPLICATIONS

24. The financial implications of administering the review process is minimal as it will be accommodated from within existing budgeted funds, and existing staff resources.
25. *Cost of a Full Spill:**
26. *Cost of a partial spill and redistribution:**

****This information is being compiled by the WA Electoral Commission. At the time of printing this agenda, the information was not yet available, but will be distributed to Elected Members prior to the Agenda Briefing Session.***

PUBLIC CONSULTION

27. Detailed in the Community Discussion Paper.

RECOMMENDATION

ITEM 4.7: RESPONSIBLE OFFICER RECOMMENDATION

That Council write to the Local Government Advisory Board and request an extension be granted to allow an appropriate amount of time to conduct public consultation.

That an extension until the 01 March 2011 be requested.

Council ENDORSES options for consideration as detailed in the Proposed Ward Distribution Maps & Community Discussion Paper (appendice) and commence advertisement for public comment.

That all submissions must be received by 5pm on 8th February 2011.

ITEM 4.7: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR HOLDEN**

THAT the Responsible Officer Recommendation be ADOPTED.

**CARRIED 8-0
ABSOLUTE MAJORITY**

**4.8: BUSHCARERS ADVISORY COMMITTEE MEETING 24 NOVEMBER
2010**

File Number (Name of Ward) : MAN 235 (All Wards)
Land Description : N/A
Disclosure of Interest : N/A
Proponent : City of Albany
Appendices : Minutes of the Bushcarers Advisory Committee meeting held on 24th November 2010
Reporting Officer : Reserves (Bush & Coastal) Officer (S Maciejewski)
Responsible Officer : Executive Director Works & Services (K Ketterer)

ITEM 4.8: COMMITTEE RECOMMENDATION 1

THAT the UNCONFIRMED minutes of the Bushcarers Advisory Committee meeting held on Wednesday 24th November 2010, be RECEIVED.

ITEM 4.8: RESOLUTION (Committee Recommendation 1)

MOVED: COUNCILLOR WOLFE
SECONDED: MAYOR EVANS

THAT Committee Recommendation 1 be **ADOPTED**.

CARRIED 8-0

ITEM 4.8: COMMITTEE RECOMMENDATION 2

THAT the following be elected as members of the Bushcarers Advisory Committee:

1. Graham Blacklock-Member for Department of Food and Agriculture
2. John Moore-Deputy for Department of Food and Agriculture
3. Charlotte Powers-Deputy for South Coast Natural Resource Management

ITEM 4.8: RESOLUTION (Committee Recommendation 2)

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR SUTTON

THAT Committee Recommendation 2 be **ADOPTED**.

CARRIED 8-0
ABSOLUTE MAJORITY

4.9: APPOINTMENT OF CHIEF EXECUTIVE OFFICER

File Number (Name of Ward)	: PER040
Summary of Key Points	: Appointment of Chief Executive Officer
Proponent	: City of Albany
Previous Reference	: SCM 28/09/10 Item 6.1 OCM 19/10/10 Item 4.9
Disclosure of Interest	: Nil
Consulted References	: • <i>Local Government Act 1995</i> • <i>Local Government Operational Guidelines – Number 10 – Appointing a CEO</i>
Responsible Officer	: Interim Chief Executive Officer (Mr J Bonker)

IN BRIEF

- Council to offer the position of Chief Executive Officer to the applicant recommended by the CEO Recruitment Committee.
- The identity of the appointee be withheld pending acceptance of the appointment and the completion of the associated administrative process.

BACKGROUND

1. The position of Chief Executive Officer is a designated Senior Employee position in accordance with section 5.37 of the *Local Government Act 1995*.
2. The CEO Recruitment Committee assisted by Anne Lake Consultancy have completed the selection process and have recommended a preferred candidate.
3. The preferred candidate has requested their identity be kept confidential until Tuesday 21 December to allow time for formal acceptance of the appointment and completion of the associated administrative process

STATUTORY IMPLICATIONS

4. In accordance with *Local Government Act 1995*, the following sections and regulations pertain to the appointment process for a CEO.
 - s5.36 (Local Government Employees)
 - s5.39 (Contracts for CEO and senior employees)

Local Government (Administration) Regulations 1996

 - reg18A (Advertisement for position of CEO or senior employee — s. 5.36(4) and 5.37(3))
 - reg18C (Selection and appointment process for CEO's)
 - reg18E (Offence to give false information in application for employment with local government)
 - reg 18F (Remuneration and benefits of CEO to be as advertised)

FINANCIAL IMPLICATIONS

5. All cost associated with appointing the Chief Executive Officer and the proposed remuneration package is within budget.

COMMENT

6. It is recommended that Council meet behind closed doors if councillors require to discuss details in regards to the appointment in accordance with section 5.23(2) of the *Local Government Act 1995*, being:
- (a) A matter affecting an employee or employees
 - (b) The personal affairs of any person
 - (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

RECOMMENDATIONS

ITEM 4.9: RESOLUTION

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

THAT Committee Recommendations 1, 2 and 3 and the Responsible Officer Recommendation be carried en bloc.

**CARRIED 8-0
ABSOLUTE MAJORITY**

ITEM 4.9: COMMITTEE RECOMMENDATION 1

THAT the CONFIRMED minutes of the CEO Recruitment Committee held on the 4 October 2010 be RECEIVED.

CARRIED EN BLOC

ITEM 4.9: COMMITTEE RECOMMENDATION 2

THAT the UNCONFIRMED minutes of the CEO Recruitment Committee held on 11 and 19 October 2010 and 25 November 2010 be RECEIVED.

CARRIED EN BLOC

ITEM 4.9: CEO RECRUITMENT COMMITTEE RECOMMENDATION 3

The applicant recommended by the CEO Recruitment Committee, following interviews held on 8 December 2010, be OFFERED the position of Chief Executive Officer for a term of five (5) years subject to the terms and conditions to be agreed between the parties provided these are within the parameters of the terms and conditions set out in the advertised employment package.

**CARRIED EN BLOC
ABSOLUTE MAJORITY**

ITEM 4.9: RESPONSIBLE OFFICER RECOMMENDATION

- 1. Pending the acceptance of the agreed contract the applicant be APPOINTED as the Chief Executive Officer (CEO) of the City of Albany with effect from a mutually agreed date in February 2011.**
- 2. Ann Lake Consultancy, in consultation with the Chairman of the CEO Recruitment Committee, be authorised to negotiate and prepare the employment contract on behalf of the City and when finalised to the satisfaction of both parties, the Mayor be authorised to execute the contract.**
- 3. The identity of the appointee be withheld until 21 December 2010 pending acceptance of the appointment and the completion of the associated administrative process.**

CARRIED EN BLOC

4.10: ENTERPRISE COLLECTIVE AGREEMENTS FOR OUTSIDE AND DAY CARE STAFF

File Number (Name of Ward)	: IND009, IND010 & IND011
Summary of Key Points	: Enterprise Collective Agreements for Outside and Day Care Staff
Proponent	: City of Albany
Previous Reference	: Item 19.1 OCM 16/10/07
Disclosure of Interest	: Nil
Appendices:	: Outside Workers Collective Enterprise Agreement 2010 Albany Regional Day Care Enterprise Collective Agreement 2010
Consulted References	: Local Government Act 1995 Fair Work Act 2009
Reporting Officer	: Executive Manager, Community Services (Mr D Schober)
Responsible Officer	: Executive Director, Works and Services (Mr K Ketterer)

IN BRIEF

- Enterprise Collective Agreement for Outside staff
- Enterprise Collective Agreement for Day Care staff

BACKGROUND

1. The City of Albany currently operates under three Employee Collective Agreements, namely Outside Workers Union Collective Workplace Agreement 2007, General Workers Union Collective Workplace Agreement 2007 and Employee Collective (Day Care) Agreement 2007.
2. All agreements have a nominal expiry date of 30th June 2010, but continue to operate until replaced or terminated in writing.
3. Collective Agreement negotiation processes relating to changes in pay and conditions have been undertaken between the Australian Services Union, Management and staff.
4. On Wednesday 24th, Thursday 25th and Friday 26th November 2010 staff were provided with the opportunity to vote in order to accept or decline the draft agreement relative to their work areas.
5. Voting closed at 3pm Friday 26th November 2010, and votes for the three agreements were counted after the poll closed.
6. The Day Care staff voted 15-0 to accept their draft 2010 Agreement. Agreement endorsed by 100% of voters.

7. The Outside staff voted 61 to accept, 3 to decline (with 2 informal votes) to accept their draft 2010 Agreement. Agreement endorsed by 92% of voters.
8. The General Workers (Inside staff) voted 16 to accept and 142 to decline their 2010 draft Agreement. The Agreement was endorsed by 10% of voters. As the vote did not attract support from greater than 50% of voters, the Agreement requires further negotiation according to Fair Work Australia legislation.

DISCUSSION

9. The Day Care and Outside staff Agreements, subject to Council approval, are required to be lodged and subsequently approved by Fair Work Australia before they can be enacted.
10. Should Fair Work Australia not endorse either Agreement amendments will be required to comply with the Act.
11. The General (Inside) staff Agreement will require another vote in order to achieve endorsement by greater than 50% of voters. Further negotiation will be required for this to be achieved. A date or process for this to occur has not yet been decided by the parties involved.

PUBLIC CONSULTATION / ENGAGEMENT

12. Not applicable.

GOVERNMENT CONSULTATION

13. Not applicable.

STATUTORY IMPLICATIONS

14. In accordance with section 5.41 of the Local Government Act 1995, being:

The CEO's functions are to:

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;

- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
 - (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
 - (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.
15. Under section 5.23(2)(a) of the Local Government Act 1995 Council meetings, where matters affecting employees are to be considered, may be closed to the public.

FINANCIAL IMPLICATIONS

16. The proposed changes to salary and conditions have been accommodated through the budget development process.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

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

City of Albany Mission: Working together to deliver innovation and service excellence for Albany

At the City of Albany we...Are open and honest in all our dealings, Are team focussed and actively contribute to the team, Regularly recognise and acknowledge all contributions

POLICY IMPLICATIONS

18. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Authorise the Chief Executive Officer to finalise the Day Care and Outside Enterprise Collective Agreements.

ITEM 4.10: RESPONSIBLE OFFICER RECOMMENDATION

1. The Chief Executive Officer be **AUTHORISED** to finalise the Albany Regional Day Care Centre Enterprise Collective Agreement 2010.
2. The Chief Executive Officer be **AUTHORISED** to finalise the City of Albany: Outside Workers Enterprise Collective Agreement 2010.
3. The CEO be **AUTHORISED** to implement the agreements subject to the Agreements being legally drafted, endorsed by Fair Work Australia and by all parties, in line with the procedures established by current industrial relations legislation.

ITEM 4.10; RESOLUTION (Responsible Officer Recommendation)

MOVED: COUNCILLOR SWANN

SECONDED: COUNCILLOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

**CARRIED 8-0
ABSOLUTE MAJORITY**

4.11: STREETSCAPE ADVISORY COMMITTEE MEETING

File Number (Name of Ward)	: RD.MEE.2 (All Wards)
Land Description	: N/A
Disclosure of Interest	: N/A
Proponent	: City of Albany
Owner	: N/A
Business Entity Name	: N/A
Previous Reference	: N/A
Appendices	: Minutes of the Streetscape Advisory Committee meeting held on 16 th November 2010
Consulted References	: N/A
Councillors Lounge	: N/A
Reporting Officer	: Executive Director Works & Services (K Ketterer)
Responsible Officer	: Executive Director Works & Services (K Ketterer)

ITEM 4.11: COMMITTEE RECOMMENDATION

THAT the UNCONFIRMED minutes of the Streetscape Committee Meeting held on the 16th of November 2010 be RECEIVED

ITEM 4.11: RESOLUTION (Committee Recommendation)

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR WELLINGTON

THAT the Committee Recommendation be ADOPTED.

CARRIED 8-0

4.12: LOCAL GOVERNMENT ACT 1995–PROPOSED AMENDMENTS

File Number (Name of Ward)	: (All Wards)
Summary of Key Points	: Local Government Act 1995 – Proposed Amendments
Proponent	: WALGA
Previous Reference	: Nil
Disclosure of Interest	: Nil
Appendices:	: WALGA Info page 26.11.2010 WALGA Explanatory Notes
Consulted References	:
Reporting Officer	: Chief Executive Officer, (Mr J Bonker)
Responsible Officer	: Chief Executive Officer, (Mr J Bonker)

IN BRIEF

- Minister for Local Government is proposing amendments to the Act.
- Council has been asked for feedback on the suggested changes.

BACKGROUND

1. All Councils are requested to provide a response to the seven (7) amendments to the Local Government Act proposed by the Minister and forward these to Western Australian Local Government Association (WALGA) to enable them to provide a collated industry-wide response.
2. WALGA has specifically requested that the “Minister’s proposals are considered at a full Council meeting”.
3. Council’s feedback is requested by 7th January 2011.
4. The seven (7) proposed amendments are outlined in the Explanatory Notes prepared by WALGA’s Manager Governance. (The notes are in the appendices). They are:
 - Reducing Elected Members to between six and nine.
 - Salaries and Allowances Tribunal to set the fees for Elected Members and Salaries for CEO’s.
 - New mechanism for the temporary suspension of Council.
 - Require Elected Members to resign when elected to State or Commonwealth Parliament.
 - Restricting the types of local government investments to low risk products such as those with the WA Treasury Corporation, major banks and government bonds.
 - Align criminal conviction criteria for Elected Members with that of WA Members of Parliament.
 - To limit employee termination payments to one year’s salary.

5. WALGA's comment on these proposals are, in summary, as follows:

	Proposed Amendments	WALGA comment/position
1	Reducing numbers of Elected Members	Opposed
2	Salaries or Allowance Tribunal to set fees for members and salaries for CEO's	Support SAT establishing a range of fees from within which a LG can make its own choice. Councils should retain the ability to determine salary levels of the CEO.
3	Temporary Suspension of a Council	Appreciates there may be a need for the Minister to have extra ordinary powers to provide a community with a cost effective remedy as an alternative to a costly Panel Inquiry.
4	Elected Members to resign immediately when elected to Parliament.	Supported.
5	Restricting local government investments.	Not Supported. Local Governments should retain the right under the general competency powers.
6	Criminal conviction criteria for Elected Members.	Consistent with WALGA's policy position but could be broadened with other disqualification criteria than only a criminal conviction.
7	Limit employee termination payments to one year's salary.	Arisen from an anomaly in the Act. WALGA currently has no policy position on this proposal.

DISCUSSION

6. In general it is considered WALGA's comments and position on 6 of the 7 proposed changes are reasonable and should be supported..
7. The proposal to give the Minister the power to suspend a Council for up to six months when he or she becomes aware of significant issues that may lead to a breakdown in an effective decision making process should be opposed on the grounds that it is too arbitrary and completely at the whim of the Minister without any objective or substantiated evidence warranting that decision. There is little doubt that this proposal resulted from the difficulties experienced at the City of Albany earlier this year and had that legislative option been available to the Minister at that time, it is likely the Council would have been suspended and replaced with a Commissioner.

8. There needs to be a justifiable and substantiated case to warrant the Minister suspending a Council. A Council needs at least to be dysfunctional, in the true meaning of that word, i.e. unable to make lawful decisions, before this option is exercised. It should not be exercised based on adverse media reports or public bickering between Elected Members or Elected Members and the administration.
9. This proposal has – unless qualified and expanded by a number of conditions and safeguards – the potential to strike at the heart of the local democratic process.
10. Consider what may have been the situation had Council been suspended earlier this year:
 - There was no corruption warranting the suspension;
 - The Council was never dysfunctional in the sense that it could not continue to meet and make lawful decisions.
 - A Commissioner would have replaced Council in making all decisions, including major planning decisions.
 - Other administrative and governance matters may have been delayed or deferred pending Council's reinstatement.

PUBLIC CONSULTATION / ENGAGEMENT

11. Not applicable.

GOVERNMENT CONSULTATION

12. Not applicable.

STATUTORY IMPLICATIONS

13. These changes, if passed, would become law with which the City would need to comply.

FINANCIAL IMPLICATIONS

14. Setting fees for Elected Members by the Salaries and Allowances Tribunal and restricting where Council's can place their investments has potential adverse financial implications.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

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

City of Albany Mission: *Working together to deliver innovation and service excellence for Albany*

At the City of Albany we...Are open and honest in all our dealings, Are team focussed and actively contribute to the team, Regularly recognise and acknowledge all contributions

POLICY IMPLICATIONS

16. May require consequential amendments to:
- Investment Policy
 - Fees and Allowances to Elected Members Policy

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. Nil

SUMMARY

18. The proposed amendments for 6 of the 7 changes to the Local Government Act 1995 can be supported.

ITEM 4.12: RESPONSIBLE OFFICER RECOMMENDATION

WALGA be ADVISED that the City of Albany supports the position outlined in the Explanatory Notes for the proposed amendments to the Local Government Act 1995 except the proposal to introduce a new power for the Minister to suspend a Council for up to six months, unless the ability to exercise that power is safeguarded by conditions and qualifications that first need to be satisfied before a suspension can be made.

ITEM 4.12: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR WELLINGTON
SECONDED: MAYOR EVANS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

4.13: AUDIT COMMITTEE MEETING MINUTES

File Number (Name of Ward) : FM.MEE.1 (All Wards)
Appendices : Minutes of Audit Committee Meeting held 18 November 2010(detailed at Item 4.2 in the Appendices Volume) and 30 November 2010 (distributed separately)
Reporting Officer : EM Business Governance (S Jamieson)
Responsible Officer : Chief Executive Officer-Interim (J Bonker)

ITEM 4.13: MOTION 1

MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR WOLFE

THAT Committee Recommendation 1 and 2 be carried EN BLOC.

CARRIED 8-0

ITEM 4.13: COMMITTEE RECOMMENDATION 1

The confirmed minutes of the Audit Committee meeting held on 18 November 2010 be RECEIVED.

CARRIED EN BLOC

ITEM 4.13: COMMITTEE RECOMMENDATION 2

The unconfirmed minutes of the Audit Committee meeting held on 30 November 2010 be RECEIVED.

CARRIED EN BLOC

XIV. MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

Nil.

XV. URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

Nil.

XVI. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.

Nil.

XVII. ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING.

17.1: NOTICE OF MOTION BY COUNCILLOR HAMMOND-CCTV CAMERA INSTALLATION AT MIDDLETON BEACH

ITEM 17.1: DRAFT MOTION BY COUNCILLOR HAMMOND

MOVED: COUNCILLOR SWANN

SECONDED: COUNCILLOR WELLINGTON

That Item 17.1 be ACCEPTED as an urgent item.

**CARRIED 7-1
ABSOLUTE MAJORITY**

Against the Motion: Councillor Leavesley

Councillor's Reason:

Based on reports from tourism industry representatives it is considered that this initiative is supported as a matter of priority.

Council resolved on 19/01/10 to allow access to static City Assets in order to extend the existing CCTV network.

ITEM 17.1: NOTICE OF MOTION BY COUNCILLOR HAMMOND

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR SWANN

That the City of Albany:

- **SEEK funding for \$43,000 from the Office of Crime Prevention to install cameras at Middleton Beach.**
- **APPROVE the installation of CCTV equipment.**
- **ALLOCATE funding to cover insurance and on-going maintenance costs.**

CARRIED 6-2

Against the Motion: Councillors Leavesley and Holden

Councillors Reason:

Unsociable behaviour (hooning, street drinking) and criminal activity (alleged drug dealing) has plagued tourist and residents living in the Middleton Beach foreshore precinct.

This has had a negative effect on the tourism industry in the immediate vicinity.

Officer's Comment (S Jamieson):

As detailed in the quotation from Powell Security to the Albany Chamber of Commerce Powell Security dated 10 November 2010 (attached), the warranty period only covers 24 months and the guarantee does not cover any damage to equipment by outside factors such as electrical surges, storms or deliberate vandalism.

Financial considerations

It is recommended that Council clearly defines who will be responsible for the ongoing maintenance, replacement and servicing of this equipment and the cost of leasing part of the tower which has been estimated by Powell Security to incur a recurring cost of \$1500 per annum.

The City's controlled spaced within the communications room is at full capacity; therefore space to install the equipment will have to be sought from another lease holder if another communications medium (Next G) cannot be sourced.

XVIII. ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC.

Nil.

XIX. NEXT ORDINARY MEETING DATE

Tuesday 15th February 2011.

ITEM 19.0: RESOLUTION

**MOVED: COUNCILLOR SWANN
SECONDED: COUNCILLOR SUTTON**

THAT Standing Order 3.1-Recording of Proceedings, to stop recording of proceedings, be RESUMED.

CARRIED 8-0

XX. CLOSURE OF MEETING

There being no further business the Mayor declared meeting closed at 8.51pm

(Unconfirmed Minutes)

Mayor MJ Evans JP
MAYOR

**STATUS REPORT ON DEFERRED ITEMS
FROM PREVIOUS MEETINGS**

Meeting Date	Item Number	Details/Status
15/06/2010	15.2.3	Lot 5 Rufus Street - Compensation for Subdivision Design Changes. WAITING ON ADVICE FROM LGIS.
14/12/2010	3.3	Panel of Suppliers Construction Equipment-Contract C10027. LAI D ON THE TABLE FOR FURTHER CONSULTATION AND CONSIDERATION BY COUNCIL. TO BE BROUGHT TO FEBRUARY 2011 OCM.

APPENDIX B

TABLED DOCUMENTS

Document Tabled By	Subject	Ref.
Mr Neil Smithson	Road Toll	GO.COM.3
Mr George Vasiliu	Item 1.3: Big Grove ODP	GO.COM.3
Mr Jacob Chako	Item 2.4:	GO.COM.3

ELECTED MEMBER TABLED DOCUMENTS

Document Tabled by	Subject	Ref.
	Nil.	

STAFF TABLED DOCUMENTS

Document Tabled by	Subject	Ref.
	Nil.	

Tabled Address by Mr Neil Smithson

Page 1 of 7

Smithson Planning

From: "Steve Gray" <steveg@albany.wa.gov.au>
To: "Smithson Planning" <smithson@smithsonplanning.com.au>
Sent: Tuesday, 19 July 2005 2:07 PM
Subject: RE: Regional Planning Framework - Albany & the Great Southern - Western Australia

Good afternoon Neil

Thank you for your offer of a briefing to the Albany Local Emergency Management Committee (LEMC) on the "Rainbow 2000 regional strategy. In considering your project I wish to decline your offer as it appears to be more of a planning issue, and outside of the scope of the purpose of the Albany LEMC.

For further information on the purpose and objectives of a LEMC I suggest you read SEMC Policy Statement No. 7 - Western Australian Emergency Management Arrangements, which can be found on the Fire and Emergency Services Authority web page (www.fesa.wa.gov.au).

Regards

Steve Gray
 Bush Fire Officer and Executive Officer LEMC
 City of Albany
 PO Box 484
 ALBANY WA 6331

Direct Phone: (08) 9841 9363
 Fax: (08) 9841 4099
 E-mail: steveg@albany.wa.gov.au

-----Original Message-----

From: Smithson Planning [mailto:smithson@smithsonplanning.com.au]
Sent: Tuesday, 19 July 2005 12:27 PM
To: Steve Gray; Andrew Hammond; Robert Fenn; Peter Madigan; Les Hewer
Cc: Watson MLA Peter; McSweeney MLC Robyn; mroberts@dpc.wa.gov.au
Subject: Fw: Regional Planning Framework - Albany & the Great Southern - Western Australia

*Rainbow 2000 - a Regional Planning Strategy for Albany & the Great Southern
 Albany Local Emergency Management Advisory Committee (LEMAC)*

Mr Steve Gray
 Executive Officer
 Albany Local Emergency Management Advisory Committee
 C/- City of Albany

With reference to our telephone conversation yesterday, I would like the opportunity to address the Albany LEMAC at a future meeting on the planning preparation / risk management / emergency response aspects associated with the Rainbow 2000[©] Project.

Smithson Planning of Albany, consultants in Organisational Management, Media, Town Planning and Environmental Assessment, documented under copyright in November 1997 a conceptual approach to the review of future planning for the amalgamated Albany City Council and the Great Southern Region of Western Australia.

The Rainbow 2000[©] regional strategy comprises six main elements being :

- ❖ An overall planning policy statement (framework for financial programs)
- ❖ Great Southern Region planning initiatives statement
- ❖ Metropolitan Albany planning initiatives statement
- ❖ Albany Central Business District planning initiatives statement

Tabled Address by Mr George Vasiliu

Tabled Document of Address by George Vasiliu

Response to Agenda Item 1.3 which councillors will consider for recommending Big Grove Outline Development Plan go to advertising.

My name is George Vasiliu of 877 Frenchman Bay Road, Big Grove, the most eastern 9.4 ha lot in the ODP. I have tabled a document to the councillors as part of this address.

Firstly I had to request a copy of the ODP as the developers planners (RPS) failed to send me one. Also I missed all public meetings by RPS Planners or council as each time I was away and notification was by mail only days before the meetings.

I would like to clarify certain statements made by RPS in the final ODP and appendices to the current agenda which is before this council meeting.

There have not been "numerous meeting and site visits with RPS and myself. There were 2 meetings organised by myself and no site visits.

RPS say there were numerous modifications to the plan. This is misleading. They are;

- The foreshore reserve was amended when I pointed out the engineers incorrectly read the DOP recommendations.
- All other properties except mine had higher density on the foreshore, so mine was changed to R40.
- My Public Open Space A area was changed when I pointed out the existing area was wrong as it included some of my tree plantation. The change they made is still incorrect as they have not done a site inspection as requested.
- Drainage was removed as it was not necessary.
- Minor changes made to roads are now redundant as RPS completely changed the layout without any consultation with myself.

My current concerns with the ODP are

1. The foreshore reserve should be assessed on correct information. The contours that were used to assess my foreshore reserve are incorrect and this will be clearly seen with a site inspection. The head of the engineers used by RPS, Mick Rogers, has said to me the results could be wrong if incorrect contours are used.

Tabled Address by Mr George Vasiliu contd.

2. The Public Open Space A area on my land is still incorrect. A site inspection should be carried out to determine the exact size of the Public Open Space area.
3. It has just been brought to my attention in the agenda that the council recommends extending the amount of downgraded R10 zoning onto the most valuable foreshore part of my land. As I am unable to see any recommendation in the Fire Management Assessment for the ODP for reduced densities in fire prone areas, I would like the opportunity to discuss the issue with FESA and maybe a Fire Management expert. Upon which I would like to then confer with council planning.
4. Also just brought to my attention is that Council has identified 4 lots which it will support in the creation of 1ha home lots with conditions. These four lots are all under contract with the developers. There are other lots in the ODP that have similar situations to these four developers' lots, including my own. I believe that it is fair and just that not only the developer has this council support, but other landowners in the ODP are included.

RPS and council planning response to the first 2 issues is that the assessment has been done by experts who have used best practices and methodology and so I should employ my own experts. My 2 questions are simple and do not relate to methodology or best practises.

I met with the Mayor and Robert Fenn in December 2009 and they assured me that they would be seeking to ensure proper consultation with all landowners that are part of the ODP and that any concerns should be suitably addressed before proceeding to advertising. The attachment to the tabled document shows verification of this in writing by Robert Fenn. I believe the councillors should not recommend proceeding to advertising at this stage as clearly my concerns have not been suitably addressed and it would also be contrary to councils written advice.

George Vasiliu

0417947735

Tabled Address by Mr George Vasiliu contd.

George Vasiliu

From: Robert Fenn [robertf@albany.wa.gov.au]
Sent: Tuesday, 29 December 2009 9:11 AM
To: g.vasiliu@bigpond.com
Cc: Milton Evans; Adrian Nicoll
Subject: FW: Feedback form

George,

During our discussion, I advised that City staff are going to be reluctant to progress the Plan to Council until it can be clearly demonstrated that landowners have been consulted and that their concerns with the Plan have been suitably addressed; that can be in the form of modifications to the plan or a section within the report containing the issues raised by the landowners and "valid planning reasons" why those issues cannot be accommodated by the ODP. As you mentioned, to date you have not been contacted by the planning consultants on the ODP and City staff have already fed back to those planning consultants our concerns over that advice.

As mentioned during the meeting, the ODP is a comprehensive document that should report on all land constraints, provide a planning rationale for the longer term development of the lots affected by the ODP and ensure that co-ordination occurs across property boundaries. Both the WAPC and the City will be looking to ensure that those objectives are met by the ODP when it is submitted and we will also be seeking to ensure that affected landowners do not form the bulk of the submissions when the ODP is publically advertised (a situation that has occurred previously).

Robert Fenn
Executive Director Development Services City of Albany PO Box 484 ALBANY W.A. 6331
telephone: (61 8) 9841 9315
facsimile: (61 8) 9841 4099

-----Original Message-----

From: Planning (External Use ONLY)
Sent: Tuesday, 29 December 2009 8:46 AM
To: Robert Fenn
Subject: FW: Feedback form

Gayle Sargeant
Administration Officer (Planning)
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Tabled Address by Mr Jacob Chako

**ITEM 2.4: REQUEST TO RENEW LEASE FOR A FURTHER 30 YEAR TERM – REDWOOD CORPORATE PTY LTD T/AS ROSE GARDENS CARAVAN PARK ON PORTION OF RESERVE 22698, EMU POINT
SUBMISSION BY REDWOOD CORPORATE PTY LTD 14/12/10**

We would like to highlight to Councillors key events from the date of the last Council Meeting to today:

1. **Resolution from last OCM:**
“That this item lay on the table and the City seek further advice and meet with the tenants to resolve all outstanding matters of compliance.” – partly, we believe, in response to our submission that we were not made aware of any issues prior to our exercise of the option
2. **Inspection of Park on 6/12/10 by Independent 3rd Party appointed by the City of Albany:**
 - a. Carried out subsequent to a list of 14-15 items of complaint being submitted through a Councillor to the City alleging the Park’s non-compliance under the Caravan Parks & Camping Grounds Regulations and alleging the previous inspections by the City’s officers had been flawed
 - b. 8-hour inspection, thoroughly checking every item of complaint and every provision of the Regulations plus other regulatory items
 - c. Councillors have a copy of the report. Findings of the Inspection:
 - i. that except for the ramshackle appearance of caravans and annexes belonging to long-stay residents and their non-compliance, **the park had been improved**
 - ii. **there were no substantive compliance issues in the Park**, (it is to be noted that minor issues mentioned in the report are mainly exempted under the Regulations under Clause 27B)
 - d. At the end of the inspection Mr Greg Harwood (Director of Community and Regulatory Services at the Shire of Denmark) remarked that he was happy that ***we are responsible operators and that he would be happy to stay at the park anytime***
3. **Meeting with Mr Peter Madigan and Mr Graeme Bride on 10/12/10**
 - a. Happy with the Inspection Report, which vindicates both us and the City’s officers
 - b. We believe they are now convinced that a large number of the complaints (which were mainly verbal) made against the park were all largely exaggerated and false
 - c. Prior to the independent report, we stood convicted by these malicious rumours and false accusations and were not given the opportunity to know what the allegations were, nor to respond to them – **a serious breach of the rules of natural justice**
 - d. At the meeting we also agreed to the City’s request that we build a new recreation room to replace the current one and a children’s playground on the proviso that the City accepts our exercise of the option and extends our lease for a further 30 years from 8/2/2011 and deletes some of the archaic and redundant clauses in the 1962 Lease and 1992 Variation of Lease
4. **Conclusion**
 - a. It is clear to us that there have been malicious and unwarranted attempts to attack us and jeopardize our position by certain persons who have made false allegations to Council and to Councillors in pursuit of their own private agenda.
 - b. We also wish to state that Mr Eric Wake should seek to resolve the dispute he has with us through the correct forum and not abuse the process of Council and waste Councillors’ valuable time with issues that are irrelevant to the matter at hand
 - c. We hope to work more closely with the City in the future as we continue to develop the park and urge Council to accept Redwood Corporate Pty Ltd’s exercise of option to extend the lease and extend the lease relating to Rose Gardens Caravan Park to 7/2/2041.

Thank you

Jacob & Sally A Chacko